



## **Incident Summary**

Patrol Division uniformed Police Officers A and B responded to a prowler suspect in a residential area. The officers were in a marked black and white vehicle equipped with ballistic door panels.

**Note:** Officers A and B had worked as partners on one prior occasion. However, they had worked in the same division and similar watches for approximately 16 months prior to the incident. They had discussed tactics including, but not limited to, rules of contact and cover, pedestrian and traffic stops, their weapons systems, their locations, and when to deploy them. They additionally discussed procedures in detaining, handcuffing, and arresting felony and warrant suspects. In working with and around each other, they discovered that they used similar tactics; allowing them to use verbal and non-verbal cues to tactically communicate with each other.

As the officers approached the area, Officer A stated that he and Officer B discussed prior contacts and knowledge of the area. They discussed if the prowler suspect could not be located, it would be a good area to search for proactive contacts. Officer A advised his knowledge of the area was from numerous prior arrests for narcotics, stolen vehicles, and gang-related criminal activity. Officer A advised that the neighborhood was populated by gang members.

The officers arrived at the radio call location and advised Communications Division (CD) as to their status and location (Code Six) via their vehicle Mobile Digital Computer (MDC). Based on the prowler suspect not being in the area, the staleness of the radio call, and that the radio call did not have any further follow up information from the reporting person, the officers determined the prowler suspect had left the area.

While the officers' vehicle was stopped facing westbound, both officers observed a black vehicle driving northbound. Subject 1 was the driver of the vehicle.

According to Officer A, the vehicle did not initially have its headlights activated as it drove north, in violation of 24250 California Vehicle Code (CVC). Officer A observed the vehicle's headlights turn on as the vehicle approached. Officer B observed a lone male motorist (Subject 1) not wearing his seatbelt, in violation of 27315 CVC. Officer A slowly backed his police vehicle approximately 150 feet, and continued to monitor the vehicle. As the vehicle entered the roadway, it appeared to both officers that the vehicle moved to the right, as if to make a right turn, eastbound. The vehicle stopped and changed from initially going eastbound to turning westbound, turning right again, and parking perpendicular to the north curb, in front of a residence. Officer B described the path of the vehicle from entering the roadway to parking, as an "S" shape. Both officers noted the driver did not use his turn signal, at any point, when he entered the roadway, in violation of 22108 CVC. The driver of the vehicle turned off the headlights, but did not exit the vehicle.

Officer B conducted a vehicle query on the Subject's vehicle via his MDC. The return information on the vehicle query did not reveal any wants or warrants, but did return with the name of the registered owner, a female. Officer B noted that the driver was male, not a female, and in addition, the registered owner's address was not from the area where the vehicle was now parked. Based on the traffic violations observed by each officer and suspicious activities of the driver of the vehicle, the officers made the decision to conduct a traffic stop.

Officer A drove forward and positioned his police vehicle behind the vehicle, angled in a northwest direction and pointed toward the vehicle. Officer A activated his overhead forward facing red light and both officers used their manual exterior spotlights to illuminate the vehicle. Officer B broadcast that he was Code Six on the vehicle and provided the license plate number.

Both officers exited their police vehicle and approached the vehicle in an offset manner, whereby Officer B approached first, on the passenger side of the vehicle, allowing him time to clear the vehicle. Officer A approached the driver side of the vehicle, just after Officer B arrived along the passenger side.

Officer B observed a male, identified as Subject 1, seated in the driver seat. Officer B additionally observed a female, identified as Subject 2, laying down on the front passenger seat, tucked in a fetal position. The passenger seat was reclined all the way back and Officer B stated that she appeared to be asleep.

According to Officer A, he contacted Subject 1, and additionally observed Subject 2 reclined in the passenger seat. Subject 1 appeared nervous, fidgety, and was moving in his seat, not wanting to lower his window until repeatedly being asked. Subject 1 had told Officer A that the vehicle did not belong to him and that he did not know the owner of the vehicle. After obtaining Subject 1's driver's license, Officer A indicated to Officer B that he was going to return to the police vehicle and run Subject 1 for a want and warrant query. As Officer A conducted the query, Officer B stated he took a few steps back and remained in a position of cover along the passenger side of the vehicle. The query result identified Subject 1 as having a valid driver's license, with no wants or warrants.

