



## **Incident Summary**

Plain-clothes Police Officers A and B had been directed by Detective A to monitor an area for narcotics activity. As they sat in their vehicle, Officers A and B observed a group of males loitering near a liquor store. Based on his prior contacts with certain members of the group, Officer A recognized them as gang members.

Several minutes later, a male wearing a black do-rag, a blue short-sleeved shirt, blue jean pants, and white tennis shoes rode a bicycle toward the group. Officer A immediately recognized the male as Subject 1, a self-admitted member of a gang. Officer A informed Officer B that in 2011, he had arrested Subject 1 for a narcotics offense.

**Note:** According to Officer B, they had been monitoring the group for approximately 30 to 45 minutes when Subject 1 arrived on his bicycle.

Officer B then spoke to Police Officer C on his cellular phone and requested that he and his partner, Police Officer D, respond and assist in monitoring the group of gang members that were possibly engaging in narcotics activity.

Officers C and D arrived in an unmarked vehicle and Officer C parked. As Officers C and D sat in their vehicle, and within five minutes of their arrival, they observed Subject 1 near an intersection, conversing with other individuals in the group. Several minutes later, Subject 1 rode his bicycle away.

Officers C and D negotiated a U-turn, followed and then passed Subject 1. Officers A and B also followed Subject 1 in their vehicle. Officers A and B observed Subject 1 stop mid-block beside a male, who was bald, wearing a black short-sleeved shirt (Subject 2).

Officers A and B observed Subject 1 reach into his rear pants area then appear to drop something from his hand into Subject 2's left palm. Subject 2 then clenched his left hand and walked away, while Subject 1 then rode his bicycle away. Based on their observations, Officers A and B formed the opinion that a narcotics transaction had occurred; therefore, Officer A directed Officers C and D to detain Subject 2.

As Officers A and B followed in their vehicle, they observed Subject 2 appearing to look in the direction of Officers C and D, who were in the vehicle west of him. After observing Officers C and D, Subject 2 entered a nearby residence. Officer A directed Officers C and D to the residence that Subject 2 had entered. Officers C and D donned their tactical vests and exited their vehicle to arrest Subject 2.

**Note:** Officers C and D wore similar black tactical vests which contained body armor, a "Los Angeles Police" patch embroidered onto the right upper chest area, a police officer badge patch embroidered on the upper left chest area, and a "POLICE" patch embroidered onto the upper back of their vests.

Officer A negotiated a U-turn and parked his vehicle along the curb. Officers A and Officer B donned their tactical vests, then exited their vehicle.

**Note:** Officer A wore a vest similar to that of Officers C and D. Officer B's vest bore "POLICE" patches embroidered on the front upper chest and rear upper back area.

Officer A broadcast to Communications Division (CD) that officers had arrived at the location and gave their exact position, then, along with Officer B, walked toward Officers C and D to assist with the apprehension of Subject 2.

Officers C and D walked to the front porch of the residence and observed the front door open and its metal security door closed. They peered into the residence through the metal security door and observed Subject 2 inside. Officer D then used a ruse of a radio call and asked Subject 2 to exit, with which he complied. Officer D handcuffed Subject 2, then asked if he could search his person and Subject 2 consented. Officer D searched Subject 2 and recovered a clear plastic bindle containing an off-white solid substance resembling cocaine base from his front left pocket. Officer D informed Subject 2 that he was being arrested for violation of 11350(a) H&S (Possession of Cocaine Base).

Officer D informed Officers A and B regarding the recovery of the cocaine base from Subject 2. As Officers C and D returned to their vehicle with Subject 2, Officer A informed them of his and Officer B's intention to arrest Subject 1 for Sales of Cocaine Base. While they searched for Subject 1 in the area, Officer A requested that Officers C and D remain in the area prior to transporting Subject 2 back to the police station.

Officer A drove his vehicle, with Officer B sitting in the right rear seat as they searched for Subject 1. Officer D sat Subject 2 in the right rear seat of the vehicle, then sat down in the left rear seat. Officer C drove his vehicle and stopped at an intersection, at which time he observed Subject 1 walking by. Officer C alerted Officer D, who then broadcast Subject 1's activity to Officers A and B.

Upon being alerted of Subject 1's whereabouts, Officers A and B observed Subject 1 walking on the sidewalk, along with an unidentified male who walked a bicycle. Officer A stopped their vehicle beside Subject 1 and the unidentified male, and Officer B exited via the right rear passenger door.

**Note:** According to Officer B, he had discussed with Officer A his intention to exit the vehicle and detain Subject 1.

