



The following incident was adjudicated by the BOPC on July 29, 2014.

### **Incident Summary**

Officers A and B were driving a police vehicle when Officer A observed a silver colored vehicle driving at a high rate of speed. The silver vehicle crossed over the double yellow solid lines and into the north traffic lanes. Officer A advised Officer B of his observations and that he was going to conduct a traffic stop. The silver vehicle turned left and again crossed over the double yellow solid lines and into the westbound lanes of traffic. The silver vehicle then turned south onto another street. Officer A observed that the silver vehicle's windows were tinted and he was unable to see inside. Officer A formed the opinion that the driver was driving under the influence.

The officers followed the silver vehicle for approximately eight to 10 seconds, while attempting to catch up to it. Officer A called out the license plate number to Officer B. The license plate frame was partially covering the bottom of one of the letters. Officer B ran a DMV records check on the silver vehicle's license plate numbers, which returned to a different vehicle make and model. Before the officers could verify the license plate number, the driver negotiated a left turn into an underground parking structure.

Officer A believed the silver vehicle was possibly stolen and he activated his lights and siren and followed the silver vehicle into the parking structure. Once inside, the silver vehicle came to a stop and Officer A parked the officers' police vehicle behind the silver vehicle's rear bumper.

The officers observed the driver, (later identified as the Subject), exit the silver vehicle and run toward the front of the car while holding his waistband, concealing himself out of the officers' sight. Due to the Subject's actions, Officer A believed that the Subject was armed, so he opened his driver door, stepped outside and unholstered his pistol.

Approximately a second later, the Subject stood up from behind the silver vehicle and looked in the officers' direction. The Subject began to run toward the apartments, while holding his waistband.

The officers exited their vehicle and cleared the silver vehicle. Officer A then holstered his pistol and he and Officer B went in foot pursuit of the Subject. As Officer B followed the Subject toward the stairwell, he believed the situation could escalate to deadly force and unholstered his pistol. As the officers went up the stairs, Officer B observed the Subject on the second floor landing before disappearing into the exterior corridor. As Officer B turned the corner into the exterior corridor, he observed the security metal door to an adjacent apartment slam shut. Officer B identified himself as a police officer and ordered the Subject to open the door. Officer B then observed the lights turn off in the apartment and heard a female voice inside the apartment.

Officer B took a position on the walkway from where he was able to obtain a view of the apartment window. Officer A took a position at the staircase leading up to the second floor.

As Officer A looked through the partially open windows, he observed what he believed to be the living room and kitchen lights turn off, and then complete darkness engulfed the residence. He also heard some type of activity coming from inside the apartment, including a toilet being flushed. Officer A believed that the Subject was disposing evidence.

Officer C, along with other officers, responded to the backup request. Shortly thereafter, Sergeant A arrived at the location, and he formulated a tactical plan to arrest the Subject. Officers A and C were designated as the contact officers. Officer B was the cover officer and planned to order the Subject out of the apartment. Other officers were assigned to the arrest team.

A key to the apartment was obtained by the apartment complex manager. Sergeant A attempted to contact the Subject telephonically but was unsuccessful. Officers also attempted to utilize the intercom system located in front of the apartment complex in an effort to contact the Subject, but there was no answer.

Once the tactical team was established, the officers approached the apartment and took their respective assignments. Sergeant A verified that the tactical team was in place and directed Officer B to utilize the apartment keys to open the security door. Officer B attempted to unlock the security door but was unsuccessful. Officer B then knocked on the door while Sergeant A announced, "This is the Los Angeles Police Department. Come out with your hands up," twice. After approximately 30 seconds, the security door opened and the Subject stood in the doorway.

Officer B ordered the Subject outside and instructed him to place his hands on his head and turn around. The Subject complied, exposed his hands and turned around. He was told to start walking backwards toward the arrest team, and the Subject complied. When the Subject was approximately five feet south of the front door, he was instructed by an unknown officer to get on his knees, a command with which he complied. Sergeant A called for the arrest team, and the officers made their way up the stairs and took a position behind Officer C.

With his left hand, Officer C firmly grabbed the Subject's interlaced fingers from the top of his head and pulled the Subject back toward him. Officer A then holstered his pistol and took control of the Subject's right forearm and right wrist. Officers A and C continued to pull the Subject backward off his knees, causing the Subject to lose his balance. The officers spun the Subject clockwise and was placed face down on the landing area with his head facing south. As the officers placed the Subject on the ground, he began to yell that his arm had been injured.

LAFD Rescue Ambulance (RA) arrived and treated the Subject for his injuries. The Subject was transported to a local hospital, where it was determined that his elbow had been injured, and 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 Sergeant A's and Officers A, B and C's tactics to warrant a Tactical Debrief.

