

Incident Summary

Two males, Subjects 1 and 2, were driving a vehicle and pulled alongside of Officers A and B, who were in uniform, but wearing plain jackets and driving an unmarked unit. According to Officer A, he thought the men were going to ask for directions. However, Subject 2, speaking through the rolled down passenger window of his vehicle, asked Officer B, "Where you from?"

Note: "Where you from?" is street vernacular for asking what gang you belong to, and is issued as a challenge. It is often followed by a physical confrontation that can escalate to a use of lethal force.

According to Officer B, it was Subject 1 who leaned out of the passenger side window and asked "Hey, what's up, where are you guys from?" The officers did not reply.

The officers followed the subjects from a distance of 100 to 150 feet. Officer A requested that a marked black and white police vehicle respond to their location to conduct a traffic stop. No one replied to their request, and the officers continued to follow the vehicle.

According to Officer B, when the subjects looked at him, Officer B's jacket was open and they were able to observe his badge, name plate and radio microphone. Subject 1 appeared to be surprised, hesitated for a moment and reached into the back seat area of his vehicle, fumbling for something, and then produced a handgun. Subject 1 leaned out of the window, bladed his body toward the officers and, with the pistol in his right hand, fired between two and five rounds at them. Officer B also indicated that Officer A then broadcast a "shots fired" radio broadcast.

According to Officer A, the subjects did not fire at them from the location described by Officer B, nor did he broadcast a "shots fired" call at that time.

Officer B slowed down before entering the intersection and, as he began his turn, he observed the subjects' vehicle stopped approximately 50 feet in front of them, canted in a northbound direction. Officer A stated that as soon as the officers' vehicle entered the intersection, the subjects' vehicle began to travel forward very slowly.

Officer A stated that Subject 1 extended his right arm out of the passenger side window, looked at the officers and, while holding a pistol, Subject 1 pointed it in their direction, and fired five rounds towards the officers. Officer A ducked down in his seat and unholstered his pistol.

Officer B immediately stopped, at which time Officer A stated he sat up and observed that Subject 1 was still pointing a pistol at them. Officer A leaned out of the vehicle's passenger window and pointed his pistol at Subject 1. Officer A believed he had Subject 1 in his sights and fired two or three rounds at him. Officer B broadcast a "help call," and Officer A broadcast a "shots fired, officer needs help" call. Officer A placed his weapon on his lap, and the officers began to follow the subjects, who had driven

around the corner. Both officers stated that while following the subjects, they lost sight of them several times due to the numerous turns they were negotiating.

Sergeant A arrived and positioned himself behind the officers' vehicle. Officer B then moved his vehicle to the right and Sergeant A, with his overhead emergency lights and siren activated, positioned his vehicle behind the subjects' vehicle. The subjects made a right turn and, shortly after turning, stopped their vehicle. Sergeant A stopped his vehicle approximately 15 feet to the rear of the subjects' vehicle. He drew his weapon, exited his vehicle, and ordered the driver out of the vehicle. Officer B stopped his vehicle approximately five feet to the left of Sergeant A's vehicle. Officer B said that he exited his vehicle, stood behind the open vehicle door, unholstered his weapon and held it in a two-handed position. Officer B then approached Subject 1, and with the assistance of Officer A, pulled him out of the vehicle. Both subjects were subsequently taken into custody. No officers or subjects were struck by the gunshots.

Officers at the scene searched the subjects' vehicle for the weapon; however, it was not found. Officers backtracked the route taken by the subjects' vehicle and located a handgun in the front yard of a residence. The casings recovered from the shooting scene matched the recovered handgun.

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 made the following findings.

A. Tactics

The BOPC found Officer B's tactics to warrant Administrative Disapproval.

The BOPC found Sergeant A and Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. 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. Command and Control

In this instance, Sergeant A assumed the role of the primary unit in the vehicle following and, when the vehicle stopped, he served as the primary unit on the high-risk traffic stop. Although not ideal from a supervisory standpoint, it was the specific circumstances that prevented him from solely maintaining a supervisory oversight role. Notwithstanding that there were other tactical options (e.g. waiting for the arrival of additional police personnel to assume the role of primary unit), the split-second tactical decision to take an active role was reasonable in that personnel receive training in single officer vehicle stop tactics and that tactics are conceptual and meant to be flexible in nature.

In conclusion, although not optimal, the decision to become actively involved did not substantially deviate from approved Department tactical training. As the first marked black and white unit to arrive, it was appropriate for Sergeant A to assume the role of the primary unit in the following and; once the vehicle pulled to the curb and stopped, he was confronted with a rapidly unfolding tactical situation. However, Sergeant A would benefit from a review of the importance of maintaining a supervisory oversight role and the other tactical options that were available to him. The BOPC will direct that these topics be discussed during the tactical debrief.

