

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 023-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
Newton	3/15/15		

Officer(s) Involved in Use of Force	Length of Service
Officer A	9 years, 1 month
Officer B	9 years, 5 months
Officer C	8 years

Reason for Police Contact

Officers travelling in an unmarked police vehicle were ambushed, at which time they returned fire and an officer-involved shooting (OIS) occurred.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Unidentified.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 March 1, 2016.

Incident Summary

Officers A, B, and C were traveling together in an unmarked police vehicle. Officer A was the driver. Officer B was in the front passenger seat and Officer C was in the rear passenger side seat.

As Officer A drove the police vehicle down the street, the officers observed several males and females in a yard and on the sidewalk. Officers A and B observed a male walking on the sidewalk of the street, paralleling their vehicle, while pointing at them and saying something the officers could not hear. Officer A believed the individual was notifying someone of their presence. Officers B and C also observed several of the males displaying gang hand signs.

As the officers' vehicle continued, Officer C observed a male wearing a gray T-shirt to the rear of a vehicle parked on the curb. The individual was looking at someone out of Officer C's view. At this time, Officer A was forced to stop when two vehicles pulled up in the middle of the roadway. Officer C turned toward Officers A and B to warn them of the individual in the gray T-shirt, when he heard two gunshots and observed the rear window of their vehicle shatter. Officer C ducked, looked out the rear passenger side window and observed a male with his right hand extended in front of him.

Officer C believed the Subject was shooting at them and laid across the backseat with his head toward the driver's side of the vehicle, while he unholstered his pistol. From his back, Officer C maintained a view of the Subject through the rear passenger side window. Officer C reached over the backseat with his pistol in his left hand and fired multiple rounds at the Subject through the rear window. Officer C experienced and cleared a malfunction with his pistol. Officer C continued to hear gunshots and again reached over the backseat with the pistol in his left hand and fired additional rounds through the rear window in the same direction as his previous shots.

Simultaneously, Officer A heard a gunshot and felt a burning and stinging sensation to his right arm. Officer A believed he had been shot. Officer A looked over his right shoulder and observed the rear window to the police vehicle was shattered. Officer A could not see who was shooting at them. At that point, the vehicles that were stopped in the roadway cleared. Officer A drove further east on the street, stopped the police vehicle and placed it in park.

Officer C conducted a tactical reload and exited the rear passenger side door of the police vehicle, while holding his pistol in his left hand. Officer C observed numerous people running and continued to hear gunfire.

Officer B stated he exited the vehicle and unholstered his service pistol. Officer B observed several males running in different directions. Officer B moved to get cover behind a parked vehicle.

Officer B observed a male that he described as younger, wearing a white T-shirt and white shorts, running on the sidewalk. The Subject was bladed as he looked back at

the officers. Officer B observed the Subject's right arm extended back toward them and observed two muzzle flashes from the Subject's gun.

Officer B believed the Subject was attempting to kill him and his partners. Officer B used a two-handed shooting position and fired one round at the Subject as he approached the vehicle for cover. Officer B reached the vehicle and used the hood as a platform as he fired a second round at the Subject. Officer B did not observe anyone in his foreground or background when he fired his rounds. Officer B stopped firing when he no longer observed the Subject pointing the handgun at him.

Officer A unholstered as he exited the vehicle and held his duty pistol with two hands as he continued to hear gunfire. Officer A looked in a southwest direction and observed a male in a white T-shirt positioned between a cinder block wall and a van. The Subject had a handgun in his right hand and was firing at the officers.

Officer A moved across the street. While on the move, and with the Subject continuing to point the gun at him, Officer A fired multiple rounds at the Subject. Officer A stated the Subject's handgun obscured the Subject's face. Officer A's intended target area was the Subject's upper torso, which remained visible above the cinder block wall. Officer A stopped firing when the Subject stopped pointing the handgun at him and disappeared from view.

Officer C, who remained on the passenger side of their vehicle, put out a broadcast over the radio requesting assistance. Officer A holstered his pistol, returned to his vehicle and opened the trunk, where he retrieved a shotgun. Officer A's shotgun was loaded with slug ammunition.

Simultaneously to Officer A retrieving his shotgun, Officer C moved to the trunk of the officers' vehicle and acquired a shotgun. While retrieving the shotgun, Officer C continued to hear gunfire. Officer C loaded a round into the firing chamber and joined Officer B behind a vehicle.

Officer B observed the Subject in the white T-shirt that he fired at moments earlier reach over the cinder wall and fire further rounds at him.

Officer C observed a male, wearing a white T-shirt, stick his hand out of the front door of a nearby residence. Officer C observed muzzle flash and heard a gunshot. Officer C feared for his life and the life of Officer B and used his shotgun to fire one round at the subject. The subject disappeared back into the house. Officer C did not know if the subject was the same person who had initially shot at them while they were in their vehicle.

