

Incident Summary

Communications Division (CD) received a 911 emergency call for service from Witness A, stating that a male, 38 years of age, bald, with a thin build, and possibly under the influence of narcotics was threatening neighbors with a handgun. CD broadcast the call, and uniformed Officers A and B responded in a marked black and white police vehicle.

As Officers A and B arrived in the area, Officer A observed a male (later identified as the Subject) standing on the porch, two to three feet west of his open front door. Officer A did not believe the Subject was involved in the incident, because he did not seem alarmed by their presence and his age and physical descriptors appeared to be different from what was provided over their Mobile Digital Computer (MDC).

The officers consequently drove past this location and continued toward Witness B, stopping in the street, adjacent to the Subject's residence. The officers briefly made contact with Witness B while seated in their police vehicle. Witness B advised the officers that he was the Subject's brother. He pointed out the Subject's location on the porch, identified him as the person threatening neighbors, and indicated he had been acting erratically and pointed a gun at him prior to their arrival. After determining from Witness B that no one else was inside the subject's residence, Officer A directed him to a curb and asked that he remain there until told otherwise.

While looking over his right shoulder, Officer A observed the Subject standing on the porch in front of his residence and communicated that information to his partner. In an effort not to lose sight of the Subject, Officer A shifted the police vehicle in reverse and slowly drove backwards until it was in line with the Subject's residence. As the vehicle came to a stop, the officers immediately exited and stood behind their respective doors.

The Subject was now standing in the threshold of his residence, shaded by an overhang/patio cover. Attached to the Subject's front door frame was a heavy black security screen door that was open approximately 90 degrees. Because of the shadow cast over the Subject, the officers were not able to see his hands from their position and began to walk toward his driveway to gain a better view of him. As the officers moved from their positions, Officer A tried to communicate with the Subject in an effort to de-escalate the situation and gain his compliance. Speaking in a loud but calm voice, Officer A told the Subject they needed to speak with him and asked that he step out of his house with his hands above his head. After reaching the sidewalk, the officers assumed positions of cover within sight of each other.

Officer A noticed the Subject was standing behind a three-foot tall ashtray, which was positioned approximately 12 inches in front of him. On top of the ashtray was a .38 caliber revolver. Upon observing this weapon, Officer A immediately called out to Officer B and told him that the Subject had a gun. Officer B was not able to see the Subject's hands or the revolver because his view was partially blocked by the open security screen door and support pillar to the patio cover, and he could only see the Subject's upper body.

Meanwhile, Officer A continued to verbalize with the Subject and repeatedly ordered him to put his hands up and to step away from the revolver. The Subject disregarded those commands, quickly reached down, grabbed the handle of the weapon with his right hand and began to raise the muzzle in the direction of the officers. Believing he was about to be shot, Officer A fired two to four rounds at the Subject's center body mass, from a distance of approximately 31 feet. As Officer A began to fire his rounds, the Subject continued to raise his weapon and pointed it at the officers, while stepping backward into his darkened residence. As the Subject retreated, the metal security screen door that had previously been propped open slowly began to close.

After firing his first volley of shots, Officer A paused momentarily to assess the Subject's actions. Although the sunlight and patio cover cast a shadow into the residence and caused the Subject's body to be silhouetted, Officer A was able to see the subject raise his weapon to approximately waist height and then heard him fire one round. Officer A immediately responded by discharging an additional two to four rounds at the Subject. He stopped firing when he lost sight of the subject, who had backed up further into the residence.

After firing his second volley of shots, Officer A communicated with his partner and determined that neither had been struck by gunfire. Meanwhile, numerous officers responded to back-up the primary unit. Officer A communicated with the other officers at the scene by yelling that the subject had shot at him, while simultaneously pointing toward the target location. He then initiated a series of broadcasts via his radio, specifying the Subject's address and physical description, as well as the streets responding units should begin cordoning off. Over the next several minutes, other officers arrived and established a one block perimeter around the Subject's residence.

Sergeants A and B arrived in the area and began supervising the actions of the involved officers. After being briefed by one of the officers at the scene, Sergeant A assumed the role of Incident Commander.

While Sergeant A remained at the Command Post (CP), he tasked Sergeant B with organizing a tactical plan to take the Subject into custody. After ensuring all of the officers at scene had donned their ballistic helmets, Sergeant B coordinated the establishment of an inner perimeter.

Meanwhile, Witness B arrived at the CP and provided Sergeant A with background information on the Subject, as well as with his cellular telephone number. Witness B was allowed to telephone the Subject and learned he had been shot and was still armed with the revolver. Over the next several minutes, Witness B attempted to convince the Subject to surrender. While that occurred, Sergeant A provided updates to Sergeant B, as well as made notifications to Metropolitan Division, Special Weapons and Tactics (SWAT).

Sergeant B established an arrest team. Several attempts were made to call the Subject outside via a public address (PA) system. Shortly thereafter, a number of officers heard the sound of a gunshot coming from inside his residence. After several additional broadcasts were made over the PA system, the Subject exited his front door wearing only a pair of blue jean pants. The Subject shuffled down his porch steps, and then immediately went back inside his residence. He exited a second time a few minutes later and complied with commands to lay prone on the grass area in his front yard. At Sergeant B's direction, the arrest team moved forward to take the Subject into custody.

The Subject was evaluated at the scene by LAFD personnel, who determined the Subject to have sustained gunshot wounds to his upper left leg. The Subject was subsequently transported to a local hospital by RA, where he was admitted for treatment.