2. Approaching a Potentially Armed Subject

In this instance, Officer B abandoned his position of cover in order to approach the vehicle. The decision to approach Subject 1 when it was reasonable to believe he was in possession of a firearm was done without prior coordination with Officer A and was inconsistent with high-risk vehicle stop tactical training. This was an independent action that created a circumstance wherein Officer A had to be reactive rather than inclusive in the tactical decisions and forced him to leave his position of cover to assist his partner.

At the time Officer B approached the vehicle, the action most prudent and consistent with tactical training would have been to remain at a position of cover and wait for the arrival of responding personnel, which would provide for the tools and personnel resources to most appropriately handle the tactical situation at hand.

In conclusion, Officer B compromised his safety and the safety of his partner when he prematurely approached the vehicle. This action was inconsistent with

tactical training and necessitated that Officer A expose himself to undue risk of harm in order to assist.

Accordingly, the BOPC found that Officer B substantially deviated from approved tactical training without justification. Although the actions of Officer A were similar, his decisions and actions were influenced by the independent actions of Officer B. Therefore, Officer A's actions did not substantially deviate from approved tactical training.

- The BOPC additionally considered the following:

1. Unsecure Service Pistol in Moving Vehicle

Officer A maintained an unholstered service pistol and placed it on his lap for an undetermined period of time after the OIS.

The BOPC concluded that the decision to maintain an unholstered service pistol was consistent with Department policy. An officer with similar training and experience would reasonably believe that the circumstances posed a substantial risk that the situation may again escalate to the point where deadly force may be justified. Although the investigation does not conclusively establish whether Officer A maintained his service pistol in his hand when he placed it in his lap, Officer A could benefit from a review of the increased risks and considerations associated with maintaining an unholstered pistol while in a moving vehicle.

2. Simultaneous, Non-Conflicting Commands

The investigation revealed that simultaneous commands were used during the high-risk traffic stop. Although these commands were non-conflicting, Sergeant A and Officers A and B are to be reminded of the potential confusion that can occur.

- 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. The BOPC conducted an objective assessment of this case and remained focused on ensuring an equitable outcome based on the role and responsibility of all involved personnel.

The BOPC was critical of Officer B that some of his actions substantially and unjustifiably deviated from approved Department tactical training and warrant an administrative disapproval finding.

Each tactical incident inherently results in considerations to better handle a similar incident in the future. Although there were identified areas for improvement, the tactical considerations relative to Sergeant A and Officer A did not substantially and unjustifiably deviate from approved Department tactical training. Therefore, a

Tactical Debrief is the appropriate mechanism for Sergeant A and Officer A to evaluate the events and actions that took place during this incident to better handle a similar incident in the future.

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

B. Drawing/Exhibiting

- **Officer A**

Officer A observed Subject 1 extend a pistol out of the front passenger side window and fire approximately five rounds at him and his partner. In response, Officer A unholstered his service pistol.

The BOPC determined that an officer with similar training and experience would reasonably believe the act of being fired upon by an armed subject constituted a circumstance wherein the situation had escalated to the point where deadly force may be justified.

- **Sergeant A and Officer B**

Following the shooting, the vehicle stopped, and Sergeant A and Officer B positioned their vehicles for a high-risk vehicle stop. After they exited their vehicles, Sergeant A and Officer B drew their service pistols.

The BOPC determined that an officer with similar training and experience would reasonably believe that a high-risk traffic stop involving shooting subjects posed a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

D. Lethal Use of Force

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

In this instance, Officer A observed Subject 1 extend his right arm out the passenger window, point a handgun at him and fire approximately five rounds in his direction. After Officer A drew his service pistol, he observed that Subject 1 was still pointing the handgun in his direction, and Officer A fired two rounds at Subject 1.

The BOPC determined that an officer with similar training and experience would reasonably believe that a subject pointing a handgun at him/her after having been already fired upon posed an imminent threat of serious bodily injury or death and

that the use of lethal force would be reasonable. Therefore, the use lethal force was objectively reasonable and within Department policy.

Note: The investigation indicated that Officer A discharged his service pistol prior to his vehicle coming to a complete stop. Subject 1 posed an immediate deadly threat by means other than the vehicle. Officer A's actions were in response to exigent circumstances and in the immediate defense of his and his partner's life. Therefore, the decision to fire while in a moving vehicle was reasonable and within Department policy.

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