

Because the Department is currently legally prohibited from divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on December 11, 2018.

Incident Summary

Communications Division (CD) received a call from a Witness A who stated that a relative, Victim A, was being stabbed. Witness A hung up the phone, fled the residence, then went to a neighbor's house. The neighbor also called 911, providing CD with further information about the Subject. In response to the 911 calls, CD created an emergency (Code Three) radio call of an "ADW suspect with a knife" at the location. The comments in the incident history identified the Subject's description and where he was last seen.

Uniformed officers responded to the location, spoke to the neighbor, and then broadcast updated information about the Subject. Officers continued to search the area, with the help of a police helicopter, but were unable to locate the Subject.

Officer A located the Subject and broadcast that he was following him. Officer A requested a backup as he continued to follow the Subject.

Officers B and C responded to Officer A's request. This was the first time that Officers B and C had worked together. During their shift, they discussed a variety of tactical scenarios, including who would be contact and cover. It was decided that Officer B, who was driving, would be the contact officer, and Officer C would be the cover officer. As Officers B and C were on their way to assist Officer A, they observed the Subject running, and then walking on the sidewalk until he stopped at the curb of an intersection.

A review of the communication audio determined that the officers did not properly advise CD of their status and location (Code Six).

Officer B positioned and parked the police vehicle at an angle approximately 30 feet from the Subject, and both officers exited the vehicle.

According to Officer B, he believed that his driver's side door was open, and used the engine block of his vehicle as cover. In reviewing his Body-Worn Video (BWV) and other available surveillance video, Officer B closed his door as he exited the vehicle.

The Subject, who was approximately 50 feet away from the officers, closed the distance and approached the corner, as he continued to look intently at Officer B. According to Officer B, the Subject had a frown on his face and he ignored Officer C's commands to stop and to get down on the ground. Based on the Subject's actions reported in the initial radio call, the officers' belief that he was still possibly armed with a knife, and his

baggy pants, Officers B and C unholstered their pistols as they directed the Subject to raise his arms and get down on the ground.

According to Officer B, the Subject looked directly at him and stated, "I'm trying to decide whether or not today I'm going to die." Officer B replied, "Come on, man, you don't want to do that. Just get on...get on the ground," as the Subject placed his right hand into the right front pocket of his sweatpants. According to Officer C, the Subject stated something to the effect of "I think I'm going to die today" or "I think I want to die today."

Officer C broadcast a backup over the police radio for the uncooperative Subject. The investigation determined that CD did not receive Officer C's broadcasts because he was on the wrong frequency (simplex). Additionally, Officer A, who maintained his position, broadcast to CD that they were at the location with the Subject, and that he was not compliant. According to Officer C, he believed that he was on the police radio.

Officers D and E responded to the backup request and arrived at scene. Officers D and E were positioned near Officers B and C's vehicle. Officers F and G also arrived and positioned their vehicle near Officer B and C's vehicle. The officers utilized their vehicle door panels as cover as they unholstered their pistols. An additional officer from the Los Angeles School Police Department also arrived to provide assistance.

The Subject began to step backward, and as he did so, he placed his right hand inside his right pants pocket, as he moved his left hand toward his waistband and his right pocket. The Subject glanced to his left behind him as he continued to step back and appeared to be gripping an object inside his right pocket. The Subject quickly removed his right hand, took a step forward with his left foot, then punched his arms out in front of him in a shooting stance, extending his right hand and pointing the object at Officers B and D.

Officers B, D, and F perceived the object to be a pistol pointed in their direction and fired their weapons at the Subject. The Subject was hit multiple times and fell to the ground. He then moved to a prone position on the sidewalk with the object still in his right hand.

The following is an account of each involved officer's actions during the OIS. It does not reflect the order in which each officer fired during the OIS; however, based on their respective interviews and video evidence, it appeared that they all fired their weapons at nearly the same time.

Officers B, D, E, F, and G did not activate their BWV prior to the OIS.

