

Incident Summary

On June 30, 2008, Subject 1 and his girlfriend, Subject 2, drove to a restaurant. Subject 2 drove Subject 1's car and parked in the rear parking lot of the restaurant. Subject 1 exited the car and proceeded toward the entrance of the restaurant while Subject 2 waited in the vehicle. Subject 1 pulled a beanie down over his face, with openings for his eyes and nose, then entered the restaurant armed with a pistol. Subject 1 then approached the counter and demanded money from the cashier. After obtaining money, Subject 1 exited the restaurant and entered the front passenger seat of the car. Subject 1 and Subject 2 then exited the parking lot and drove eastbound.

As the Subjects fled the location, an unidentified customer contacted Communications Division (CD) via cellular phone and reported the robbery. CD broadcast a radio call of a robbery in progress at the restaurant; however, CD did not have a subject or vehicle description at that time.

Officers soon arrived at the restaurant and interviewed the manager. The manager described Subject 1 and the car and indicated that Subject 1 was armed with a handgun. The manager told the officers the direction in which the car went. The officers then broadcast the manager's information to other units.

Meanwhile, Officers A (passenger) and B (driver) were responding to the robbery. While en route, Officers A and B heard the vehicle description and observed a car closely matching that description being driven by a female. Officer A contacted the officers at the restaurant via radio to confirm the description of the car. As the car passed Officers A and B, Officer B activated the unit's overhead emergency lights to stop traffic, then negotiated a u-turn, and proceeded to close the distance on the car. The car quickly moved into a left turn lane and turned. As Officers A and B followed, the officer at the restaurant confirmed the description of the car via radio. Officer A then notified CD that they were following the car.

Officers A and B followed with their light bar on. They pulled in right behind the car and it pulled to the curb. The car stopped in front of the first residence on the street.

Officer A notified CD that they were at the scene and were investigating.

As Subject 1 got out of the car, Officer B saw his hand by his waistband and a gun. He yelled to Officer A that he saw a gun. Subject 1 started running. Officer A ran after him.

Note: Officer A did not hear his partner's warning nor the reference to the gun in the earlier broadcast.

According to Subject 1, after he exited the car, he held the handgun in his right hand and continued to hold it in his right hand while being pursued by Officer A.

Prior to pursuing Subject 1, Officer A broadcast via his Astro radio that he was in foot pursuit.

Note: A review of the Area base radio frequency revealed no corresponding transmission from Officer A.

As Officer A began his pursuit of Subject 1, he glanced inside the open passenger door of the car to ascertain if any other subjects remained inside. Observing only Subject 2, Officer A continued his pursuit of Subject 1.

Note: Officer A did not know the location of his partner at the time he began to chase Subject 1.

Officer B broadcast to CD their location, that they were engaged in a foot pursuit, that Subject 1 was armed with a gun, and there was a woman in the car.

Note: Subject 1 actually ran in a different direction on a different street that was located 12 blocks to the east of the officers' location from what was broadcast.

Officer B then approached Subject 2, who was still seated in the car. Officer B had his hand on his gun, had it unsnapped, walked up and grabbed Subject 2, pulled her out of the vehicle, and handcuffed her. Officer B intended to quickly secure Subject 2 in the police vehicle, then respond to assist his partner.

Note: Officer B did not conduct a search of Subject 2 prior to placing her inside the police vehicle.

Note: According to Subject 2, the officer who approached her while she was sitting inside the car had his pistol unholstered.

As Officer A pursued Subject 1 on the sidewalk, he passed three residences. At the third residence, Subject 1 ran across the front lawn and then ran around the corner of the east side of the residence out of Officer A's view.

Note: Officer A's intention was to maintain sight of Subject 1 and broadcast his location so responding officers could set up a perimeter.

Officer A rounded the corner and walked up the driveway of the residence. Officer A observed Subject 1 with his back toward him, standing in front of a fence separating the side yard from the backyard. It appeared to Officer A that Subject 1 was going to scale the fence and enter the backyard, and he ordered Subject 1 to stop.

Note: Officer A yelled at Subject 1 to stop.

According to Subject 1, Officer A yelled, "I'm – I'm going to shoot you, motherf[...]"

According to Witness A, she heard an unknown individual state, "Stupid motherf[...]."

Subject 1 stopped, turned around, and faced Officer A. Subject 1 held a handgun in a two-handed grip pointed at Officer A. Fearing that he was about to be shot, Officer A drew his service pistol and fired three rounds at Subject 1 from a distance of approximately 21 feet. After the third round, Subject 1 fell to the ground, onto his stomach. The handgun fell from Subject 1's hand and landed approximately four to five feet away from Subject 1.

Note: Officer A fired at Subject 1 from a distance of approximately 21 feet.

Note: Officer A was wearing a triple retention holster during the incident and experienced difficulty in drawing his pistol.

Officer A then broadcast that he needed help. Officer A then returned his radio to his equipment belt and re-holstered his pistol. Officer A then approached Subject 1 by himself and handcuffed Subject 1's hands behind his back.

Note: A review of the base frequency did not reveal a corresponding transmission.

Officer A broadcast that he did not need further assistance, that the subject was down, and requested a Rescue Ambulance (RA).

Meanwhile, as Officer B placed Subject 2 in the rear seat of the police vehicle he lost sight of his partner and heard shots being fired. Officer B broadcast that an officer needs help because shots were fired.