After Officer A retrieved his shotgun and moved to the side of the street, he heard a single gunshot and scanned the other side of the street. Officer A observed a male running toward the front door of a nearby residence, while pointing a handgun at Officer A with his left hand. Officer A believed the Subject was shooting at them and fired

multiple rounds at the Subject. Officer A stopped firing when the Subject disappeared from view and was no longer pointing the pistol at him.

Officer C heard children crying and observed two children sitting alone in a vehicle on the one side of the street. Officer C did not know if the children were hit by gunfire and told Officer B to cover him. Officer C crossed the street and moved to the passenger side of the vehicle, while Officer B provided cover. Officer B then moved toward Officer A.

Officer C identified himself to the children as a police officer and told them to come with him. Officer C assisted them out of the vehicle. As Officer C turned to move on the street, one of the children attempted to run across the street. Officer C took hold of her and moved with the children along the street. A responding black and white unit took custody of the children from Officer C. Officer C then returned to the trunk and donned his tactical vest in the moments after passing the children to uniformed personnel and while the tactical situation was still ongoing.

The first supervisor on scene obtained a Public Safety Statement (PSS) from the officers and ensured separation and monitoring of Officers A, B, and C. A perimeter was established and Metropolitan Division Special Weapon and Tactics (SWAT) and K-9 personnel were notified and responded to conduct a search for the subjects.

In the vicinity of where the subjects had been observed, officers recovered a revolver wrapped in a white, long-sleeved shirt.

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 made the following findings.

A. Tactics

The BOPC found Officers A, B and C's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC noted the following tactical considerations.

1. Equipment (Body Armor)

Officers A, B and C did not don their Department approved body armor as required when conducting field related duties.

The BOPC found that Officers A, B and C's decision not to don their body armor was a substantial deviation, without justification, from approved Department tactical training.

2. Ambush Tactics

Officer A identified the source of the gunfire was coming from behind the officers' vehicle. Consequently, he drove forward approximately 103 feet further on the street from where they had initially been fired upon. Officer A then stopped their vehicle in the middle of the roadway. All three officers then exited the vehicle and engaged the deadly threat.

According to Officer A, as he made the decision to stop the police vehicle, he kept hearing more rounds and continuous gunfire and believed the officers were a sitting target if they did not get out of the car, return fire, and stop the threat. The BOPC noted Officer A's decision to stop the vehicle and engage the armed subjects placed both himself and his partners in a distinct tactical disadvantage. This situation was further compounded due to the fact that the officers were conducting field activities outside of their assigned area, and they had not notified the Division Watch Commander.

Based on the totality of the circumstances, the BOPC determined that Officer A's decision not to drive out of the kill zone was a substantial deviation, without justification, from approved Department tactical training.

3. Tactical Communication

Officer A did not communicate his intention to stop the vehicle to Officers B and C. Additionally, neither of the officers communicated to one another their intention to exit the vehicle and engage the subject(s).

Officers A, B and C all observed numerous apparent gang members in front of the location and on the sidewalk “throwing up gang signs” and focusing their attention on the police vehicle as they drove by the location. In addition, Officer A was aware of an ongoing gang feud and recent gang related shootings on the street, and Officer B had knowledge of a recent gang related homicide that occurred locally.

Despite this knowledge, the officers did not communicate their observations with each other as they approached the location, which placed the officers in a distinct tactical disadvantage. Furthermore, the officers did not communicate their actions with one another on multiple occasions throughout the incident.

Based upon the totality of the circumstances, the BOPC determined that Officers A, B and C’s lack of effective communication was a substantial deviation, without justification, from approved Department tactical training.

4. Securing a Back-Up Firearm

While conducting field duties, Officer A maintained an unsecured service pistol in between the front passenger seat and the center console of the vehicle. The situation was compounded when Officers A, B, and C exited their vehicle, leaving the unsecured service pistol readily accessible inside the unattended vehicle with the engine running.

The BOPC determined that Officer A’s decision to intentionally carry and leave an unsecured service pistol secreted in between the front passenger seat and center console of the vehicle was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally noted the following:

1. Maintaining Equipment

Officers A, B and C exited their vehicle after being fired upon without their respective police radios. Additionally, Officer C’s police radio was in the trunk of the police vehicle in an equipment bag. Officers A, B, and C were reminded of the importance of having a radio on their person whenever conducting field operations.

2. Single Handed Shooting

While lying on his back in the rear seat of their vehicle, Officer C utilized a one handed shooting grip when he fired at the Subject. Although the Los Angeles Police Department Training Division teaches a one handed shooting technique, a two handed shooting grip would be more tactically advantageous and provide a better shooting platform. Officer C was reminded to utilize a two hand shooting grip whenever feasible.