Officer B was positioned at the driver's side of his vehicle as the Subject placed his right hand into his pocket and moved backward, staring directly at him. According to Officer B, he believed that the Subject was arming himself with a weapon, and he directed the Subject to remove his hand from his pocket and to get down on the ground.

Officer B observed the Subject quickly remove his hand and take a shooting stance, pointing an object, which he believed was a small caliber handgun, at him.

According to Officer B, he believed he needed to react quickly and could not alert the other officers that the Subject had a handgun. Believing that the Subject intended to shoot him, Officer B fired four rounds from a distance of 30 feet. Officer B fired toward the Subject's torso area utilizing the engine block of his vehicle as cover.

Officer B believed he fired approximately two rounds.

Officer D was positioned at the open passenger-side door of his vehicle as he observed the Subject removing his right hand from his pocket while holding an object, and pointing it directly at him. According to Officer D, he observed the sunlight glint off a metallic object, which he believed to be a pistol. Officer D heard a gunshot as he observed the Subject's wrist canted back slightly.

Officer D believed that the Subject was shooting in his direction and stepped back as he simultaneously fired toward the Subject's torso, utilizing his open door as cover as he backed away to the rear of his vehicle. According to Officer D, he took approximately two steps back in order to make himself a smaller target. Officer B fired seven rounds from a distance of approximately 40 feet.

Officer D believed he fired six rounds. In addition, Officer D indicated he was aware of Officer B's position, in front and offset to the right of Officer D, when he fired. The investigation determined that the distance between Officers B and D to be approximately 9 feet across from each other, and approximately eight to 11 feet away from Officer B.

Officer F was positioned behind the open driver door of his vehicle. According to Officer F, he could see the outline of the Subject's right hand gripping the object inside his pocket, and combined with his glance behind him, he perceived the Subject's body movements as an attempt to acquire a target on the officers. Officer F observed the Subject remove and thrust his right hand out, pointing what appeared to him to be a pistol. Officer F believed that the Subject was going to shoot a gun at the officers immediately adjacent to his location. In response, Officer F fired eight rounds from a standing, two-handed shooting position from a distance of 36 feet at the Subject, through the driver side pillar of his police vehicle.

Officer F believed he fired approximately two to three rounds.

Officer C initially positioned himself at the open passenger door of his vehicle. According to Officer C, the Subject wouldn't comply with any of his commands. As the Subject reached into his pocket, Officer C redeployed to the rear of the vehicle and gave the Subject commands to remove his hands from his pocket. The Subject removed his right hand and pointed a silver object, which Officer C believed was a handgun, at him and Officer B. According to Officer C, he intended to fire, but as he

focused on the barrel portion of the object, he observed it to have a flat edge as he heard the other officers firing. Officer C chose not to fire at that time.

Officer G was positioned at the passenger side of his police vehicle at the time of the OIS. According to Officer G, he initially perceived that the Subject had a handgun in his hand and intended to fire at Officers B and D. Officer G almost fired, at which time he observed the barrel portion of the object to be a cell phone.

Officer E was positioned at his open driver-side door when he observed that the other officers were all pointing their pistols at the Subject, who had his hand inside the pocket of his pants. According to Officer E, he decided to deploy a beanbag shotgun. Officer E holstered his pistol and reached inside the vehicle to retrieve his beanbag shotgun. As he did so, Officer E heard shots as he observed the Subject pointing what he perceived to be a black metal pistol in the direction of the officers.

Following the OIS, the Subject remained in a prone position on the ground. His left arm was tucked underneath his left torso and stomach area, and he continued to move and scream unintelligibly. Officers B, D, and F remained in their respective positions covering the Subject with their pistols as Officer B shouted at him not to move. Officer B broadcast a help call to CD and Officer C requested a Rescue Ambulance (RA) for the Subject. This request was broadcast on the wrong frequency but the officer in the police helicopter was able to relay it on the appropriate channel.

