



Because state law prohibits 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 10, 2013.

### **Incident Summary**

Communications Division (CD) received a 911 emergency call for service from Witness A, stating a male, wearing a grey shirt, grey and blue basketball shorts, was carrying a black handgun and was walking through the neighborhood. CD broadcast the call and uniformed Officers A and B responded in a marked black and white police vehicle. Officers A and B arrived in the area and observed the Subject walking on the sidewalk.

Officer B alerted his partner and noticed that the Subject stopped and looked in the direction of the officers as they approached. As Officer B opened the passenger door of his police vehicle to make contact, the Subject fled. Officer B pursued the Subject and observed the Subject holding the left pocket of his shorts, as if he had a weapon in his pocket. Officer B then observed a blue-steel handgun in the Subject's left hand.

Officer A followed in the police vehicle approximately two to three feet behind Officer B and had a clear view of the Subject. As the Subject ran through an alley, Officer B stopped at the mouth of the alley and unholstered his weapon.

Officer B broadcast that he and his partner were in foot pursuit and CD broadcast a request for backup, an air unit, and a supervisor to respond. Officer B began to set up a perimeter and observed the air unit overhead within seconds. Numerous specialized division personnel/supervisors responded to assist and made contact with Officers A and B. Following a briefing, specialized unit officers were requested to respond to the location for a search.

Officers developed a search plan and identified the search team members. Prior to the commencement of a K-9 search, a computerized, pre-programmed K-9 search announcement was broadcast from Officers A and B's police vehicle via the public address (PA) system in both English and Spanish. As there was no response from the Subject, the K-9 search team then proceeded to search the alley.

As the search team proceeded through the alley, Officer A observed the Subject exit from an unknown yard and walk down a sidewalk away from his location. Officers B and C unholstered their weapons and proceeded to walk toward the Subject, using parked cars for cover. Officer B and C ordered the Subject to stop and put his hands up, but he did not comply, walking faster away from the officers. Officer C had his weapon in his right hand and his flashlight in his left, when the Subject turned counter/clockwise toward him. Officer C shined his light into the Subject's face, so he could not observe the officers' positions. The Subject raised his hand to block the light in his face and Officer C observed a blue-steel semiautomatic handgun in the Subject's other hand, which was at waist level.

The Subject then ran into the driveway of a single family residence and out of sight. Officer C notified other officers that the Subject had a handgun, as Officer C took cover behind an unoccupied vehicle parked at the curb in front of the location. The Subject ran back and forth several times into the driveway from behind the residence. Officer C observed the Subject in a kneeling barricaded position along the corner of the residence, with a raised arm extended out toward him. Officer C believed the Subject was pointing a handgun at him. In defense of his life and the lives of his fellow officers, Officer C fired two rounds at the Subject, who then ran to the rear of the residence, out of sight and behind two vehicles that were parked tandem in the driveway.

Officers D and E, who were in the alley assisting with the K-9 search, heard the gunshots and broke off from the search team to assist. As Officer D ran toward the Subject's location, he heard several more gunshots. Officer D, who was armed with a rifle, took Officer C's position at the rear of a parked vehicle, while Officer C moved to the front of the car.

As Officer E made his way along the sidewalk, he unholstered his weapon. Officer E observed the Subject take a barricaded position at the corner of the residence and pointed a blue-steel handgun at him. Officer E illuminated his flashlight in that direction and took cover behind a tree, near Officer D. At the same time, Officer F responded to the location and took cover across the street from where the Subject was located. Prior to arriving at the location, Officer F heard a broadcast that the Subject had been firing at the officers. Fearing an armed confrontation, Officer F unholstered his weapon and took cover behind a tree.

Officer F heard the Air Unit overhead broadcast that the Subject was still armed and observed the Subject run into the driveway behind a vehicle. Officer E observed the Subject sprint near two parked vehicles with his hands near his waist area holding what he believed was a handgun. Officer F observed the Subject with a handgun and advised Officer E. The Subject then raised a dark colored handgun in Officer E's direction. Believing the Subject was going to fire at him and in defense of his life, Officer E fired one round at the Subject who dropped to the ground out of view.

