



## **Incident Summary**

Officers A and B entered the parking lot of a location to conduct extra foot-beat patrol at the location due to the area being a known problem location for incidents involving shootings, robberies, assaults, and various gang-related activities. The officers exited their vehicle and proceeded to southernmost entrance of the location.

At this time, Subject 1 entered the parking lot and parked his vehicle.

Meanwhile, Officers A and B contacted Witness A as they were approached the location. Officer A then passed through a doorway and Officer B, who was just behind him, followed.

At this time and unbeknownst to Officers A and B, two unidentified males (Subjects 2 and 3) and two females (Subjects 4 and 5) exited the location, and began walking into the parking lot. All of the subjects approached Subject 1, who was still seated in his vehicle. Subject 2 looked at Subject 1 and stated, "That's him." Subject 3 lifted his shirt and obtained a blue steel semiautomatic handgun from his waistband. During this time, Witnesses B and C, who were near the four subjects, saw them making contact with Subject 1. It was at this point that Subject 1 believed he was in danger and elected to drive his vehicle away from the other subjects. Subject 3, who was armed with a firearm in his right hand, began firing rounds and running toward Subject 1, as Subject 1 drove away.

Meanwhile, while standing at the doorway of the entrance, Officer B looked into the parking lot area and observed two females standing in front of Subject 1's vehicle. The vehicle then moved forward, screeched its tires, and the two females moved away from the front of the vehicle. Officer B formed the opinion that an Assault with a Deadly Weapon involving a Vehicle (ADW) had just occurred. Officers A and B then heard gunshots, but did not see who was shooting.

Subject 1 drove his vehicle away from the subjects at a high rate of speed in the parking lot parallel to the location and toward the officers' position. As Subject 1 passed the front entrance, Officers A and B drew their pistols. It was at this time Officer B heard a second volley of gunfire, consisting of two additional gunshots in rapid succession, coming from an unknown direction.

The officers began running down the entrance ramp towards the parking lot area. Officer A broadcast "shots fired" and provided their location. Subject 1's vehicle made a right turn and continued in the parking lot, as the officers ran toward the vehicle. Officer A ran past Officer B and designated himself as the primary pursuing officer. Officer B ran behind Officer A and shortly thereafter, stopped at their police vehicle. Officer B holstered his radio and attempted to unlock the driver's side door, in an effort to drive over, pick up Officer A and then pursue Subject 1's vehicle in their police vehicle.

Officer A believed that a drive-by shooting had just occurred and believed the driver of the vehicle (Subject 1) was the shooter. According to Officer A, in defense of his life,

his partner's life and in defense of people in the parking lot, he fired two rounds in rapid succession at Subject 1.

Officer A heard Subject 1 state, "I was the one being shot at." Additional units arrived at the location and Subject 1 was taken into custody without further incident. Subject 1 was not injured during the officer-involved shooting (OIS) and the subsequent investigation revealed that he was unarmed. Unbeknownst to Officers A and B, Subjects 2-5 had fled the parking lot in a vehicle.

### **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/Holstering of a weapon 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 Officer A's tactics to warrant administrative disapproval.

The BOPC found Officer 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. Use of Force**

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

## Basis for Findings

### A. Tactics

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

#### 1. Code Six

In this instance, Officers A and B elected to conduct extra patrol at the location; however, neither officer updated their status or location with Communications Division (CD). Although Officers A and B did not intend to conduct a field investigation, due to the types of crimes that had recently occurred at the location, it would have been tactically prudent for the officers to notify CD of their status and location in the event that the officers should need assistance.

In conclusion, an officer with similar training and experience would believe that updating their status with CD upon arriving at a location known for recent violent criminal activity would have been tactically advantageous. However, the fact that Officers A and B did not notify CD of their status upon arriving at the location and prior to entering the location did not substantially deviate from approved Department tactical training since the standard requires it when conducting a field investigation, rather than in this case a foot beat.

