

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

OFFICER-INVOLVED SHOOTING - 017-10

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Newton	02/21/2010		

Involved Officer(s)	Length of Service
Officer A	12 years, 9 months
Officer D	4 years, 10 months
Officer E	7 years, 8 months

Reason for Police Contact

Officers responded to a loud party radio call, which resulted in an officer involved shooting.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (x)
Subject: Male, 22 years of age.			

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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on February 2, 2011.

Incident Summary

Uniformed Officers A and B were on patrol in a marked black and white police vehicle when they responded to a "loud party" call. Upon arrival, the officers determined that the party was in a vacant warehouse and conferred with Witness A, who was hired by the party promoter to provide security. Witness A advised the officers that the party might get out of hand, as there were several gang members at the party. Officer A told Witness A that he and Officer B would remain down the street from the warehouse to write parking tickets, which would encourage people to leave the party. Officer A also indicated that Witness A should contact them again if he required their assistance.

While the officers were writing tickets, Witness A used his flashlight to attract their attention because people were trying to force their way into the warehouse. Officers A and B immediately returned to Witness A's location, where he advised them of what had occurred. Officer A requested additional units and a supervisor to assist in shutting down the party. Officers C, D, E, F, G and H, and Sergeant A responded. Officer A briefed the officers and sergeant about the situation inside the warehouse and told them that Witness A had observed gang members at the party, and that some brandishing of weapons might have occurred. A plan was formulated whereby Witness A would enter the warehouse to shut the party down, while the officers would remain outside. Sergeant A instructed the officers to remain outside the warehouse until the crowd inside was manageable, and then the officers could enter the warehouse to finish getting the stragglers out.

Witness A entered the warehouse, turned the lights on, and told the DJ to shut down the party. Another altercation then broke out and Witness A separated the two groups. While that group successfully separated, another group started to fight. Witness A didn't try to break up the second altercation but instead maced the ground so the groups would leave. Witness A exited the warehouse and advised the officers that there were only about 25 people left inside.

Officers A, C, D, F, G and H then entered the warehouse through the front door and Officer A directed several groups of individuals to leave. Officer A was midway through the warehouse when he observed the silhouette of a male with an arm extended outside the rear door. Officer A then saw a muzzle flash, and heard rounds being fired. In response, Officer A drew his pistol and fired two rounds at the subject, who he believed was shooting either inside the club at partygoers, or at people outside who were down in the alley. After Officer A fired at the subject, Officer A ran towards the rear door. Upon reaching the door, Officer A looked in the alley for the subject, but did not see him. Officer A then exited the warehouse, heard numerous gunshots coming from the alley and took cover between two cars parked near the exit door.

Once the gunfire subsided, Officer A began to search in the alleyway for the subject that he had fired at. As he did so, Officer A heard gunshots coming from the parking lot adjacent to the warehouse. Officer A looked through a chain-link fence at the end of the lot and observed a male, subsequently identified as the Subject, standing between two parked cars. Officer A saw two to three muzzle flashes from where the Subject was

standing, and believed that the Subject was shooting into the crowd who had exited the warehouse. In response, Officer A fired one round through the fence at the Subject, as he feared that the Subject was going to hurt the partygoers that were gathered at the front of the parking lot.

Officer D entered the warehouse with other officers and told partygoers to leave when he heard the gunshots. Officer D immediately unholstered his weapon and started walking towards where he heard the gunshots. Officer D observed the muzzle flash next to the rear door of the building and he observed a male facing right behind the muzzle flash, and Officer D fired one round towards that direction. After firing, Officer D moved left, fell down, and then took cover behind a pole.

Officer C entered the warehouse and instructed a group of females near the front door to leave and then turned his attention toward the bathroom. Officers C and G then approached the bathroom and requested that the individuals inside exit the warehouse. Officer C then heard gunshots, but did not know where they came from. Officer C then drew his weapon, moved toward the end of the wall, and observed Officer D run toward the warehouse's rear door. Officer C then heard additional gunshots from outside the warehouse, and then assisted Officer G in clearing the upper floor of the warehouse. Officer G entered the warehouse and moved toward the rear, and heard several shots. Upon hearing the gunshots, Officer G drew his weapon and attempted to determine the source of the gunshots. Officer G then cleared the lower bathroom and moved upstairs to ensure that nobody was going to shoot downwards. After clearing the upper floor Officers C and G exited the warehouse and assisted other officers in clearing partygoers from vehicles parked in the alley and the parking lot.