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

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

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

The BOPC found Officers A and C's use of non-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. Code Six

Officers A and B did not conduct a Code Six broadcast upon entering the parking garage and confronting the Subject.

Officers are required to balance officer safety considerations against the need to make a timely Code Six broadcast. That being said, officers must be afforded

discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code Six broadcast. In this circumstance, Officer B elected to focus on the Subject's actions, thus addressing any potential officer safety concerns. At the same time, Officer A observed the Subject exit his vehicle, run around the front of his vehicle and duck down. Almost immediately, the Subject fled on foot, at which time Officer B conducted a back-up request and foot pursuit broadcast.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision to forgo an immediate broadcast of their Code Six location was a substantial deviation from approved Department tactical training. However, the officers' decision was justified, based on the rapidly unfolding tactical situation and the fact that Officer B immediately notified Communications Division (CD) upon observing the Subject attempting to flee on foot.

## 2. Tactical Communication/Placement of the Subject

It is imperative that the officers adhere to the tactical plan regarding the contact officer administering the commands, thus minimizing confusion.

As Officer B was giving commands, an unidentified officer ordered the Subject to assume a kneeling position upon exiting the apartment. Consequently, the Subject began to kneel in front of the apartment window, thus placing the arrest team at a tactical disadvantage while taking the Subject into custody.

The success of any tactical operation is closely aligned with effective communication. Furthermore, any safety issues must be effectively communicated thus minimizing unexpected tactical concerns. In this circumstance, when the unknown officer gave the premature command directing the Subject to kneel, Sergeant A took over the commands and directed the officers to stand the Subject back up and bring him back to the arrest team, who could safely take him into custody. Officers A and C then took the Subject into custody.

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

## 3. Command and Control

The success of a tactical operation hinges on effective leadership. The Incident Commander (IC) directs the tactical response and therefore oversees the operational objectives and ensures a successful resolution to the tactical incident. In this circumstance, the BOPC conducted an analysis and review of the Command and Control aspects regarding Sergeant A's performance throughout the incident. Sergeant A arrived as Officers A and B were involved in a foot pursuit and subsequent barricade of the Subject. Sergeant A assumed an

effective role as it pertains to Command and Control while managing an incident involving a potentially armed subject.

In conclusion, the BOPC considered the dynamic and evolving nature of this incident, and understands that often, supervisors are placed in a situation that requires them to take immediate action, therefore becoming directly involved. The BOPC determined that Sergeant A's direct involvement was a substantial deviation from approved Department tactical training. However, it was justified by the need to regain control of the incident after the Subject was directed to kneel in a tactically unsafe position. From the onset of Sergeant A's arrival until the culmination of the incident, Sergeant A took overall command and control of the incident.

These topics will be discussed during the Tactical Debrief.

- 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, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially and unjustifiably deviated from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

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

## **B. Drawing/Exhibiting**

- Officers A and B observed the Subject driving erratically and at a high rate of speed. Subsequently, the Subject stopped and exited his vehicle while holding his waistband. Consequently, believing that the Subject may be arming himself with a handgun, Officer A exited his police vehicle and drew his service pistol.

Officer B also observed the Subject exit his vehicle while holding his waistband. Moments later the Subject fled on foot and ascended an apartment stairwell. Officer B, believing that the Subject may be arming himself with a handgun, drew his service pistol as he followed the Subject.

Officers A and B subsequently re-holstered their service pistols and briefed Sergeant A regarding the tactical incident. Sergeant A developed a tactical plan to take the Subject into custody. As a result, Officers A and B, believing that an armed confrontation may occur, drew their service pistols for a second time as they made

their approach toward the apartment. Additionally, believing an armed confrontation may occur, Sergeant A and Officer C also drew their service pistols as they approached the Subject's apartment.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A and Officers A, B, and C, while faced with similar circumstances would reasonably believe that the Subject may be armed with a handgun and that he posed a substantial risk wherein the situation could have escalated to the point where deadly force was justified.

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

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

- Sergeant A arrived at the location and devised a tactical plan to facilitate the arrest of the Subject. Soon thereafter, Sergeant A called the Subject from the apartment, at which time he complied and exited. The Subject exited with his back positioned toward the arrest team while his fingers were interlaced behind his head. The Subject was directed to a kneeling position. Officer C holstered his service pistol and placed his left hand on the Subject's hands and utilized a firm grip and physical force to pull him back away from the window.

At the same time, Officer A holstered his service pistol and utilized a firm grip to take control of the Subject's right arm and wrist. Subsequently, both officers utilized physical force to pull the Subject backward off his knees, causing the Subject to lose his balance. Officers A and C then guided the Subject to the ground onto his stomach.

The BOPC determined that an officer with similar training and experience would reasonably believe that the non-lethal force utilized to effect the arrest of the Subject was justified. As such, the BOPC found Officers A and C's non-lethal use of force to be objectively reasonable and in policy.