After Officer D fired his weapon, Officer E observed the Subject crawl to the rear of a vehicle parked in the driveway. Officer E asked the Air Unit to confirm that the Subject still had his weapon and the airship broadcast that they still observed the Subject with the handgun. Officer E took a step behind and to the left of Officer D, and took a low kneeling position on his left knee and looked under the vehicles. Officer E observed the Subject crawl underneath the rear bumper of the rear vehicle and lay on his left side. The Subject extended both arms with the handgun in his hands and pointed it in the officers' direction. Officer E believed the Subject was about to shoot at him and the other officers. In defense of his life, Officer E fired two rounds, intentionally skipping them off of the pavement. Officer E observed the Subject stand up and limp across the driveway, with the handgun in his right hand, and out of view behind the residence.

Meanwhile, Officer F heard Officers D and E fire their weapons and believed gunfire was also coming from the driveway area. Officer F observed the Subject come out from behind a vehicle and raise his arm holding what Officer F believed to be a handgun and pointed it toward the officers. In defense of his life and the lives of the other officers, Officer F fired one round at the Subject.

Officers G and H redeployed from an alley to a roof top that looked into the rear yard of the residence where the Subject was located. Officer H, who had an unobstructed view, observed the Subject walking into the rear yard. The Subject held a cellular telephone in his left hand and a blue-steel handgun in his right hand, pointed at his temple. It appeared to Officer H that the Subject was looking at his cellular telephone due to it being illuminated. The Subject then removed the weapon from his temple and stretched out his arm across his chest, pointing the handgun toward Officer H, who in defense of his life and the life of Officer G, fired two rounds. The Subject then fell onto his stomach.

Officer G heard the gunshot and believed that the Subject had fired at him and Officer H. Officer H ordered the Subject to put his arms out to his side, but he did not comply. The Subject instead rolled onto his right shoulder and moved his right arm across his chest area and pointed a black semiautomatic handgun in Officer G's direction. In immediate defense of his life, Officer G fired one round at the Subject. The Subject dropped the handgun but continued to move his hands. Officer G observed the Subject's weapon one to two feet from his right shoulder.

Officer H requested a contact team and advised that he and Officer G would cover from their position on the roof. Sergeant A assembled a contact team to take the Subject into custody, with Officer E and his K-9 taking the lead. Prior to the commencement of the search, Sergeant A spoke with Officer E and indicated if the Subject was not compliant, he (Officer E) had authorization to order a direct deployment with his K-9.

Sergeant A and numerous officers proceeded down the driveway and into the rear yard. Officer E had his K-9 off leash and once the K-9 crested the corner of the garage into the rear yard, Officer E ordered his K-9 to lay down. Officers E moved into the yard and observed the Subject lying prone with his hands above his head. Officer E ordered the Subject to put his arms out to his side, but he did not comply and brought his hands under his body. Due to an earlier broadcast by the airship, Officer E believed the handgun was under the Subject's body. Fearing that the Subject was trying to arm himself, Officer E commanded his K-9 to contact the Subject. As the K-9 maintained a hold of the Subject's ankle, the rest of the contact team entered the yard. As the contact team approached the Subject, Officer E recalled his K-9 and the Subject was taken into custody and handcuffed. The Subject was searched for weapons, but none were found. According to multiple officers, the Subject stated that he threw his weapon into the alley and/or rear yard of another residence.

**Note:** Several searches were conducted to locate the weapon; however, all proved negative.

LAFD Rescue Ambulance (RA) arrived and treated the Subject for his injuries and was transported a local 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 unanimously made the following findings.

#### **A. Tactics**

The BOPC found Officers A, B, C, D, E, F, G and H's tactics to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Officers A, B, C, D, E, F, G and H's drawing and exhibition of a firearm to be in policy.

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

The BOPC found Officers C, D, E, F, G and H's use of lethal force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

- In their analysis of this incident, the BOPC identified the following tactical consideration:

1. Back-up Request

In this instance, Officers A and B drove in the direction of the Subject who matched the description in the radio call regarding a man with a gun. Additionally, Officers A and B conducted the aforementioned approach without the benefit of a backup request.

Officers are given discretion when determining the appropriate time to request a backup. Moreover, officers must be given the opportunity to verify if the individual in question is the Subject. Accordingly, the appropriate resources will be directed to the location to ensure that the officers maintain the tactical advantage. In this instance, Officers A and B drove toward the Subject and started to approach in the car. Nevertheless, the BOPC realized that Officers A and B must utilize discretion regarding the appropriate time to broadcast a backup request.