Sergeant A was standing by the front door of the warehouse when he heard gunfire. Upon hearing the gunshots, Sergeant A drew his pistol and took cover behind a vehicle parked outside the entrance to the warehouse.

Witness B was in the warehouse when he heard a gunshot, and couldn't tell if it was from the inside the warehouse or outside. Witness C, one of the DJs at the party, heard gunshots go off in the back of the party in the alleyway. Witness C then saw the police come in the warehouse, and he believed that one or two of the cops started shooting.

Witness D was seated on the trunk of his friend's car, which was parked in the alley near the back door exit of the warehouse, when he heard gunshots as partygoers were exiting the warehouse. Witness D further indicated that he took cover behind the trunk of the car, and heard more gunshots. Witness D stated that the second round of gunshots was closer to his friend's vehicle.

Officer F was in the warehouse, when he saw the rear door open, heard a gunshot and saw what appeared to be a muzzle flash. In response, Officer F unholstered his weapon and began to cover the doorway where he initially saw the muzzle flash. The rear door opened again, and Officer F heard two additional gunshots at the door. Officer F aimed his gun at the rear door, at which point Officer A stepped into his line of sight. Officer F dropped his gun, and saw Officer A fire one round.

Officer H hadn't cleared the pillars in the middle of the building yet when he heard gunshots. Upon hearing the gunshots, he drew his pistol and held it at a low-ready. Officer H then heard more gunshots, observed flashes toward the rear of the building, moved forward and observed that Officer D had fallen to the ground. Officer H verified that Officer D was not hurt, heard gunshots outside the warehouse, and then proceeded to exit the warehouse through the rear door.

Officer F exited the warehouse and took cover between two parked vehicles. Officer F directed his attention toward the end of the alleyway and then heard gunshots coming from behind him. Officer F turned around and started approaching the corner of the building. Officer F observed Officer A fire one round through the parking lot, at which point Officer F came around the corner of the building and observed a car with two males in it trying to back out of a parking spot. Officer F then gave them orders to shut off the car and show their hands. The two males complied.

Officer E was on the sidewalk in front of the warehouse when he heard several loud shots. Officer E then saw people running through the parking lot and one person told him that "the guy's shooting back there in the back of the parking lot." Officer E got a little closer to see if he could locate the person shooting, and he observed two males shooting firearms. Officer E feared for his life, and immediately started returning fire towards their direction. After several shots, one of the males stopped shooting and he went down to the ground. Officer E, upon seeing the officers in the back of the lot, moved further into the parking lot and reloaded his weapon. Officer E placed the depleted magazine into his left rear pocket and continued toward the Subject with his pistol in the low ready position. Upon reaching where the Subject had been standing, Officer E observed the Subject on his stomach on the ground. Officer E told the other officers that the Subject was the guy that he saw shooting. Officer E approached the Subject, and handcuffed him. Officer E checked the area where the Subject was lying, and located a handgun.

Witness E heard several gunshots coming from the end of the alleyway and it sounded to him like more than one gun was going off. Witness E further stated that he then heard more shots coming in his direction, but didn't know who was shooting. Witness E also indicated that he heard what sounded like bullets hitting the roof of a car, as if someone had fired into the air. After hearing what sounded like bullets hitting the roof, Witness E then heard gunshots coming from behind where the car was parked. Witness E attributed these shots to police officers, and indicated that two of the shots fired from behind the car struck its rear windshield.

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 Sergeant A, along with Officers A, C, D, E, F, G and H tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

The BOPC found Officers A, D and E's use of force to be in policy.

Basis for Findings

A. Tactics

In this instance, Officers A and B made contact with Witness A and received information that subjects were possibly brandishing handguns. However, Officer A and B did not obtain detailed information regarding their description and provided only general information about armed subjects to arriving officers. Consequently, officers were at a continuous tactical disadvantage throughout the operation. Officers A and B should have provided the details regarding the armed subjects to other officers on scene. Both officers are reminded that gathering information and communicating it to other officers is paramount for officer safety and planning. Although there is area for improvement in relation to tactical planning/communications, the information regarding armed subjects was generally relayed. Accordingly, the officer's actions did not substantially deviate from approved Department tactical training.