#### 2. Radio Communications

In this instance, Officer A drew his pistol and removed his radio from its holder as he ran outside of the location. Officer A told Officer B, "*I got it. I got it.*" The investigation revealed that both officers understood Officer A's statement to mean that he would broadcast the crime in progress. While it was appropriate that Officer A broadcast "*Shots fired,*" and their location, he did not request help or a back-up. Due to Officer A's broadcast, CD broadcast a request for help on behalf of the officers' perceived need.

In conclusion, an officer with similar training and experience would believe that the situation would warrant a request for help at this time. Although Officer A did not broadcast a request for help or back-up, the seriousness of the situation was conveyed in his broadcast and did not result in a delay of responding personnel.

#### 3. Cover and Concealment (Substantial Deviation)

In this instance, Officer A ran toward Subject 1's vehicle through the parking lot and stood between Subject 1's vehicle and a parked vehicle (cover) before, during and immediately after the OIS, before moving behind the parked vehicle. Officer B, upon hearing the last sequence of gunfire, ran westbound in the parking lot and took cover behind the parked vehicle with Officer A. Officer A then redeployed to another vehicle east of him and waited for additional units to arrive.

Consequently, an officer with similar training and experience would perceive the occupants within Subject 1's vehicle as a significant threat and every effort to obtain cover would have been prudent. Officer A failed to utilize the parked vehicle as cover, exposing himself to the perceived deadly threat that he had just addressed. The BOPC found that Officer A's failure to obtain available cover at the earliest opportunity substantially deviated from approved Department tactical training, without justification.

- 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.

The BOPC conducted an objective assessment of this incident and remained focused on ensuring an equitable outcome based on the role and responsibility of the significantly involved personnel. The BOPC was critical of the tactics employed by Officer A and found that his actions unjustifiably and substantially deviated from approved Department tactical training and warrant administrative disapproval finding.

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

## **B. Drawing/Exhibiting**

- In this instance, as Officers A and B entered the front entrance to the mall, they heard gunshots emanating from outside. Believing that the situation may escalate to the point where deadly force may be justified, Officers A and B drew their pistols almost simultaneously, as they focused their attention to the parking lot area.

Officer B returned to the police vehicle in anticipation of initiating a vehicle pursuit. As Officer B arrived at the police vehicle door, he holstered his pistol to allow him to safely unlock the vehicle. As he began to unlock the driver's side door, Officer B heard two additional rounds of gunfire from an unknown direction. Believing that the situation may escalate to the point where deadly force may be justified, Officer B drew his pistol a second time.

The BOPC determined that officers with similar training and experience as Officers A and B, and faced with similar circumstances, would reasonably believe that the situation may escalate to the point where deadly force may be 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, two rounds)

In this instance, Officer A believed that a drive-by shooting had just occurred and that occupants within Subject 1's vehicle were the shooter. Officer A stated that as he ran toward Subject 1's vehicle, he heard three to four gunshots being fired from within that vehicle.

Officer A, in response to the perceived deadly threat, and in defense of his life, his partner's life, and in defense of the lives of persons in the parking lot, fired two rounds at the occupant(s) within Subject 1's vehicle, as the vehicle was traveling away from Officer A. Subject 1's vehicle became disabled and stopped after the OIS and prior to exiting the parking lot.

Officer A believed he was being fired upon by the occupants of Subject 1's vehicle. Officer A did not see any muzzle flash and although he stated he was shooting at occupants within the vehicle and not the vehicle itself, Officer A stated that he could not see Subject 1 or any other persons within the vehicle at the time he fired his pistol. Additionally, Officer A did not acquire a specific target prior to discharging his pistol and did not indicate he fired at the occupants within Subject 1's vehicle to stop the escape of a fleeing felon. Furthermore, there was no one in apparent immediate danger, demonstrating that there was no exigency to use lethal force at that time.

There was no indication that the officer's life or the lives of others were in immediate peril at the time that Officer A fired his service pistol. Although it is known that officers perceive and recall events differently during critical incidents such as this, and that perceptual distortion can occur, given the totality of the circumstances, an officer with similar training and experience would believe that it would be unreasonable to discharge their service pistol at Subject 1 or occupants within Subject 1's vehicle at the time that Officer A decided to do so.

In conclusion, the BOPC found Officer A's lethal use of force to be out of policy.