

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

OFFICER-INVOLVED SHOOTING – 055-08

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No()
Hollenbeck	05/26/08		

Officer(s) Involved in Use of Force	Length of Service
Officer A	7 years, 2 months
Officer C	5 years, 11 months
Officer F	10 years, 1 month
Detective B	19 years, 1 month
Detective C	14 years, 2 months

Reason for Police Contact

Officers served a narcotics related search warrant at a residence. During the service of the search warrant, Subject 2 shot Detective C. Several officers shot back at Subject 2, wounding him. Officers retreated from the residence and established a perimeter. A short time later, Subject 3, who had been inside the residence, surrendered. Subject 3 told the officers that Subject 2 had shot himself.

Subject	Deceased (X)	Wounded ()	Non-Hit(X)
Subject 1: Male, 23 years (Non-Hit).			
Subject 2: Male, 22 years (Deceased).			
Subject 3: Male, 19 years (Non-Hit).			

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 and addenda items); the Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on 05/26/09.

Incident Summary

Detective A determined that a residence was being used by members of a gang to manufacture and sell drugs. Detective A obtained a search warrant for the residence.

Note: Subject 1, 23 years, resided at the residence. Subject 1 was known to be involved in the gang's narcotics activity.

Detective A established an observation post (OP) on one of the residences.

From the OP, Detective A saw several individuals entering and leaving the residence. He recognized two of the individuals as Subjects 2 and 3.

Special Agent A had been assisting with the surveillance at the residence.

Sergeant A was told to meet at a prearranged location by Lieutenant A. According to Sergeant A, "[W]e went over the game plan of my duties and all of the officers' duties for the service of the search warrant at the location [. . .] I was the supervisor that was going to enter the location with the team [. . .] And I was in charge of communications at the location."

According to Police Officer A, "Detective B advised me to get our [. . .] van [. . .] and meet up with the [. . .] officers that were going to assist us and brief them again at [. . .] the shopping center [. . .] I [. . .] picked up the van, and I drove over there. Lieutenant A was there. Sergeant A was there [. . .] I briefed them [. . .] I went through the tactical plan and verified that they knew their assignments [. . .] all the officers there [. . .] So we were there for a little bit [. . .] [. . .] Detective A advised us that there was people inside the residence and to go ahead and start loading up to serve the warrant."

Present for the search warrant briefing with Lieutenant A, Sergeant A, Detective B, and Officer A were Police Officers B, C, D, E, F, G and H. Detective C arrived at the staging area after the search warrant briefing had concluded.

Officers B and G were assigned front containment. They drove together in a marked police vehicle towards the residence and stopped in the street nearby. Lieutenant A was also assigned a containment position to the front of the location.

Note: Lieutenant A, Sergeant A, and Officers C, B, D, E, F, G and H were in full uniform. Detectives B, C and Officer A were wearing LAPD raid jackets. All of the officers were wearing ballistic helmets.

Officer A drove the truck into the alley behind the target location. According to Officer A, "I park in the alley. We get off. I start forming the stick. Detective C is the first guy, followed by me. We [. . .] line up, and then we start moving towards the direction of the residence."

Lieutenant A, and Officers B and G unholstered their pistols as soon as they exited their vehicles and took up their containment positions to the front of the location.

Officers C, D, F and H were assigned breaching tools in order to open the exterior security screen door and any locked interior doors.

After leaving the van, Detectives B and C, along with Officers E and A, unholstered their pistols as they approached the location.

According to Officer A, “[W]e walk up to the courtyard and approach the rear door of the residence [. . .] I knock, and I say loudly, ‘LAPD. Open the door. We have a search warrant. LAPD.’”

As recalled by Detective C, “As soon as I got to the door [and prior to the advisement by Officer A], I can hear people running and I yelled out, ‘Compromised. We’re compromised.’”