After the warehouse was cleared of most party goers, a group of approximately 20 to 25 individuals remained inside. Sergeant A authorized Officer A to assemble a team of officers to enter and clear the location. The team was comprised of Officers A, C, D, F, G and H. They entered the warehouse and proceeded in a westerly direction toward the rear of the location, ordering patrons to leave through the front door. As the officers continued walking in a westerly direction, gunfire erupted near the rear door. In response to the threat, Officers A and D fired at the subject, who fled northbound in the alleyway. Officer A and D followed, running to the open doorway with service pistols drawn. Officer D redeployed rearward to a position of cover behind a pillar and observed Officers A and F exit the warehouse. Believing Officers A and F were

pursuing the subject, Officer D ran after them with his service pistol drawn. In conclusion, based on the dynamic nature of the event and the presence of innocent bystanders outside the location, it was reasonable for Officers A and D to run outside with weapons drawn. Therefore, the officers' actions did not substantially deviate from Department approved tactical training. Nevertheless, Officers A and D are reminded that there is a heightened concern for an unintentional discharge when an officer runs with a service pistol drawn.

After Officers A and D engaged the subject, Officer A observed the subject flee northbound in the alleyway. Officers A and F then exited the rear door in pursuit of the subject. Officers D, C, and H did not broadcast any details of the OIS; therefore, personnel positioned on Los Angeles Street were unaware of the unfolding tactical situation in the rear alleyway. Regarding Officer A's decision not to broadcast he stated, that with the number of officers somebody would handle the help call and shots fired, and any additional resources we might need, somebody's going to react. According to the FID summary, the only information that was captured on the base frequency by CD were the broadcasts by Sergeant A and an unidentified officer. Officers are trained to provide cover contact/support roles. Accordingly, as Officer A and D were involved in the incident and in pursuit of the subject, the secondary officer(s) on scene should have broadcast the pertinent information that an armed subject was running out the back door to provide warning to the other officers on scene. In conclusion, although there was a lack of tactical communication on the part of all officers, they were each confronted with a rapidly evolving and dynamic incident involving seeking cover in a warehouse with an open floor plan the presence of unsearched patrons and safeguarding the lives of bystanders. As such, Officers A, D, E, C, F, G and H's actions did not substantially deviate from approved Department training; however, in order to ensure that the officers are aware that effective tactical/radio communication is crucial to ensure a positive outcome, this topic will be discussed during the tactical debrief.

In response to the threat, Officers A and E fired their service pistols at the Subject. Sergeant A heard the exchange of gunfire and immediate broadcast a request for help. As Officers A and F entered the rear alley, they heard gunshots emanating from both the north and the south ends of the alleyway. Subsequently, Officers A and F took positions of cover between parked vehicles adjacent to the rear door. When the gunfire ceased, Officer A proceeded northbound in the alley, the last known direction the subject was seen running. As he moved, Officer A heard additional gunshots resonating from a parking lot that was adjacent to the north side of the warehouse. Officer A looked east into the parking lot and observed a male, later identified as D. The Subject standing in between two parked vehicles with his back toward Officer A, firing a handgun in an easterly direction.

In the interim, Officer E was positioned on the street somewhere between the front entrance to the warehouse and the apron of the parking lot driveway, when he heard approximately 10 to 15 gunshots coming from the rear alleyway. Officer E drew his service pistol and tracked the gunfire northbound to the parking lot and observed the Subject firing a handgun at him and the patrons around him.

Meanwhile, when the gunfire momentarily subsided, Officer A moved in a northerly direction. As he looked into the parking lot from the west, Officer A observed the Subject firing his handgun in an easterly direction toward where patrons had been directed moments prior. Officer E, positioned on the east side of the parking lot, also observed the Subject firing his handgun at him and those around him. Officers A and E simultaneously observed the Subject shooting and both fired, thereby creating a crossfire situation wherein officers could have been injured or killed.