According to Officer B, he took a few steps forward from his position of cover, tapped on the vehicle and asked Subject 1 if the vehicle belonged to him. Subject 1 stated the vehicle belonged to Subject 2, at which point she had awoken. According to Officer A, he had stepped out of his police vehicle and stood by the door as Officer B spoke with Subject 2 and was able to obtain her information. Officer B partially completed a Field Identification (FI) card and provided the FI card to Officer A. Officer A conducted a want and warrant query on Subject 2, which revealed a \$26,000 misdemeanor warrant for possession of narcotics, in violation of 11377 Health and Safety (HS) Code. Officer A advised Officer B of Subject 2's narcotics warrant, and they repositioned themselves to take her into custody. Officer A returned to a position along the driver's side of the vehicle, while Officer B moved closer along the passenger side. Officer B

ordered Subject 2 out of the vehicle, and once doing so, had her face the vehicle and proceeded to place her in handcuffs. Subject 2 was taken into custody without incident. Officer B walked Subject 2 to the police vehicle and conducted a visual search of her for weapons prior to placing her in the rear right passenger seat of his police vehicle.

As Officer B was placing Subject 2 in their police vehicle, Officer A stated he continued to converse with Subject 1. Officer A stated Subject 1's behavior and movements were nervous and agitated. Based on the time of day, the area, and the fact that Subject 2 had a narcotic warrant, Officer A believed Subject 1 might possibly be under the influence of a narcotic. Officer A observed Officer B secure Subject 2 in the back of the police vehicle and begin to walk back toward the vehicle. According to Officer A, he told Subject 1 that he was going to have him step out of the vehicle so that they could search the area where Subject 2 had been sitting. Officer A moved back approximately two steps in order to allow space for Subject 1 to step out and face the vehicle, which would allow the officers to safely conduct a search.

According to Officer B, as he walked back to the passenger side of the vehicle, he observed Officer A standing along the driver's side of the vehicle. It appeared to Officer B that Officer A was beginning to ask Subject 1 to step out of the vehicle. Officer B was holding his flashlight in his left hand, and as he reached the open passenger side door, he illuminated the interior of the vehicle, specifically the body and hands of Subject 1. The vehicle's driver door was open, and it appeared that Subject 1 had almost had one foot out of the vehicle. Officer B observed Subject 1 turn his body towards Officer A, still in the seat and place his right hand, concealed by his body, in a reaching motion under the seat. Believing that Subject 1 was reaching for a weapon, Officer B used his right hand to reach for his pistol and unsnap its first retention.

Officer B observed Subject 1 retrieve a black and grey colored handgun from under the driver's seat. Officer B stated that Subject 1 was exiting the door at the same time as he was unholstering his weapon. As Subject 1 turned his body, it appeared to Officer B that he was going to point the handgun at Officer A. Officer B stated that he pointed his weapon at Subject 1 simultaneously while he was coming out of the vehicle.

Fearing for Officer A's safety and life, as well as his own, Officer B used a standing two-handed firing stance, and fired two rounds from his pistol at Subject 1, from an approximate distance of seven feet. Officer B stated he believed that Subject 1 was going to shoot his partner and from his partners' demeanor, did not believe that his partner had seen the firearm. Officer B stated that he fired to save his partner's life because he believed wholeheartedly that Subject 1 was going to shoot Officer A.

Officer B recalled yelling "Gun!" to warn his partner, but was unsure if it was prior, during, or after the shots were fired.

Meanwhile, Officer A recalled that Subject 1 unexpectedly accelerated out of the vehicle via the driver door. Officer A perceived that Subject 1 was going to run away or run at him. Officer A reached for his firearm and began to draw it out. Officer A stated he

began to draw his weapon because of his knowledge of the area, which has narcotic and gang activity, and where suspects are usually armed with weapons. Officer A stated that as Subject 1 was stepping out of the car, he could hear Officer B yell a warning, like "Partner, look out." This was the same time that Officer A was drawing his weapon out towards Subject 1 and heard two to three shots.