Officer B identified himself as police and stated to Subject 1, "Hey, come here. I'm going to talk to you. Let me see your hands." At that moment, as Subject 1 continued walking, he initially looked to his left in the direction of their vehicle, then looked around, appearing to look for an escape path. Officer B then ran toward and passed them,

stopping several feet west of Subject 1 and the unidentified male. Subject 1 stopped, turned in the opposite direction and fled on foot.

Officer B observed Subject 1 grab his front waist area many times with both of his hands and look over his shoulder as he sprinted. As Subject 1 continued to run, Officer D directed Officer C to remain with Subject 2 and stated that he would exit to detain Subject 1. Officer C acknowledged and Officer D exited the vehicle. Officer D identified himself as an LAPD officer and directed Subject 1 to stop, however he sprinted past Officer D into a driveway of a near a business.

**Note:** The driveway was approximately 10 feet wide, 68 feet long, and was fairly dark.

Officer D pursued Subject 1 with Officers A and B sprinting behind them. As the officers pursued Subject 1 in the driveway, Officer A broadcast that they were in foot pursuit of a narcotics Subject and requested a back-up. After hearing Officer A broadcast the foot pursuit, Officer D yelled back that he was tracking Subject 1.

**Note:** According to Officer A, he had broadcast that he was in a foot pursuit of a narcotic Subject with a possible gun.

As Officers A, B and D pursued Subject 1, Officer C negotiated a U-turn and drove toward the driveway with Subject 2 in the right rear seat.

As Subject 1 neared the mid-point of the driveway, Officer D, who was approximately 20 feet behind, observed Subject 1 reach with his right, then both of his hands, into his rear waist near the buttocks area. Officer D stated Subject 1 appeared to grasp something in the shape of a fist but could not determine if it was Subject 1's hands or an outline of a handgun, or both.

Based on his observations, participation in numerous arrests of gang members and knowledge that gang members selling narcotics in the area possessed handguns for protection from individuals attempting to stop their drug sales or rival gang members, Officer D believed that Subject 1 was in possession of a handgun.

Officer D unholstered his service pistol due to his belief that the situation may escalate to the point where the use of deadly force may be justified, as Subject 1 continued manipulating something in his rear waist area. As he pursued Subject 1, Officer D stated he ordered numerous times, "Stop, LAPD. Stop Freeze". According to Officer D, Subject 1 responded by turning his head around to look in his direction while continuing to sprint.

Based on Officer A's knowledge of Subject 1 being a gang member and that gang members are known to possess weapons, Officer A unholstered his service pistol. Officer B also was aware that gang members concealed handguns in their waist area and based on his observation of Subject 1 again grabbing his waist area, Officer B

unholstered his service pistol due to his belief that the situation could escalate to the use of deadly force.

Subject 1 continued sprinting in the driveway, which transitioned to a walkway that was adjacent to a two-story four-unit apartment building. Subject 1 reached an east/west alley behind the apartment building, then turned right and sprinted west.

As Officer D arrived at the alley, he slowed to a brisk walk due to his concern that Subject 1 may be waiting for him around the corner of the apartment building. Therefore, Officer D walked around the building in a wide arc. As Officer D turned right in the alley, he observed Subject 1 sprint north from the alley and disappear around the southwest corner of the apartment building.

As Officers A, B, and D arrived in the parking area, they observed Subject 1 jump onto a chain-link fence located to the east of the parking area.

**Note:** The 6 foot tall chain-link fence was covered with vertical white and brown fence slats which were approximately 1 3/8 inches wide with an approximate 1/4 inch gap in between them.

Officer D stated, "Let me see your hands. Stop. Freeze. LAPD." Subject 1 looked at Officer D, then climbed over the chain-link fence and stood on an unknown object (later determined to have been a black cylindrical barbeque smoker) on the opposite side of the fence.

As Subject 1 stood on the smoker, Officer D observed him place both of his hands behind his waist for several seconds, appearing to search for something. Subject 1 then repeatedly yelled expletives and paced back and forth on the smoker with both his hands clenched. Subject 1 proceeded to jump from the smoker, then sprinted north into a narrow dead-end walkway. In an effort to contain Subject 1 and prevent his escape, Officers A and B sprinted east in the alley, then north in the walkway and arrived at the northeast corner of the two-story apartment building.

**Note:** Officer A stated that as Subject 1 jumped off the smoker, Officer D stated he would remain in the parking area.

According to Officer D, Officer A stated that he would go around the apartment building for containment in the area and establish a perimeter. Officer D stated he was not certain as to what area Officer A was referring to; however, he held his position for containment, in case Subject 1 returned.