Note: Detective B believed he heard people running inside the residence during the advisement given by Officer A. Officers C and H believed they heard running in the residence after the security screen door had been struck with a breaching tool. Officers E and A believed they heard people running inside the residence after Officer A made his announcement and before the security screen door was breached.

According to Officer C, who had been assigned to punch a hole in the security screen door for the rip-ram carried by Officers D and F, “I go up to the door. At that time an officer’s yelling, ‘Los Angeles Police Department, search warrant.’ I had the hook. I hit it [security screen door], and I hit the doorknob [. . .] I missed it [. . .] I hit it at least three to four times before I make a big enough hole [. . .] As soon as I put the tool down, I unholstered my weapon.”

According to Officer A, “Officer C punches the door, and then Officers F and D use a rip-ram. And it takes them awhile to rip the door off [. . .] so once they open the door Detective C enters followed by me.”

Officers D and F unholstered their pistols shortly after the security screen door was breached.

Upon their making entry to the residence, the officers were fired upon and Detective C was struck by gunfire.

As recalled by Detective C, “So the door was opened and I entered the location. I was the first one in [. . .] I remember making a left turn and at that point the next thing I remember, I was on the ground [. . .] I found myself sitting on my butt.”

Detective C continued, "I was sitting on my butt. My legs, both legs were bent with the knees outward and my feet close together. I remember I had my .45 in my hand [. . .] [T]he first thing I see is [the subject] in the doorway and he's in a crouched position with his hand wrapped around a gun and he's firing in an upward position. And then I'm watching him as he falls back on his butt kind of like in the position what I'm in and turns to me. And at that time, he starts firing at me and I'm firing rounds at him. I can feel the rounds hitting around me [. . .] I knew I got shot in my left knee area [. . .] And I continued to fire [. . .] [W]hile I was firing, I felt like my gun stopped firing [. . .] I did a quick reload [. . .] I began firing more rounds and I told whoever was there [. . .] 'I'm hit. I'm hit.'"

According to Officer B, "We took [a] position of cover in front of the location as the narcotics and the gang officers door knocked and gave a knock and notice [. . .] While I was taking cover behind a vehicle in front of the location, I actually heard a lot of running and noise coming [from] within the location. I observed a male wearing a white shirt attempt to exit the front window, which is basically the north-facing window on the residence [. . .] I made contact with that individual that was peeking out through the window or attempting to get out, and I yelled [. . .] I told him, 'Put your hands up. Get on the ground.' I yelled that about three times as loud as I could [. . .] When I yelled the third time he disappeared from the window, and that's when the officers made entry into the house at which point gunfire erupted and several shots were fired."

According to Officer E, "They start making entry. And then I would say immediately, it's probably almost simultaneously, I heard the first shot go off [. . .] I heard it come from inside the residence [. . .] I thought it was an officer. But then I felt the stucco hit my face [. . .] I looked up real quick, and I saw a bullet hole over my head [. . .] And right after that, a lot of shots start[ed] coming from inside the house [. . .] [T]hen I heard [. . .] like return fire from the officers [. . .] I held my ground there. I just got as low as I could. I got my rover, started putting out a help call."

As recalled by Officer A, "And as we enter we make a quick left, and we immediately get gunfire at us [. . .] I see [the subject] standing near the opening of the kitchen. He starts firing at us. Detective C starts firing back at the subject, and I start firing back at the subject engaging him [. . .] I keep firing at the subject as he's firing at us, cause I see the muzzle flash directed towards us. And I see through my peripheral that Detective C goes down, and he says, 'I've been shot. I've been shot.'"

According to Detective B, "C was the first officer in followed by Officer A, and then I was the third officer in. As I'm entering the front door, or the rear door, I hear gunshots. I hear Officer A yelling, 'Officer down.' At that point there was an officer-involved shooting."

Note: Detective B did not actually see Subject 2. Detective B saw Officer A firing in a northerly direction. Detective B believed that rounds were being fired at them from that area. Detective B estimated he fired a couple of rounds toward the threat at that time.