Officer A unholstered his firearm and moved his finger to the trigger of his firearm, as he was attempting to extend his arm outward, with the intent to shoot at an advancing Subject 1. Officer A did not observe a weapon in Subject 1's left hand and was unable to see Subject 1's right hand. Officer A was unsure if the gunshots had come from Subject 1 or his partner. Officer A stated that he could not see a threat, therefore took his finger off the trigger. Officer A stated that he heard something hit the ground like a clack sound, but was not sure what it was. Officer A pulled his firearm back to his body in what he referred to as a close-quarters position (CQP). Officer A stated that, as Subject 1 charged at him, he was able to side step to his left and use his left hand to strike/slap Subject 1's left shoulder, grasp his clothes, and throw him to the ground. Subject 1 fell to the ground in a face down position with both hands positioned under his torso area.

Meanwhile, Officer B stated he ran around the rear of the vehicle, holding his firearm in a two-handed, low-ready position, to assist his partner. Both officers described Subject 1's body position as face down on the street, with his head pointed west and his feet pointed east. Both officers stated they issued several commands for Subject 1 to show them his hands. Officer B recalled asking where the gun was located and directing that Subject 1 place his hands behind his back.

Officer A stated he was positioned along Subject 1's right side (north) as he used his left knee to put body weight on the right back/rib cage area of Subject 1. Officer A stated he believed he stayed in contact with Subject 1 from the time he grabbed his left shoulder to the time he placed his left knee on his back. Officer A stated Officer B approached on Subject 1's left side (south) and used one of his knees to place body weight on Subject 1's buttocks and/or leg area.

**Note:** Officer B recalled immediately approaching Subject 1 on his left side and placing his right knee on Subject 1's back area. Subject 1's right hand was under his stomach area, with his left hand stretched out above his head. Officer B stated Officer A was not on Subject 1's back, rather standing between Subject 1 and the vehicle.

According to Officer A, as Officer B placed his body weight on Subject 1, Officer A observed a handgun on the ground, near the rear of Subject 1's vehicle. Officer A asked Officer B if he had fired a shot and Officer B confirmed that he had. Officer A stated he believed the handgun on the ground belonged to Subject 1, based on hearing the clank sound as Subject 1 advanced on him. Officer B believed the handgun on the ground belonged to Subject 1, because he recognized the handgun as similar to the

one Subject 1 had pulled out from under the driver's seat. Officer B broadcast, "Shots Fired! Officer needs Help! Shots Fired! Officer needs Help!"

Officer A heard activity from a nearby residence, consisting of noises similar to doors opening and closing, as well as observing people moving around in the house and looking out of the windows. That residence was a known narcotic location to Officer A. Officer A asked Officer B to monitor the activity of the location. Officer A holstered his firearm, lifted his body weight off Subject 1, and pulled Subject 1's right arm from under his body. Officer A handcuffed Subject 1's right hand and then handcuffed Subject 1's left hand, with assistance from Officer B. Subject 1 complained of pain and advised the officers he was possibly shot, but did not offer any resistance during the handcuffing. According to Officer A, Officer B remained unholstered, covering the narcotic location, until the first responding units arrived.

**Note:** Officer B recalled instructing Subject 1 to place his hands behind his back numerous times, until Subject 1 began to comply. Officer B stated he holstered his firearm because he felt the incident had de-escalated, they had a tactical advantage, and Subject 1 could be taken into custody. Officer B stated Officer A was still unholstered and was providing cover on Subject 1. Officer B was unsure if he or Officer A had handcuffed Subject 1. Officer B only recalled assisting in the handcuffing by holding Subject 1's arms.

Officer A broadcast a request for a RA (Rescue Ambulance) for Subject 1, suffering from a gunshot wound to the leg. After Subject 1 had been handcuffed and the RA request was broadcast, Officer A was able to look around the scene and observed a handgun magazine on the ground. According to Officer A, it was west of the vehicle's driver door. Officer A also broadcasted a request for a supervisor and additional units. Los Angeles Fire Department (LAFD) responded to treat Subject 1 for a gunshot wound. He was transported to a nearby hospital and later cleared for booking.

