

Incident Summary

Officers A and B were working gang suppression due to recent shootings between rival gangs. Their mission was to be highly visible, in an effort to prevent any further retaliatory shootings. As the officers were driving in the area, they drove past the Subject.

The Subject glanced in their direction and then immediately looked away. The Subject quickly turned north into an alley, while simultaneously touching an unknown object in his front waistband. The officers stopped their vehicle at the mouth of the alley and observed the Subject quickly turn back to look at them. They became suspicious of the Subject's actions and decided to follow him and possibly conduct a consensual encounter.

Note: According to Officer B, the officers' original intention was not to stop the Subject. As Officer A drove their police vehicle into the alley, the Subject made an abrupt right turn between two apartment buildings and walked north into the rear courtyard. Officer A drove a short distance in the alley and placed the car in park, stopping parallel to the Subject, who was now approximately 32 feet east of the officers' location.

The Subject turned to face the officers, took two steps toward them, and gestured by raising both his hands to chest level. Officer B interpreted this as the Subject's way of asking what was going on. Both officers briefly spoke with the Subject while seated in their vehicle. Officer B asked the Subject what he was up to, and Officer A stated "Hey, you ain't got nothing, right? Lift up your shirt."

The Subject did not immediately lift up his shirt. This action, coupled with the Subject initially looking in their direction and then walking away while touching his waistband, led Officer A to believe the subject was possibly armed or hiding contraband. Officer A exited his vehicle and positioned himself behind the rear left quarter panel. The Subject began to lift up his shirt, as he turned clockwise away from the officers. As he did so, Officer A observed what appeared to be the butt of a black semiautomatic handgun in the Subject's front waistband.

Officer A alerted his partner that the Subject had a gun, while simultaneously unholstering his firearm. Officer A moved around the rear of his vehicle and walked a few steps toward the Subject to obtain a better view of him. Officer A also indicated that he left the cover of his vehicle to close the distance on the Subject, because he assumed the Subject was either going to give up or run away. Officer A ultimately positioned himself next to a wrought iron fence.

Meanwhile, Officer B made similar observations as he saw the Subject gripping the butt of a gun in his waistband and communicated to his partner that the Subject was armed. Officer B immediately exited his vehicle while unholstering his weapon and yelling to the Subject, "Hey, Don't do it! Don't do it!" Officer B then began moving forward in a northeasterly direction to seek cover at the southwest corner of the apartment complex.

Note: The Subject's mother and brother were later interviewed by Force Investigation Detectives (FID), and the mother stated that her son was a gang member and known to carry a firearm on his person for protection. According to the Subject's brother, he believed that the Subject was armed with a 9 millimeter pistol just prior to the OIS.

Officer A identified himself as a police officer and ordered the Subject multiple times to drop his weapon. The Subject, with his right hand, completely removed his pistol from his front waistband, while turning left in a counterclockwise direction to face the officers. As the Subject continued to turn, the barrel of his weapon pointed in Officer B's direction. Officer A believed the Subject's actions posed a serious imminent threat to both him and his partner and consequently fired six to seven rounds at the Subject's center body mass from approximately ten feet. Officer A fired until the Subject fell to the ground and dropped his weapon.

Note: The investigation determined Officer A discharged a total of six rounds during this incident.

The investigation also determined that the Subject was armed with a 9mm semiautomatic pistol.

As the Subject lay in a prone position, Officer B initiated a broadcast to Communications Division (CD) requesting help and providing the officers' location for responding units. Officer B also indicated that the Subject had been shot multiple times and asked for a Rescue Ambulance (RA) to respond.

After ordering the Subject to place his arms out to his sides, Officer A holstered his weapon and approached the Subject to take him into custody. As Officer B provided cover, Officer A handcuffed the Subject's arms behind his back.