Here, the officers were forced to make split second decisions when confronted with a deadly subject and took action to protect their lives and the lives of the surrounding public. While officers are expected to be aware of their surroundings and prevent cross fire situations when possible, the duty to respond to an in-defense-of-life (IDOL) threat is critical, and the background is a secondary consideration. Therefore, the officers' actions did not substantially deviate from Department approved tactical training. With that said, in order to avoid a potential crossfire incident in the future, Officers A and E are reminded to remain cognizant of their environment and the presence of other officers and bystanders when determining what tactics to employ and, when feasible, prior to firing their service pistols. This topic will be a discussed during the tactical debrief.

In this instance, Officer E heard gunfire emanating from the alleyway behind the warehouse and proceeded in a westerly direction into the parking lot, taking a position along the rear passenger side quarter panel of a vehicle parked in the center aisle. From his vantage point, Officer E observed the Subject firing a handgun in an easterly direction at him and the patrons in close proximity to him. In response, Officer E fired his service pistol at the Subject. Parked to the west of Officer E was a sedan occupied by four individuals. The FID investigation revealed the sedan was in the foreground of Officer E's shooting position and was struck by Officer E's rounds. In conclusion, although this situation was extremely dynamic, Officer E is reminded of the importance of remaining disciplined during stressful situations. Such discipline includes, controlling fire and proper sight alignment.

The officer's actions did not substantially deviate from Department approved tactical training due to the IDOL situation.

B. Drawing/Exhibiting

In this instance, Officers A, C, D, F, G and H entered the warehouse and began to direct the remaining patrons out via the front door. As the officers proceeded in a westerly direction toward the rear of the warehouse, gunshots emanated from the west. In response, Officers A, D, C, F, G and H drew their service pistols.

In this instance, Officer E, under the guidance of Sergeant A, was providing crowd control and directing patrons northbound away from the location when gunshots emanated from the alley to the rear of the warehouse. In response, Sergeant A and Officer E drew their service pistols.

Officers with similar training and experience as Sergeant A, along with Officers A, C, D, E, F, and H would reasonably believe that when they heard gunfire, the situation had escalated to the point where the use of Lethal Force may be justified.

In conclusion, the BOPC found that Sergeant A, along with Officers A, C, D, E, F, G and H's Drawing/Exhibiting to be objectively reasonable and in policy.

C. Use of Force

In this instance, as the team of officers proceeded to the rear of the warehouse clearing the location of patrons, they were confronted by an armed subject. Officer A observed the silhouette of a male standing outside the open rear door firing a handgun. Believing that the subject was shooting at patrons of the party, Officer A drew his service pistol and fired two rounds at the subject. Officer A assessed the situation, noted the muzzle flash had ceased and that the subject fled northbound in the alley. Officer A ran to the open door, tactically cleared the doorway and entered the alley. Upon doing so, he observed muzzle flash to the south, heard gunfire to the north and he subsequently took a position of cover between two parked vehicles. When the gunfire subsided, Officer A emerged from between the parked vehicles and proceeded in a northerly direction. As he looked to the east, Officer A obtained a visual of the parking lot and observed the Subject firing a handgun in an easterly direction. Believing the Subject was directing his gunfire toward the area in which the crowd was previously being directed, Officer A fired one additional round at the Subject.

In this instance, Officer D was positioned to the northeast of Officer A when the gunfire erupted. Officer D immediately drew his service pistol and attempted to identify the threat. As the subject continued to fire his handgun, Officer D located the shooter next to the open rear door. Believing he was being fired upon, Officer D fired one round at the subject.

In this instance, Officer E was directing patrons away from the warehouse when he heard gunshots from the rear alley. Utilizing parked vehicles as cover, Officer E moved in a northerly direction with his service pistol drawn, paralleling the shots fired. Officer E then proceeded in an easterly direction into the parking lot and observed two males firing handguns; however, Officer E focused his attention solely on the Subject, as he observed the Subject firing his handgun in an easterly direction at him and the patrons in close proximity to him. In response, Officer E fired his service pistol at the Subject. Officers A, D and E reasonably believed the subject was shooting at them or patrons of the party. It was reasonable for Officers A, D and E to perceive that the subject presented a significant risk of serious bodily injury or death.

As such, it was objectively reasonable for Officers A, D and E to utilize Lethal Force in defense of their lives and the lives of the community members.

Therefore, the BOPC found that Officers A, D and E's use of force to be in policy.