It is the BOPC's expectation that officers investigate and handle these types of incidents in the safest manner possible. Officers must be given discretion between balancing the immediate need for additional resources while maintaining the ability to approach a possible Subject to determine their involvement in criminal activity. To that end, the BOPC appreciates the decision made by Officers A and B to approach the Subject to investigate further. However, it would have been tactically prudent for them to request an additional unit or back-up upon determining that the Subject matched the description of the Subject that was armed with a handgun.

In conclusion, the BOPC has determined that Officers A and B's actions did not substantially deviate from approved Department tactical training. However, the importance of having sufficient resources available or responding can never be understated.

## 2. Parallel Foot Pursuit Tactics

In this instance, Officer B exited the police vehicle and initiated a foot pursuit of the Subject, while Officer A followed Officer B in the police vehicle.

Generally, officers are discouraged from paralleling with one officer remaining in the vehicle and the other officer on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to follow in a police vehicle while the partner officer is engaged in a foot pursuit. In this circumstance, Officer B exited the police vehicle and surmised that Officer A was behind him at the initiation of the foot pursuit.

In addition, Officer B maintained a safe distance, thus enhancing the possibility of an effective containment. Cognizant that the Subject was armed, Officer B utilized sound tactics by following the Subject at a safe distance. Lastly, Officer B discontinued the foot pursuit upon realizing that the Subject had run out of view.

Officer A indicated that he was driving eastbound, when Officer B instructed him to stop the car. Officer B subsequently exited the police vehicle and pursued the Subject in the alley. Officer A drove behind Officer B at a distance of approximately two to three feet. Additionally, Officer A indicated that the Subject was running approximately ten to fifteen feet in front of Officer B. Moments later,

Officer B discontinued the foot pursuit at which time Officer A utilized the police vehicle and redeployed to the mouth of the alley, thus establishing effective containment.

In evaluating Officer B's decision to initiate a foot pursuit of the Subject, the BOPC took into consideration that Officer B had a reasonable belief that Officer A had exited the vehicle and was also in foot pursuit. Additionally, Officer B followed the Subject at a distance that enabled him to safely monitor his movements and direction of travel, thus enhancing the possibility of containment. Furthermore, Officer B's foot pursuit was extremely short in duration and distance. In essence, the distance of the foot pursuit was the length of a single family residence from front to rear. In addition, Officer A followed Officer B at a distance that would have enabled him to render aid to Officer B if necessary. Lastly, Officer A utilized his hand held radio to notify additional resources regarding their tactical situation.

Officer B instructed Officer A to stop the police vehicle prior to initiating a foot pursuit. Unfortunately, Officers A and B did not discuss their foot pursuit tactics prior to contacting the Subject. Successful operations are directly related to effective communications and pre-planning. To that end, it would have been advantageous to discuss foot pursuit tactics prior to initiating a foot pursuit.

In conclusion, although the use of this tactic deviated from approved Department tactical training, based on the totality of the circumstances, it was not a substantial deviation. Officers A and B were reminded that it is tactically advantageous for both officers to exit the vehicle and of the importance of remaining together while pursuing armed subjects.

These topics will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Unloading the Police Rifle

The investigation revealed that Officer D unloaded his rifle at the culmination of the incident and placed it in the trunk of his police vehicle. The Commanding Officer of the specialized division was advised of the issue and discussed the protocols associated with unloading and securing of firearms subsequent to a Categorical Use of Force with Officer D.

2. Equipment (Service Pistol)

A post incident ammunition count revealed that Officer G did not load his police rifle magazine to capacity. A supervisor reminded Officer G of the importance of loading all magazines to their authorized capacity. These topics will be discussed during the Tactical Debrief.

- 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.

After a thorough review of the incident, it was determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a Tactical Debrief.

In conclusion, the BOPC found Officers A, B, C, D, E, F, G and H's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

Officers A and B responded to a radio call involving a 415 man with a gun. Officer B initiated a foot pursuit during which time he observed the Subject holding a blue steel handgun in his left hand. The Subject ran into an alley and out of view. Officer B stopped at the corner of the alley and drew his weapon.

Officers A and B established a perimeter and specialized division K-9 officers responded. A subsequent K-9 search was conducted in an effort to locate the Subject, who was armed with a handgun. Consequently, Officers D, E, G and H drew or exhibited their respective firearms. Officer D recalled the reason he exhibited his rifle was because they were dealing with a Subject who was believed to be armed with a handgun and believed that the use of deadly force may become necessary.