Los Angeles City Fire Department (LAFD) personnel arrived and evaluated the Subject at the scene. The Subject was determined to have sustained multiple gunshot wounds and was subsequently transported to a nearby hospital, where he was pronounced dead shortly after arrival.

Note: FID was unable to locate any video surveillance footage of the OIS. The dual-purpose vehicle used by Officers A and B was not equipped with a Digital In-Car Video System (DICVS).

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 Officers A and B's tactics to warrant a finding of Administrative Disapproval.

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/Communication

The investigation revealed a level of confusion between the role Officers A and B would fulfill while conducting high visibility patrol.

Officer B was of the opinion that the officers' mission was solely to conduct high visibility patrol, and not take enforcement action. Officer A's understanding differed in that he envisioned a broader crime suppression definition, which included searching for vehicles related to a homicide which occurred that day and possibly contacting gang members for information related to recent gang shootings.

During the review of the involved officers' statements, they did not have a consistent plan regarding their role during their mission. Although prearranged roles of partner officers are not absolute and at any given time an officer's predetermined role may change depending on the circumstances, in this case, the officer's lack of tactical planning put Officers A and B at a tactical disadvantage. The officers should have discussed their mission in order to have a clear picture of each of their roles. However, during this incident, the involved

officers, even though not initially of the same understanding of their mission, adapted well to one another's actions as the incident unfolded.

Based on the totality of the circumstances, the BOPC determined that the officers' actions regarding Tactical Planning/Communications did not substantially deviate from approved Department tactical training.

2. Body Armor

Officers A and B failed to wear body armor while assigned a plainclothes field operation.

Although the officers were wearing identifiable clothing (raid jackets), officer safety is of paramount concern during field duties. With that said, the officers' decision not to wear body armor while conducting high visibility patrol in an effort to combat a series of recent gang related shootings substantially and unjustifiably deviated from approved Department tactical training.

3. Radio Communications- Code Six

Officers A and B did not notify Communications Division (CD) of their status and location prior to making contact with the Subject.

Officer B recalled that this was a fluid situation, and thought he had enough time to sign out Code Six. According to Officer B, the officers were moving through the alley when they observed the Subject, and the incident transpired.

When FID asked Officer A if he or Officer B broadcast anything to CD when they followed the Subject into the alley, Officer A recalled that he was not sure if his partner did or not.

Officers must be afforded some discretion in determining the appropriate time to make a Code-Six notification. A balance must be maintained to ensure a sufficient level of officer safety in every circumstance. The purpose for providing a timely Code-Six broadcast is to ensure that other units in the area are aware of a location in the event the incident escalates and the response of additional personnel or resources becomes necessary. In this instance, Officers A and B made observations of the Subject, which they interpreted as suspicious and formed the opinion that he may be armed; therefore, it would have been tactically prudent for the officers to notify CD of their Code-Six location prior to initiating contact.

Based on the totality of these circumstances, the BOPC was critical of Officers A and B's failure to broadcast their Code-Six location and believed they had sufficient time and opportunity to initiate a Code-Six broadcast prior to their initial contact with the Subject. Consequently, the BOPC determined, in this instance,

Officers A and B's failure to broadcast their Code-Six location substantially and unjustifiably deviated from approved Department tactical training.

4. Deployment of Vehicle/Pedestrian Contacts

Officers A and B remained seated in their police vehicle with the vehicle positioned parallel with the Subject, who they believed to be possibly armed with a firearm.

Officer A observed the Subject manipulate his waistband in a manner he believed was consistent with an individual in possession of a firearm prior to making the decision to position themselves parallel and in close proximity to him. In some cases, such a parallel position may be unavoidable; however, in situations where officers initiate contact, they should do so consistent with a tactical plan and always maintain a tactical advantage. In this instance, it would have been tactically advantageous for Officer A to position the police vehicle slightly angled and offset from the Subject, and then exit their vehicle, utilizing the police vehicle as cover when the officers attempted to contact the Subject.