As recalled by Officer C, the fourth officer to enter the bungalow, “[A]s soon as I was stepping in, shots were fired. Immediately shots were coming. I could hear stucco. I could hear impacts hitting. And then at the same time I hear, it was so quick, ‘I’m hit. I’m hit.’ Detective C was down.”

Officer C continued, “At that time I looked in the direction where the threat was coming from. I saw muzzle flash. I shot one round for cover fire to defend Detective C and my partners from serious bodily injury and immediate threat of death.”

As recounted by Officer A, “I look over to Detective C, and he’s down [. . .] my instinct was just to take him out of [. . .] the house. There’s no [. . .] good position for cover or anything. So I grab him by the shirt, vest area [. . .] I had the subject still firing at us, so I start shooting towards the last location that I saw subject and where I thought that the gunfire was coming from. I fired some cover rounds as I pull Detective C out.”

According to Detective B, “I’m not sure if Officer A was extracting him, but I saw Detective C to my left. I went down, grabbed him by his rear collar area where his vest was at, and I assisted in pulling him away from the line of fire. So once he got clear from my line of fire in a northerly direction I might have fired three or four more rounds.”

According to Officer F, “When Detective C was removed, Officer C was still in front of me [. . .] And I waited for him. He backed out and veered off to my right which when he did that, it left me with nobody in front of me but [the subject].” Officer F fired three rounds at Subject 2, whom he observed pointing a gun, as Officer F backed out of the residence.

As recalled by Officer E, “I looked over to the residence to see if any of my partners [. . .] were hit. I saw Detective C coming out on his back, sliding out of the back door [. . .] I could see his face. He was in pain. So I thought immediately that he had been struck by gunfire [. . .] I holstered up [. . .] I bear-crawled over to Detective C. I reached under his armpits from the rear, lifted him, and started dragging him away, back westbound away from the door [. . .] from where the gunfire had been coming through.”

Meanwhile, Lieutenant A, along with Officers B and G, had maintained their containment positions to the front of the location. According to Lieutenant A, “I authorized the use of UPRs [Urban Police Rifles]. And they were deployed [. . .] I put out a help call on the main frequency [. . .] I set the perimeter. Units responded [. . .] I realized that one of the officers had been hit. I didn’t know exactly who. Requested the RA [Rescue Ambulance]. Established a location for a command post [CP]. And everyone held their positions.”

Note: CD received a request for an RA from Sergeant A for a downed officer to the rear of the residence.

As recalled by Officer B, “And because of the shots fired, I reholstered my weapon and went back to my car, recovered my UPR from the back trunk. Redeployed to a position of cover behind a gray pickup truck that was across the street from the location until I was relieved by additional officers.”

Los Angeles Fire Department (LAFD) Paramedics A and B arrived at the location and treated Detective C. Detective C was transported to the hospital.

Lieutenant A had the officers hold their positions on the perimeter and SWAT respond to the CP.

Officers I and J responded to the “help” call. According to Officer I, “They were barely setting up the perimeter. I remember getting there [. . .] We went to the front of the location, and that’s where I met with Officers G and B who had front containment of the residence.”

A short time later Subject 3 appeared at the front door of the residence and surrendered. Subject 3 told officers, “The guy that you’re looking for that’s inside, he’s dead. He killed himself.”

Subject 3 was taken into custody, handcuffed by officers on the perimeter, and walked to the CP.

Subject 2 was subsequently assessed by paramedics and determined to be dead. Subject 2 had died as the result of a self-inflicted gunshot wound.

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 Lieutenant A, Sergeant A, Detectives A, B and C, Officers A, B, C, D, E, F, G and H’s tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Lieutenant A, Detectives A and B, Officers A, B, C, D, E, F, G and H's drawing and exhibiting to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Watch Commander notifications.