Officer A stated he believed that he had not separated from Officer D because he could observe Officer D from the opposite side of the chain-link fence through the openings between the vertical slats, and could climb

over the chain-link fence within seconds to render aid to Officer D, if necessary.

Officer B stated that he could not see through the chain-link fence. He added that he was not aware that Officer D had remained behind alone.

Officer A observed Subject 1 crouched in the narrow walkway and partially concealed behind the southwest corner of a business. Officer A directed Subject 1 to come out from behind the building and Subject 1 responded by periodically exposing his head and his hands.

According to Officer A, Subject 1 then sprinted south from the walkway and stepped onto the rear of a parked SUV, then onto the top of the chain-link fence. Officer A repositioned himself closer to Subject 1 at the front of the SUV, with Officer B positioned to his left.

Officer D, who stood approximately five feet away from the chain-link fence, observed Subject 1 moving around on the opposite side of the fence through gaps between the vertical slats. Officer D then heard Officer B identify himself as police and directed Subject 1 to stop. He then observed Officers A and B's heads and noted a potential cross-fire issue. Therefore, Officer D moved to his right, closer toward the west wall.

Subject 1 then appeared on the opposite side of the chain-link fence as he stood on an approximately 18" tall plastic storage container, near a joint of two sections of the chain-link fence.

Officer D repeatedly directed Subject 1, "LAPD, let me see your hands!" Subject 1 did not comply and appeared to manipulate something behind his waist area. Subject 1 then climbed onto the top of the fence, holding onto the top rail with both hands and feet resting on it, in a crouched position. According to Officer D, he yelled, "Don't jump!" and Subject 1 appeared to consider his options as he looked back towards Officers A and B.

As Subject 1 remained on top of the fence, Officer D believed that Subject 1 may jump and he would have to fight Subject 1. Officer D also stated he did not wish to fumble with holstering his service pistol; therefore, he backed up approximately five feet. After several seconds of crouching on top of the fence, Subject 1 jumped and lunged toward Officer D, exposing a portion of his left side, as he was slightly bladed.

Officer D stated he did not have time to holster his pistol and believed that Subject 1 may use whatever he possessed in his waist area or that Subject 1, who was focused on Officer D's service pistol, would attempt to take possession of it. Therefore, Officer D backed up a couple of steps, held his pistol in a two hand grip with both arms extended near his shoulder level, and fired one round. As Subject 1 reached the apex of his jump, Officer D fired a second round. Officer D fired his third round as Subject 1 descended toward the ground.

According to Officer D, Subject 1 landed onto the ground on his feet, approximately five feet from him. As Subject 1 was bladed in an unknown direction, he took a step toward Officer D, who backed up and pointed his service pistol at Subject's center body mass. Subject 1 then reached with an unknown hand toward Officer D's service pistol, coming within approximately five feet and causing Officer D to believe Subject 1 was attempting to disarm him or assault him in some manner. Officer D fired two additional rounds at Subject 1.

Upon Officer D firing his final round, Subject 1 fell onto the ground and on his stomach. As Officers A and B arrived to Officer D's location, they observed Officer D pointing his service pistol at Subject 1. Officer B stood beside Subject 1's left shoulder, holstered his service pistol, and then handcuffed Subject 1. Officer A holstered his service pistol, broadcast that the incident had been resolved and requested a Rescue Ambulance (RA).

Officer C heard four gunshots from the area where the officers had been pursuing Subject 1. Officer C then heard a help broadcast of shots fired in the alley and he proceeded to drive into the driveway and parked.

Officer C exited his vehicle as Subject 2 remained inside. A witness informed Officer C that the shooting occurred on the opposite side of the chain-link fence. Officer C jumped on top of cardboard boxes near the chain-link fence and peered over. After confirming that the incident had been resolved, Officer C returned to his vehicle.

**Note:** According to Officer C, the vehicle remained in his line of sight and was approximately 15 to 20 feet away.

Los Angeles Fire Department Firefighters/Paramedics responded, treated Subject 1, and subsequently transported him to a nearby hospital.

### **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 Detective A, and Officers A, B, C, and D's tactics to warrant Administrative Disapproval.

## **B. Drawing/Exhibiting**

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

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

The BOPC found Officer D's use of lethal force to be Out of Policy.

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Code Five/Use of Observation Posts

Officers A and B were investigating a specific narcotic location for approximately 30-45 minutes without broadcasting a Code-Five notification to CD. Officers C and D subsequently assisted Officers A and B and also set up an Observation Post without making proper notifications.