Assisting officers arrived and positioned themselves near the OIS scene. As the uninvolved units arrived, the officers informed them that the Subject potentially was still armed with a pistol and his left arm was tucked underneath his torso out of view.

Two sergeants arrived and supervised the actions of the officers at the scene. An arrest team was formed to take the Subject into custody and specific roles were given to various officers. At this time, Captain A arrived at the scene and announced himself as Incident Commander to CD. Captain A directed supervisors at the scene to continue with tactical operations until the Subject was taken into custody before beginning post-OIS procedures. Once the arrest team was formed, they approached with a tactical shield and the Subject was taken into custody without incident.

The review of officers' BWV footage showed a black cell phone located on the sidewalk underneath the Subject's left torso area.

Captain A broadcast that the incident had been resolved and called in the RA from their staging position to the scene. After searching the Subject and finding no weapons, officers at the scene rendered aid to the Subject until the RA arrived. The Subject was then transported to the hospital where he received treatment for multiple gunshot wounds.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Captain A and Officer C's tactics to warrant a finding of Tactical Debrief. The BOPC found Officers B, D, and F's tactics to warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers B, D, and F's lethal use of force to be in policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- During the review of the incident, the following Debriefing Topics were noted:

1. Utilization of Cover (Substantial Deviation – Officer B)

Officer B closed his ballistic panel door when he encountered a potentially armed suspect.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, when Officer B closed his vehicle door he unnecessarily limited his options for cover and exposed himself to a suspect who was possibly armed with a knife.

Based on the totality of the circumstances, BOPC determined that Officer B's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Body Armor (Substantial Deviation – Officer F)

Officer F did not don his Department-approved body armor as required when conducting field related duties. In this case, Officer F was assigned to REACT, a uniformed field assignment. Officers assigned to REACT are expected to wear their body armor.

The BOPC determined that Officer F's decision not to don his body armor was a substantial deviation, without justification, from approved Department tactical training.

3. Crossfire (Substantial Deviation – Officer D)

Officer D fired his service pistol with Officer B in his foreground. Although Officer D was faced with what he perceived to be a deadly force situation, he should have assessed the location of Officer B prior to firing his service pistol. By firing his service pistol with Officer B in his foreground, he unnecessarily placed Officer B in danger.

Based upon the totality of the circumstances, the BOPC determined that Officer D's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 1. Broadcasting on Simplex – The investigation revealed Officer C broadcasted his location, backup request, help call, and RA request on simplex rather than base frequency. Officer C was reminded of the importance of radio communication and ensuring that his radio is always in the proper broadcast position.
 2. Non-Conflicting Simultaneous Commands

The investigation revealed that several officers gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance by the Subject.

3. Tactical Communication

The investigation revealed that Officer C did not broadcast a direction of approach for responding units. The BOPC would have preferred that Officer C communicate to responding units a direction of approach to avoid potential crossfire.

Additionally, multiple officers gave the Subject commands to take his hand out of his pocket. The officers were reminded to be mindful that when Subjects remove their hands from their pockets, they could be armed with a weapon. The BOPC would have preferred that officers direct the Subject to turn around, with his back towards the officers, prior to issuing commands for the Subject to remove his hands from his pockets.

4. Maintaining Service Pistol in Right Hand While Placing Vehicle in Park

The investigation revealed that Officer F began to exit the vehicle to engage a possibly armed suspect without placing the vehicle in park. As such, Officer F placed himself at a tactical disadvantage due to having his service pistol in one hand and placing the vehicle in park with the other. Officer F was reminded that this action created a heightened concern for an unintentional discharge.

5. Shooting Foreground

The investigation revealed that as Officer D fired his service pistol, one of his rounds struck the vehicle passenger door that he was utilizing as cover. Officer D was reminded of the importance of assessing his foreground when discharging his weapon.

These topics were to be discussed during the Tactical Debrief.