The BOPC thoroughly discussed Officers A and B's tactics relative to the deployment of the police vehicle and the initiation of a pedestrian stop while seated in the car. In this circumstance, the BOPC was concerned regarding Officer A's decision to pull up parallel to a potentially armed subject. Furthermore, Officer A's decision placed both officers at a tactical disadvantage and decreased the potential of operational success. As the driver of the vehicle, Officer A was in control and responsible for positioning the vehicle in a manner that would afford both officers the greatest tactical advantage.

Conversely, the BOPC was less critical of Officer B's actions relative to the vehicle deployment, as he was the passenger. However, the subsequent pedestrian stop tactics initially employed by Officer B did concern the BOPC. It is the responsibility of both officers in the police vehicle to communicate effectively to ensure operational success. There is no indication that Officer B made any attempt to advise Officer A to maintain a safe distance from the Subject in order to maintain the tactical advantage.

Therefore, the practice of closing the distance and initiating contact with a possibly armed Subject, parallel to the Subject, regardless of the duration, while seated in the police vehicle is highly discouraged and in this instance, substantially and unjustifiably deviated from approved Department tactical training.

5. Leaving Cover and Approaching Armed Subjects

Officer A observed the Subject armed with a handgun. In response, Officer A stepped away from the cover afforded by the police vehicle.

Officer A recalled from his experience that he had been shot at a few times, but in the majority of the cases with gang members, whether they're going to run, give up, or some other action, they are going to try to get rid of the gun. Officer A recalled that a couple of weeks prior, he had a similar type of incident and the suspect threw the gun on the ground and he took him into custody. Officer A thought that the Subject was either going to dump the gun, take off running or give himself up. Officer A did not believe that the Subject was going to turn and engage the officers, but unfortunately, that is what he appeared to be doing. Officer A indicated that he believed the Subject would drop the weapon and the officers would take him into custody as quickly as they could without letting him escape.

Note: Measurements taken by FID revealed that Officer A was standing approximately 10 feet from the Subject when the OIS occurred.

The utilization of cover affords an officer a barrier to maintain a tactical advantage. In this circumstance, Officer A was utilizing the police vehicle for cover. When Officer A observed the Subject armed with a handgun in his front waistband, he moved away from cover to approach the Subject.

In the BOPC's assessment of the tactics used by Officer A, the BOPC found by moving away from cover to approach the Subject, Officer A unnecessarily exposed himself to additional danger and placed himself at a significant tactical disadvantage, and did so without reasonable justification. Officer A knew that the Subject was in possession of a handgun. Although he did not anticipate that the Subject would turn and engage him and Officer B, he should have reasonably believed that the Subject posed a substantial risk of death or serious bodily injury. Consequently, Officer A should not have stepped away from cover under the circumstances.

Therefore, the BOPC found that Officer A's actions substantially and unjustifiably deviated from approved Department tactical training.

- The BOPC additionally considered the following:

1. Verbal Commands

The investigation revealed that Officers A and B issued individual commands to the Subject. Those commands consisted of, "drop the weapon" and "don't do it." Officers are trained to utilize the concept of contact and cover where one officer issues verbal commands while the other provides cover. When conflicting commands are given, there is a possibility of confusion, which can result in not obtaining the desired result. Additionally, Officer A's direction to the Subject to drop his handgun when he initially saw the Subject reaching toward the front of

his waistband area prior to observing the Subject's hand actually on the gun was not the optimal command under these circumstances. Instead, the BOPC would have preferred that Officer A had ordered the Subject to place his hands in the air, in effort to separate his hands from the weapon. However, the BOPC understands that during a rapidly evolving and dynamic situation such as this, simultaneous or conflicting commands 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, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

In conclusion, the BOPC found Officers A and B's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

- Officers A and B observed the Subject meandering and walking in a known gang area, after leaving a known gang location, in an area in which they were conducting high visibility patrol in an effort to combat gang related shootings. When Officers A and B attempted to look at the Subject, he made a very quick left-bound turn walking northbound through the alley and touched the center area of his waistband, which based on the officers' training and experience, led them to believe that the Subject may be concealing either a firearm or narcotics and may be trying to avoid them.