3. Equipment (Ammunition)

The investigation reflects that Officer A's shotgun was equipped with a magazine extension, expanding the capacity of the shotgun to six rounds. Furthermore, the shotgun was loaded to capacity with six rounds of slug ammunition at the time of the OIS. Department loading standards dictate that Slug Ammunition (SA) cadre members with magazine extensions are authorized to load four shot shell rounds (00 Buck) in the magazine tube while in patrol ready condition to facilitate the transition to slug ammunition if necessary. Officer C was reminded of the Department loading standards when deploying his shotgun.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A, B and C substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

B. Drawing/ Exhibiting

- As Officers A, B, and C were stopped on the street, Officer C heard two shots and observed the rear window of their police vehicle shatter. Officer C believed the officers were getting shot at and drew his service pistol.

Officer C recalled that he laid back on the seat so his head was by the driver's side. He unholstered his firearm and with his left hand reached over to the rear window that was already shot out and returned fire.

After hearing the gun shots and observing that the rear window shatter, Officer A drove their police vehicle forward approximately 103 feet from where they had initially been fired upon and then stopped the vehicle in the middle of the street. Officers A, B, and C simultaneously exited from the vehicle and drew their service pistols.

Officer A recalled that shortly after he heard a gunshot, the window shattered, and he felt a burning sensation on his arm. He looked over his right shoulder and saw the rear windshield had been shattered. He could not recall how the vehicle got from the point at which they were being fired upon to where they finally stopped.

Officer B recalled that the officers communicated that they were being shot at. At that point he heard the back window of their vehicle being struck by bullets. Officer A drove one more structure east and at that point Officer B opened his passenger

door, unholstered his firearm, and observed several males running in different directions.

Officers A and C simultaneously returned to their vehicle and holstered their service pistols. Officer A opened the trunk and both officers retrieved shotguns.

Officer A recalled that due to the number of people that were outside initially when they began getting shot at, he felt it would help the officers to gain superior fire power if the shooting continued.

Officer C recalled that he heard continuous gunfire so he went to the trunk of their vehicle and obtained a shotgun and loaded a round in the chamber.

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

In conclusion the BOPC found Officers A, B and C's drawing and exhibiting to be in policy.

C. Lethal Use of Force

- **Officer A – First Sequence of Fire** – (pistol, eight rounds)
Second Sequence of Fire – (shotgun, two rounds)

First Sequence of Fire: Officer A exited his vehicle and observed a subject in the driveway of a residence running between a wall and a parked van, pointing a handgun in his direction. Officer A heard gunshots and observed flashes coming from the handgun. As Officer A moved across the street, to obtain cover behind the vehicles parked on the curb, he fired eight rounds from his service pistol at the subject's upper torso to stop the deadly threat.

Second Sequence of Fire: After retrieving his shotgun, Officer A moved to the side of the street and assumed a position of cover next to a vehicle parked along the curb. While scanning the opposite side of the street, he heard a gunshot and observed a male subject pointing a handgun in his direction while running in a southwest direction towards the front door of a residence. Fearing for his life, Officer A fired two rounds from his shotgun at the subject to stop the deadly threat.

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

Officer B exited the police vehicle and moved west for cover on the sidewalk towards a vehicle parked in the driveway of a residence. Officer B observed a subject running on the sidewalk and pointing a handgun in his direction. Officer B observed two muzzle flashes from the handgun and in fear for his life, he fired one round from his service pistol to stop the threat. As Officer B reached the vehicle, he used the

hood of the vehicle as a platform and fired one additional round from his service pistol to stop the deadly threat.

- **Officer C – First and Second Sequence of Fire** – (pistol, five rounds)
Third Sequence of Fire – (shotgun, one round)

First Sequence of Fire: As the officers' vehicle was stopped, Officer C heard two shots and observed the rear window of their vehicle shatter. Officer C looked out the rear passenger window and observed a subject with his right hand extended in front of him. Believing the Subject had just shot at them, Officer C, while lying on his back, reached over the backseat with his service pistol in his left hand and fired two rounds through the rear window of their vehicle to stop the deadly threat.

Second Sequence of Fire: After Officer C fired his first rounds, he experienced and cleared a malfunction. Officer C continued to hear gunshots and still observed the Subject standing there. Officer C fired three additional rounds through the rear window of their vehicle to stop the deadly threat.

Third Sequence of Fire: Officer C retrieved a shotgun from the trunk of the police vehicle and took a position of cover next to Officer B behind a vehicle. Officer C observed a subject stick his hand out of the front door of a residence. Officer C then heard a gunshot and observed muzzle flash. In defense of his life and the life of Officer B, Officer C fired one round from his shotgun at the Subject to stop the deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as that of Officers A, B and C would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury, and the use of lethal force would be objectively reasonable.

In conclusion the BOPC found Officers A, B and C's lethal use of force to be objectively reasonable and in policy.