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's tactics to warrant Administrative Disapproval. The BOPC found Officers B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Tactical Planning/Approach

Upon seeing Witness B standing in the roadway, and believing that he was possibly the victim, Officer A drove toward him. In doing so, Officer A drove past the call location and past the Subject standing on the porch. Officer A stopped approximately four houses west of the call location. Officers A and B remained seated in their police vehicle while speaking with Witness B.

It is the BOPC's expectation that Officers approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack. When officers make contact with suspects during a pedestrian stop, they should position themselves for the greatest safety and tactical advantage. During the initial contact it makes it more difficult to point a weapon at the officer.

Proper safety tactics demand that officers exit their patrol vehicles to conduct pedestrian contacts. Approaching and conducting the contact on foot allows officers to devote complete concentration to observing the pedestrian, better visibility of the pedestrian, better mobility (rather than being trapped in a vehicle), the ability to detain and search an individual, if necessary, and greater advantage if a foot pursuit should occur.

In assessing Officers A's action of passing the call location and the Subject on the porch, the BOPC determined that it was reasonable for the officer to initially drive past the location, due to the Subject's calm demeanor and differing physical descriptors.

Often, tactical positioning may not be entirely the officers' choice. However, in situations where officers initiate contact, they should do so with a tactical plan and maintain the tactical advantage. In this instance, it would have been tactically advantageous for Officer A to stop the police vehicle short of Witness B's location and exit, thereby utilizing the police vehicle as cover while making initial contact.

In assessing Officers A and B's decision to remain inside the police vehicle while speaking with Witness B on the roadway, the BOPC determined that this was a substantial deviation from approved Department tactical training. Officer A stated that the primary reason for remaining inside the vehicle while speaking with Witness B was to gather information quickly, and to then locate the Subject. This

reasoning justified the officers' actions of remaining inside the police vehicle while speaking with Witness B on the roadway in this specific instance. However, the practice of passing the location of a serious crime, such as an assault with a firearm, and initiating contact with unknown persons while seated in the police vehicle is generally discouraged.

In conclusion, the BOPC determined that Officers A and B's actions did not substantially deviate from approved Department tactical training.

2. Tactical Vehicle Deployment

In this instance, Witness B told Officer A that the male standing on the porch at the call location was the Subject, who was acting erratically and had pointed a handgun at him. Officer A drove the police vehicle in reverse, conducted a J-turn, positioned the vehicle facing the residence, and stopped directly in front of the residence. This vehicle positioning placed Officer B in a tactically disadvantageous position, as he was on the side facing the Subject.

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack.

When officers respond to a radio call, especially a radio call where a firearm is involved, they are trained to deploy in a manner that will provide the best tactical advantage. It would have been tactically advantageous for Officer A to deploy in a different manner such as conducting a three-point turn, or exiting the vehicle and approaching on foot, or as a lesser option, reversing completely past the location and then tactically deploying. However, Officer A stopped directly in front of the location, which placed him and his partner at a significant tactical disadvantage.

The BOPC determined that Officer A's decision to stop the police vehicle directly in front of where the Subject stood on the porch, substantially and unjustifiably deviated from approved Department tactical training and placed both officers at a significant risk of being fired upon by the Subject.

3. Use of Cover

Due to Officer A positioning the police vehicle directly in front of the residence where the Subject stood on the porch, the officers' tactical options from this point forward were limited. Officers A and B were unable to see the Subject's hands due to the shadow cast by the porch overhang while at the police vehicle. Officers A and B left the cover of their vehicle ballistic doors, moved forward and obtained cover behind a four foot high cinder block pillar [A] and a parked vehicle on the driveway [B]. However, in doing so, the officers temporarily left cover and placed themselves closer to the Subject, who they believed to be armed with a firearm.

In evaluating the officers' decision to move away from their vehicle and seek other cover, the BOPC took into consideration the officers' need to have as clear and unobstructed as possible view of the suspect.

Although the use of this tactic deviated from approved Department tactical training, based on the totality of the circumstances, it was not a substantial deviation. Officers A and B were reminded that it is tactically advantageous for both officers to maintain a safe distance from an armed subject and to utilize other resources available to contain the Subject until it is safe to approach.

In conclusion, the BOPC found Officers A's tactics to warrant Administrative Disapproval. The BOPC found Officer B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Officers A and B responded to a radio call involving a 415 man with a gun. Officers A and B observed the Subject standing on the porch with a handgun located on top of an ashtray. As the officers exited their police vehicle to confront the Subject, believing that the situation may escalate to the point where deadly force may be justified, both officers drew their service pistols.

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 the Subject was armed with a handgun and that he posed a substantial risk wherein the situation had escalated to the point where deadly force was justified.

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

C. Lethal Use of Force

- **Officer A** (pistol, six rounds)

First Sequence of Fire (two to four rounds)

The Subject retrieved the handgun from the top of the ashtray and began to raise it in the direction of Officers A and B. Believing that the Subject was about to shoot him and his partner, Officer A fired two to four rounds at the Subject to stop his actions. The Subject moved rearward and into the residence doorway, partially out of the officers' view.

Second Sequence of Fire (two to four rounds)

After the Subject moved into the residence doorway, Officer A observed a silhouette raising the gun toward him and his partner. Officer A heard what he believed was a gunshot emanating from where the Subject stood. Believing that the Subject shot at him and his partner, Officer A fired two to four additional rounds at the Subject to stop his actions.

The BOPC conducted a thorough review of each of the aforementioned uses of lethal force and found that an officer with similar training and experience would reasonably believe that the actions of the Subject in each circumstance represented an imminent threat of serious bodily injury or death and that the use of lethal force was justified.

Consequently, BOPC found Officer A's use of lethal force to be in policy.