Officers are given discretion to determine the appropriate time to notify CD of their Code Five location. Conducting a Code-Five broadcast ensures that all units shall avoid the vicinity and remain aware of police activity, except in an emergency. Accordingly, officers are afforded the opportunity to enhance their ability to effectively gather intelligence. In this circumstance, Officers A and B were parked and seated inside their police vehicle, monitoring the location for narcotics activity. Furthermore, Officers A and B were afforded the opportunity to conduct a timely Code-Five broadcast as their investigation transpired over a 30-45 minute time period. Officers C and D were also in the area monitoring narcotics activity for approximately five minutes and failed to make proper notifications.

Moreover, given they were conducting an Observation Post, the officers did not complete either a written plan or in this case, given the spontaneity of the action, ensure verbal notification to the Watch Commander (W/C) or their Officer in Charge (OIC).

The BOPC conducted an analysis of Officers A, B, C and D's decision to forgo a Code-Five broadcast and verbal notification to their WC or OIC. The BOPC determined there was ample opportunity to make this notification prior to beginning the operation and/or while it was in process. Accordingly, it was found that Officers A, B, C and D substantially and unjustifiably deviated from approved Department tactical training.

## 2. Pedestrian Stops/Parallel Foot Pursuit (Substantial Deviation) Officer A.

Officer B exited the police vehicle, identified himself as a police officer and approached Subject 1 on foot, while Officer A continued driving while inside the police vehicle.

Operational success is based on the ability of the officers to effectively communicate during their contacts with the public. Officers, when faced with a tactical incident, improve their overall safety through their ability to recognize an unsafe situation and to work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this instance, Officer A placed Officer B in a tactical disadvantage when Officer B assumed the role of contact, while Officer A was still seated in the police vehicle.

Operational success is ensured via strict contact and cover roles, combined with a coordinated response while conducting a pedestrian stop. Officer B exited the police vehicle and confronted Subject 1 as he walked with an unidentified male. It is the BOPC's expectation that officers adhere to the roles of contact and cover and utilize effective communication to ensure operational success. As a result, Officer A's decision to remain in the police vehicle while continuing to drive, and thereby leaving Officer B alone in an attempt to contain Subject 1 substantially deviated from approved Department tactical training. Conversely, Officer B instructed Officer A to stop at a specific location. Officer B approached Subject 1 in an effort to apprehend him, with the belief that Officer A stopped the vehicle and assumed the cover role. Consequently, Officer B communicated his intentions with Officer A and did not substantially deviate from approved Department tactical training.

In conclusion, Officer A's actions substantially and unjustifiably deviated from approved Department tactical training without justification. Conversely, Officer B did not substantially deviate from approved Department tactical training.

## 3. Tactical Communication/Separation/Pursuing Possible Armed Subjects

Officers A, B and D conducted a foot pursuit of a possibly armed Subject without a coordinated response. Officer D separated from Officer C, while leaving

Subject 2 in the back seat of their police vehicle while handcuffed but not secured. Additionally, Officers A and B separated from Officer D, leaving him alone, in an effort to contain a possibly armed Subject.

Establishing a perimeter and attempting to contain an armed Subject demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and a successful resolution. In this circumstance, Officers A, B and D pursued Subject 1 on foot, without the benefit of a tactical plan. Officer D separated from Officer C while leaving him alone with an arrestee. Additionally, Officers A and B and D conducted a foot pursuit of Subject 1. Officers A and B separated from Officer D in an effort to enhance their containment abilities.

Officers A and B were separated from Officer D by a chain link fence which hindered their ability to render aid in a timely fashion. When asked if Officer B knew Officer D was on the other side of the fence, Officer B stated he did not realize it until he was on the opposite side of the fence.

Based on the totality of the circumstances, the BOPC determined that pertinent communication did not occur to the extent necessary to facilitate the best tactical practice of working together as a team to most effectively handle the incident. Consequently, Officer D unnecessarily separated from his partner, which left Officer C at a distinct tactical disadvantage. The separation occurred without sufficient articulable facts to support that the separation was reasonable under the circumstances.

Additionally, the BOPC assessed that Officer A and B's decision to separate from Officer D upon containing Subject 1 was inappropriate. Officers A and B's decision left Officer D at a distinct tactical disadvantage wherein he was confronted by a possibly armed Subject. Cognizant that Officers A and B were in relative close proximity, their ability to render aid in a timely fashion was diminished by the presence of a chain link fence. As a result, Officer D was unnecessarily placed into a tactical situation which left him vulnerable without the immediate benefit of additional resources.

The BOPC assessed Officer A, B and D's tactics and determined that they substantially and unjustifiably deviated from approved Department tactical training.