Meanwhile, Officers C and D had monitored Officer A's radio transmission and responded toward their location. As they neared the location, they heard several gunshots. They arrived at the location and drove up alongside Officer B, who was standing next to his vehicle. They observed Subject 2 sitting inside the car.

Officer B advised Officers C and D that his partner had gone in foot pursuit of Subject 1, pointed to a residence with the front porch light on, and told them that was the last location he had observed Officer A. The officers then parked their vehicle in front of the car and exited. One officer then broadcast that a perimeter was needed. All three officers then proceeded to search for Officer A. As two of the officers approached the residence, they called out Officer A's name in an effort to locate him. Officer A verbally

responded and the officers located him and Subject 1 on the driveway area between the houses.

Note: According to Officer B, he locked his police vehicle with Subject 2 inside prior to helping the other officers search for Officer A.

They reached Officer A's location and observed that Subject 1 was handcuffed, lying face down on the ground, and that a pistol lay a few feet away from his head. Subject 1 had a wound on his left shoulder.

Detective A arrived at the scene and separated Officer A from the other officers, then obtained a public safety statement from him.

Los Angeles Fire Department personnel arrived at the scene and treated Subject 1 for a single gunshot wound to his left upper arm. Subject 1 was transported by RA to the hospital for medical 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/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 Officers A and B's tactics warranted Administrative Disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC found Officer A's Lethal Use of Force to be in policy.

Basis for Findings

Tactics

In adjudicating this incident, the BOPC considered the following tactical considerations:

1. Officer A went in foot pursuit of a male who he believed was involved in a robbery. Although Officer A did not hear the radio broadcast that the subject was armed with a gun or his partner yell at him that the subject had a gun, given the seriousness of the crime and the presence of at least one additional subject in the vehicle, Officer A should have remained behind cover, established a perimeter for the fleeing subject, and conducted a high-risk stop. Officer A's decision placed both himself and his partner at a tactical disadvantage and forced his partner to make a decision to either stay with Subject 2 or pass the uncleared vehicle and engage in the foot pursuit with his partner.
2. Upon seeing Officer A begin to chase the subject, Officer B remained at the door of his police vehicle and initiated a broadcast to CD indicating that the foot pursuit was taking place 12 blocks east of the actual location. This creates a major officer safety concern, not only to the primary unit, but also to those officers who are responding.
3. Although Officer B was placed in a very difficult situation, officers need to exercise good judgment and not expose themselves to unnecessary danger. Officer B was faced with Subject 2 and had no way of knowing if there were additional subjects in the vehicle. Officer B should have utilized the high-risk stop procedure and ordered Subject 2 out of the car and into a prone position prior to taking her into custody. The decision to approach Subject 2 in the manner that he did placed Officer B at a tactical disadvantage.
4. The officers separated from each other and, based on their statements, were not aware of each other's whereabouts. Officer A had just been involved in an OIS, broadcast a call for help, handcuffed Subject 1 singlehandedly, broadcast a request for a rescue ambulance, and his partner was not with him or within his sight. Officer B remained near his police vehicle and was no longer able to see his partner, heard gunfire, and broadcast that shots were fired and an officer needed help. Neither officer was in a position to render immediate aid to the other.
5. Subject 1 had already gone down, but Officer A did not know if the subject had been struck by his gunfire. Officer A made a decision to holster his weapon and take Subject 1 into custody by himself. Officer A should have taken a position of cover and awaited the response of additional personnel prior to attempting to take Subject 1 into custody. Circumstances may exist in which an officer must take immediate action; however, in this situation, it does not appear that an exigency existed that required Officer A to do so.
6. Since Officer B had the best information on Officer A's location, he should have directed one of the other officers at the location to remain with Subject 2 while Officer B and the remaining officer went to the aid of Officer A.

The BOPC recommended that the finding for Officers A and B's tactics be Administrative Disapproval with Extensive Retraining.

Drawing/Exhibiting

In this situation, Officer A was chasing a robbery subject through the front yard of a residence. Officer A observed that Subject 1 was about to scale the wrought iron gate and ordered him to stop. Following Officer A's command, Subject 1 stopped, turned to face Officer A, and pointed a pistol in his direction. Fearing that he was about to be shot, Officer A drew his service pistol.

Therefore, it was reasonable for Officer A to believe that the situation had escalated to the level where deadly force was necessary. The BOPC found Officer A's drawing to be in policy.

Note: The Force Investigation Division (FID) investigation revealed that Officer B did not draw his service pistol during this incident. Officers are authorized to draw their service pistols when they reasonably believe there is a substantial risk that the situation may escalate to the point where deadly force may be justified but they are not mandated to do so. In this instance, Officer B approached the subjects' vehicle while at the same time attempting to keep his partner in sight. His intention was to quickly detain Subject 2 and then go to the aid of his partner. Officer B peered inside the vehicle, opened the driver's door, ordered Subject 2 out, and took her into custody. With the belief that he was going to need his hands in order to take Subject 2 into custody, it was reasonable for Officer B not to unholster his service pistol.

Lethal Use of Force

Officer A observed Subject 1 about to scale the wrought iron gate and ordered him to stop. Following Officer A's command, Subject 1 stopped, turned to face Officer A, and pointed a pistol in his direction. Fearing that he was about to be shot, Officer A drew his service pistol and fired three rounds at Subject 1 from a distance of approximately 21 feet.

It was objectively reasonable for Officer A to perceive that it was necessary to protect himself from the immediate threat of death or serious bodily injury presented by Subject 1's actions. The BOPC found the Lethal Force utilized by Officer A to be in policy.