Command and Control

- Captain A responded and assumed the role of Incident Commander (IC). He directed the formation of an arrest team which included the use of a ballistic shield, ballistic helmets and gloves. After the Subject was taken into custody, Captain A ensured that the involved personnel were separated, monitored, and Public Safety Statements (PSS) were obtained.

The actions of Captain A were consistent with Department supervisory training and met the BOPC's expectations of field supervisors during a critical incident.

- 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 also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

In this incident, the BOPC found Captain A and Officers C's tactics to warrant a finding of Tactical Debrief. The BOPC found Officers B, D, and F's tactics warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting

- According to Officer B, the Subject continued running towards the corner of an intersection. Officer B stopped his vehicle facing the corner and exited the vehicle. The Subject was approximately 40 to 50 feet away and continued closing the distance toward the officers. Based on the comments of the ADW radio call, Officer B drew his service pistol. According to Officer B, believing the Subject was still armed following the OIS, he holstered his service pistol and deployed his patrol rifle.

According to Officer D, upon arrival, Officer E positioned their police vehicle in front of the Subject and close to Officer B's vehicle. Officer D observed the Subject with his hand in his right pants pocket, holding a bulge that was possibly a handgun. Officer D exited the vehicle, assumed a position of cover behind his passenger side ballistic door panel, and drew his service pistol.

According to Officer C, he observed the Subject run across a street and then walk down the sidewalk, towards the officers' direction. Believing that the Subject was possibly armed with at least a knife, Officer C exited the vehicle, assumed a position of cover behind his passenger side ballistic door panel, and drew his service pistol.

According to Officer F, he positioned the police vehicle in the middle of the intersection, close to Officer B's vehicle. Officer F immediately drew his service pistol as he exited due to the backup call of an ADW. While exiting, he felt the vehicle rolling forward. With his service pistol still in his hand, Officer F re-entered his vehicle and placed it in park.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B, C, and D, when faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

The BOPC was critical of Officer B's deployment of the Patrol Rifle in this specific situation. The BOPC would have preferred a weapon system be deployed that was more appropriate for the tactical situation.¹

Additionally, the BOPC was critical of Officer F's drawing and exhibiting prematurely. Prior to his arrival, there was sufficient lethal cover by officers and his primary duty upon arrival was to place the vehicle in park.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer F, when faced with similar circumstances, would not have drawn their service pistol at that time.

Therefore, the BOPC found Officers B, C, and D's drawing and exhibiting of a firearm to be in policy, and it found Officer F's drawing and exhibiting of a firearm to be out of policy.

C. Lethal Use of Force

- **Officer B** – (pistol, four rounds)

According to Officer B, after the additional units arrived, the Subject quickly removed his hand from his pocket while holding a metallic object. The Subject took a shooting stance and pointed the object in Officer B's direction. Believing the object was a small caliber handgun and in fear for his life, Officer B fired four rounds from his service pistol at the Subject. The Subject then fell face forward with his right hand tucked underneath him.

- **Officer D** – (pistol, seven rounds)

According to Officer D, he observed the Subject pull out a possible handgun from his right front pocket, take a shooting stance, and point it in his direction. Believing the Subject was pointing a handgun at him, and to protect himself from death or injury,

¹ Starting September 2018, the Los Angeles Police Department has implemented a supplemental training program for the Patrol Rifle Cadre, which emphasized the proper selection of weapon systems based on the circumstances of the incident.

Officer D fired seven rounds from his service pistol at the Subject while taking a step or two toward the rear of his vehicle to make himself a smaller target.

- **Officer F – (pistol, eight rounds)**

According to Officer F, he observed the Subject take his right hand out of his pocket and thrust his hand forward with what appeared to be a gun pointed towards the officers. Believing the Subject was going to shoot an officer, Officer F fired eight rounds from his service pistol at the Subject. The Subject then turned and went down to the ground.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B, D, and F would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, the BOPC found Officers B, D, and F's lethal use of force to be in policy.