At the initiation of the K-9 search, the Subject exited the front yard of an unknown residence and immediately began walking away from officers. Officer A informed Officer B regarding the Subject's movements at which time Officers A and C, believing that the Subject was possibly armed, drew their service pistols. Officer B also stated that he drew his weapon upon seeing the Subject.

Officer F was in a containment position and noticed that several officers had moved into various positions. Officer A informed Officer F regarding the actions of the Subject and instructed him to take cover. To Officer F, it sounded like the Subject was barricaded and was taking a shooting position down behind a vehicle. Officer F unholstered his weapon because he felt that the situation could escalate to a deadly force situation.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, E, F, G and H, while faced with similar circumstances would reasonably believe that the Subject was armed

with a handgun and that he posed a substantial risk wherein the situation had escalated to the point where deadly force was justified.

In conclusion, the BOPC found Officers A, B, C, D, E, F, G and H's drawing and exhibiting of a firearm to be in policy.

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

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

Officer C responded to a man with a gun radio call which resulted in a perimeter and a K-9 search. While at the location, Officer C observed the Subject run back and forth between the driveway and the residence. The Subject assumed a kneeling position while at the corner of the residence. The Subject raised and extended his arm in the direction of Officer C. Believing the Subject was armed with a handgun and in fear for his life, Officer C fired two rounds at the Subject to stop his actions.

The BOPC conducted a thorough review of each of the aforementioned uses of lethal force. Although the firearm wasn't located during subsequent searches, a preponderance of the evidence supports that the Subject possessed a handgun at the time of each officer's individual use of lethal force.

Accordingly, an officer with similar training and experience would reasonably believe that the actions of the Subject in each circumstance represented an imminent threat of serious bodily injury or death and that the use of lethal force was justified.

- **Officer D** (rifle, one round)

Officer D responded to the location to provide support to officers as they were confronted by the Subject, who was armed with a handgun. Upon arrival, Officer D observed the Subject armed with what he believed was a handgun. The Subject pointed the handgun in Officer D's direction. Officer D formulated the opinion that the Subject was about to fire at him and other officers and in defense of his life and the lives of his fellow officers, fired one round from his police rifle at the Subject to stop his actions.

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

Officer E responded with his K-9 to provide support to officers as they were confronted by the Subject, who was armed with a handgun. Subsequently, Officer E observed the Subject crawl underneath a parked vehicle. Officer E placed himself into a kneeling position, close to the ground, thus enabling him to observe the Subject. Officer E subsequently observed the Subject lying on his side, pointing a handgun in his direction. Officer E, believing he was about to be shot, fired two rounds from his service pistol at the Subject to stop his actions. When Officer E fired

his service pistol at the Subject, he intentionally skipped the rounds off the pavement.

- **Officer F** – (pistol, one round)

Officer F responded to the location to assist with the containment of the Subject. Officer F subsequently observed the Subject emerge from behind a vehicle that was parked in the driveway. The Subject suddenly extended both arms and pointed what Officer F believed was a handgun in his direction. In defense of his life and that of his partners, Officer F fired one round from his service pistol at the Subject to stop his actions.

- **Officer G** - (rifle, one round)

Officer G transitioned from a roof, to the top of an RV and heard two shots fired. Based on the fact that Officer G was unaware that Officer H had fired, Officer G believed the Subject was shooting at him and Officer H. Officer G obtained a kneeling position on the RV and attempted to locate the Subject. Officer G observed the Subject in a prone position in the rear yard. Officers G and H instructed the Subject to place his hands to the side. The Subject failed to comply and rolled over and pointed a handgun in the direction of Officers G and H. In immediate defense of life, Officer G fired one round from his police rifle at the Subject.

- **Officer H** – (rifle, two rounds)

Officers G and H ascended the roof of a nearby residence to obtain the tactical advantage by viewing the rear yard of the residence where the Subject was located. As a result of their increased vantage point, Officers G and H were afforded a view of the Subject as he stood in the rear yard of the aforementioned location. Officer G redeployed to an adjoining RV to increase his vantage point relative to the Subject. In the process, Officer G created an audible sound that was heard by the Subject. Subsequently, the Subject turned in the direction of Officers G and H and pointed a handgun in their direction. Consequently, Officer H, in fear of his life and his partner's life, discharged two rounds from his police rifle at the Subject to stop his actions.

Consequently, the application of lethal force for each officer as indicated was objectively reasonable and warrants a finding of in policy for Officers C, D, E, F, G and H.