#### 4. Simultaneous Commands

Officers A, B and D issued simultaneous verbal commands to Subject 1 from two separate locations. Officers must utilize clear and concise commands to ensure a Subject has a clear understanding of the directions being issued. In this instance, Officers A, B and D failed to communicate with each other and gave

numerous non-conflicting verbal commands to Subject 1. Simultaneous multiple commands typically result in confusion by all involved in a tactical situation.

One officer should be designated as the person giving direction to the Subject during a life-threatening situation to prevent confusion and to increase the likelihood of taking the Subject into custody in a quick and effective manner.

In conclusion, the assessment by the BOPC determined that Officers A, B and D's actions were a substantial deviation from approved Department tactical training, without justification.

#### 5. Utilization of Cover

The utilization of cover enables an officer to confront an armed Subject while simultaneously minimizing exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options. In this circumstance, Officer D confronted Subject 1, whom he believed was possibly armed, without utilizing cover. Although there were vehicles parked in the parking lot where he could have utilized as cover, Officer D remained approximately 5 feet from the fence.

The BOPC took into account that the use of cover would have enhanced Officer D's ability to create distance between a potentially armed Subject and would have increased his tactical advantage.

The BOPC determined that Officer D's decision to forgo cover and address Subject 1, whom he believed was armed with a weapon, substantially and unjustifiably, deviated from approved Department tactical training.

#### 6. Unattended Arrestee

Officer C exited the police vehicle while leaving an unattended arrestee inside the police vehicle. Leaving an unattended arrestee alone in the police vehicle, although handcuffed, but not seat belted, places officers at a tactical disadvantage. In this circumstance, Officer C indicated that he left Subject 2 in the police vehicle while in close proximity and line of sight of the Subject. The BOPC believed that Officer D was not in line of sight of Subject 2 when Officer C stated that he had jumped over a fence to render aid to other officers.

The BOPC appreciated Officer C's concern for other officers during a rapidly unfolding tactical situation; however, his tactical decision to leave Subject 2 alone in the police vehicle placed him at a tactical disadvantage and gave Subject 2 the opportunity to escape.

The BOPC determined that Officer C's actions substantially and unjustifiably deviated from approved Department tactical training.

- The BOPC additionally considered the following:

1. Running with Service Pistol Drawn

Officers A, B and D pursued Subject 1 on foot while their service pistols were drawn. Officers A, B and D are reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

2. Detective A did not exercise appropriate supervisory oversight over this incident, unjustifiably and substantially deviating from approved Department tactical training.

- 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.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and 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.

The BOPC found Detective A, Officers A, B, C and D's tactics to warrant a finding of Administration Disapproval.

## **B. Drawing/Exhibiting**

- Officer D observed Subject 1 running from Officers A and B, while reaching into his rear waistband and believed based on his experience with gangs and narcotics that Subject 1 was armed with a handgun.

Officers A and B attempted to detain Subject 1 who fled on foot. Officer A observed that Subject 1 clenched his waistband and believed he was in possession of a weapon. Officer A observed Subject 1 continuously reaching for his waistband. Officers A and B drew their respective service pistols.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A, B and D, while faced with similar circumstances in each case, 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, B and D's drawing and exhibiting of a firearm to be in policy.

**Note:** In addition to the above listed employees, there were additional personnel who drew or exhibited firearms during the incident (i.e., perimeter positions) and although deemed appropriate no specific findings or action in regard to these officers is required.

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

- Officer D, looking through the chain link fence covered with white and brown vertical slats, ordered Subject 1 to show his hands. Subject 1 appeared to manipulate something behind his waist area and climbed onto the top of the fence, holding onto the top rail with both hands. Officer D believed that if Subject 1 jumped off the fence, he would attempt to take possession of his service pistol. Officer D redeployed approximately five feet rearward as he held his pistol in a two-handed grip with both arms extended near his shoulder level.

Subject 1 then jumped toward Officer D. Officer D fired one round at Subject 1 as he jumped toward him. As Subject 1 reached the apex of his jump, Officer D fired a second round. Officer D fired his third round as Subject 1 descended toward the ground. Subject 1 landed on his feet on the ground and Officer D observed him moving toward him. Officer D believed that Subject 1 would attempt to disarm him or assault him and take his service pistol. Consequently, Officer D fired two additional rounds from his service pistol at Subject 1.

The BOPC was critical of Officer D's decision to utilize lethal force. The BOPC determined that there was no indication that Officer D's life was in immediate danger at the time that he fired his service pistol. Moreover, Officer D observed Subject 1's hands empty immediately preceding the OIS. Accordingly, 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 the time Subject 1 jumped off the fence toward Officer D. The fact that Subject 1 lunged toward Officer D does not rise to the level wherein a reasonable officer would perceive that action was posing an imminent threat of death or serious bodily injury.

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