Sergeant A arrived at the scene, approached Officers A and B, and was advised that they had been involved in an OIS and that Officer B had fired his firearm. Sergeant A separated Officers A and B and obtained a Public Safety Statement (PSS) from Officer B while at the scene. Sergeant A assigned both officers to Sergeant B while he set up the crime scene. Sergeant B later assigned Officer A to Sergeant C. Sergeant C later obtained a PSS from Officer A at the station.

### **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical

debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC, unanimously made the following findings:

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

#### **C. Non-Lethal Use of Force**

The BOPC found Officers A and B's non-lethal use of force to be in policy.

#### **D. Lethal Use of Force**

The BOPC found Officer B's lethal use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

- **Contact and Cover**

Officers are trained to utilize the concept of contact and cover in which one officer initiates action while the other provides cover. Operational success is based on the proper assumption of contact and cover roles during contacts with the public in an effort to maintain the tactical advantage. Engaging suspect(s) in a tactical situation can be fluid, fast paced, and can contain multiple threats to overcome.

In this case, when the officers conducted a traffic stop, they discovered another occupant in the vehicle lying down in front passenger seat. As a result, the officer's attention was often divided and their roles of contact and cover were constantly challenged.

The officers are reminded of the importance of maintaining clear contact and cover roles when dealing with multiple suspects.

- The BOPC additionally considered the following:
  1. **Searches of Arrestees** – The investigation revealed that Officers A and B did not search Subject 1 or advise responding officers that a search had not been done. Although Subject 1 had been shot and was secured in handcuffs, the officers are reminded of the importance of searching all arrestees to ensure that they are not in possession of any additional weapons.
  2. **Non-Conflicting Simultaneous Commands** – The investigation revealed that Officers A and B were giving simultaneous commands to Subject 1. Although the commands were non-conflicting, the officers are reminded that simultaneous commands sometimes lead to confusion and non-compliance.
  3. **Initiating Physical Contact While Holding a Service Pistol** – The investigation revealed that Officer A had his service pistol drawn when he initiated contact with Subject 1. Officer A is reminded that initiating physical contact with a Subject while holding a service pistol may inhibit the ability to fully engage the Subject and increases the risk of the Subject getting ahold of the service pistol.

- **Tactical De-Escalation**

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, the officers were faced with a rapidly unfolding tactical situation when the suspect, who was exiting a vehicle during a traffic stop, reached under his seat and armed himself with a firearm. As a result, the cover officer was forced to take immediate action to stop the suspect's life-endangering threat, resulting in an OIS.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

After a thorough review of the incident, it was determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a Tactical Debrief.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- According to Officer B, he observed Subject 1 pulling a black and grey handgun out from under the seat and immediately drew his service pistol.

According to Officer A, as soon as Subject 1's door cracked open, his movements accelerated like he was exiting the vehicle to run. Officer A heard Officer B yell out a warning, "Partner, look out." Officer A then became concerned that Subject 1 was possibly armed and drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

## **C. Non-Lethal Use of Force**

- **Officer A** – (Firm Grip, Takedown, Physical Force, and Bodyweight)
- **Officer B** – (Firm Grip and Bodyweight)

According to Officer A, he observed Subject 1 running directly at him. Officer A then side stepped to his left, grabbed Subject 1's right shoulder with his left hand and pulled him down to the ground. Officers A and B then used firm grips and bodyweight to control Subject 1 and take him into custody without incident.

Officer B recalled that he went over to the left side of Subject 1, placed his right knee on Subject 1's back and handcuffed Subject 1.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would believe this same application of non-lethal force would be reasonable to overcome Subject 1's resistance.

Therefore, the BOPC found Officers A and B's non-lethal use of force to be objectively reasonable and in policy.

## **D. Lethal Use of Force**

- **Officer B** – (pistol, two rounds)

According to Officer B, he observed Subject 1 exiting the vehicle with his handgun pointed at Officer A. In defense of his partner's life, he fired two rounds at Subject 1 to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that Subject 1's actions presented an imminent threat of death or serious bodily injury and therefore, the use of lethal force would be objectively reasonable.

Therefore, the BOPC found Officer B's lethal use of force to be in policy.