Believing the Subject was possibly armed, Officers A and B initiated contact and asked the Subject to lift his sweatshirt in order to expose his waistband. After again asking the Subject to lift his sweatshirt, he did so, and Officers A and B observed a handgun in his front waistband, at which time Officers A and B drew their respective service pistols.

Officer A recalled asking the Subject if he would lift up his sweatshirt. The Subject refused to do so, which again alerted Officer A's attention to the belief that the Subject was possibly armed or was hiding some type of contraband. Officer A exited his car, at which point he had eyes on the Subject. The Subject then began to lift up his shirt, but at the same time turned to his right away from Officer A, attempting to conceal something in his waistband. At that time, Officer A observed the butt of a handgun. As Officer A exited his vehicle, he alerted Officer B that the Subject had a gun. Officer A drew his weapon because he had reason to believe the situation could escalate to the use of deadly force. Accordingly, Officer A believed the Subject was possibly a gang member and was armed with a handgun.

Officer B recalled that when he saw the Subject, he was actually holding onto a butt of a gun. That's when Officer B, with his police radio in his left hand, immediately opened the door and started exiting the car. Once Officer B got out of the car, he

placed the radio in his pocket out of habit, while at the same time, drawing his weapon.

In evaluating the actions of Officers A and B, the BOPC took into consideration that the officers observed the Subject armed with a handgun, causing both officers to recognize that the above circumstance could escalate to a life-threatening situation.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A and B, while faced with a Subject removing a handgun from his waistband 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. Lethal Use of Force

- Officers A and B observed the Subject armed with a handgun in his front waistband. Officer A ordered the Subject to drop the weapon several times. The Subject ignored Officer A's commands and with his right hand, completely removed the handgun from his front waistband, while turning left in a counterclockwise direction to face the officers. As the Subject turned, he pointed the barrel of his handgun toward Officers A and B. In defense of Officer B and his own life, Officer A fired six rounds from his service pistol at the Subject's to stop his actions.

Officer A recalled that he continued to tell the Subject to drop the weapon. At this point, the Subject began to turn left towards him and Officer B. At no time did Officer A direct the Subject to turn. Officer A continued to instruct the Subject to drop the weapon, when he then observed a handgun in his right hand pointed towards Officer B and himself. At this point, Officer A felt that there was an imminent threat towards his life and that of his partner, and serious bodily injury or death could occur. Officer A fired several rounds at the Subject and aimed for the center mass in order to stop the threat.

During the BOPC's assessment of Officer A's use of lethal force, the BOPC took into account many factors. One of these factors was that both officers provided conflicting commands to the Subject, which may have caused confusion on the Subject's behalf regarding what the officers were ordering him to do. Nonetheless, once the Subject removed the handgun from his waistband and began to turn toward the officers, while pointing the handgun at him and his partner, Officer A was faced with an imminent threat of serious bodily injury or death. At this time, Officer A was faced with a situation that required a split-second decision to utilize lethal force upon the Subject to stop his actions.

Additionally, neither Officers A nor B ordered the Subject to turn around, in any direction, at any time. Once the Subject chose to turn toward the officers, Officer A responded to the presented deadly threat. Based on the Subject's non-compliance with Officer A's commands to drop his weapon as he turned his upper body toward him, and the fact that the Subject then pointed his handgun in the officers' direction, Officer A's decision to discharge his service pistol to stop the Subject's actions and protect Officer B and himself from serious bodily injury or death was objectively reasonable.

In conclusion, an officer with similar training and experience as Officer A would reasonably believe that the Subject presented an imminent threat of death or serious bodily injury and that the use of lethal force in order to address this threat would be objectively reasonable.

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