Detective A established an OP to confirm the presence of named subjects on the search warrant and monitor the location for narcotic activity. Based on the activity observed, Detective A contacted Lieutenant A to coordinate the search warrant briefing. The warrant service personnel met at the briefing location, pertinent information was disseminated and they responded to the search warrant location. In order to assist in facilitating the response of additional resources should they become necessary, the Patrol Division Watch Commander should have been notified of the use of the OP and the execution of the search warrant.

Lieutenant A and Detective A are reminded to notify the watch commander of the involved area prior to utilization of an OP and service of a search warrant.

2. Search warrant briefings.

Detective C arrived at the staging location after the briefing had concluded and the warrant service personnel were boarding the moving truck. Although the Department requires the presence of all warrant service personnel at the briefing, Detective C was familiar with the details of the search warrant. Detective C had previously driven past the location and had attended the warrant service roll call briefing on Tuesday, wherein the mission, intelligence, execution and duties were discussed in detail. He was also present for the roll calls held over the course of the following two days, during which the search warrant was a topic of discussion.

Lieutenant A is reminded of the importance of having all participating warrant service personnel present at all briefings, as there may be last-minute intelligence updating information disseminated.

3. Broadcasting help.

A proper tactical plan will take into consideration the need for enhanced communication between the entry team, team leader and perimeter officers. In this incident, there was no request for a tactical frequency and the officers relied on a simplex channel. History has shown that simplex frequencies are somewhat unreliable and that occasionally, important communications between officers are missed. Tactical frequencies are not only more reliable than simplex channels, but monitored and recorded by CD. In the event of an emergency being broadcast over a tactical frequency, CD personnel would be able to assist in the response of additional resources; however, since simplex channels are not monitored, the request for help may go unheard.

The involved personnel are reminded that, when time allows, a tactical frequency should be utilized.

4. Tactical reloads.

Officer C fired one round as cover fire, exited the residence through the rear door, stood on the porch and performed a tactical reload, inserting the magazine from his service pistol into the magazine pouch on his equipment belt. By performing the tactical reload with only one round fired from his service pistol and a potential threat remaining, Officer C created a circumstance wherein his ability to immediately engage a threat, should it have become necessary, would have been delayed.

Officer C is reminded that a tactical reload should be executed behind cover when time is not a major factor and maintaining control of the partially loaded magazine is a consideration.

5. Utilizing cover.

In this situation, Officer D was assigned to assist with the perimeter around the residence by maintaining a position on the southeast corner of the building. When gunfire erupted inside the residence, Officer D left his position of cover and laid on the ground. Realizing he was exposed to the windows on the side of the residence, Officer D propped himself up on one knee and covered the windows with his service pistol. Shortly thereafter, Officer C exited the residence and joined Officer D.

Officers D and C should have sought a position of cover that would have provided them with a tactically superior position, rather than taking a position that offered no cover.

Drawing/Exhibiting

- In this instance, the involved personnel were conducting a warrant service at a residence being utilized by members of a street gang to manufacture and sell narcotics. As the officers deployed around the residence and prepared to enter the location, they drew and exhibited their weapons. A reasonable officer when

confronted with similar circumstances would believe that they may confront an armed suspect and that deadly force may become necessary.

The BOPC found Lieutenant A, Detectives B and C, along with Officers A, B, C, D, E, F, G and H's Drawing/Exhibiting warrants a finding of in policy, no further action.

Lethal Use of Force

Detective C – .45 caliber, 9 rounds

According to Detective C he entered the kitchen and ended up in a seated position with his legs extended outward, pointed in a northerly direction. Detective C observed, *"...the subject [Subject 2] in the doorway and he's in the crouched position with his hand – hand wrapped around a gun and he's firing in an upward position. And then I'm watching him as he falls back on his butt kind of like in the position what – what I'm in and he turns to me. And at that time he starts firing at me..."* Believing he was being shot at, Detective C fired nine rounds in a northerly direction from an approximate distance of 13 to 14 feet.

Based on his observations, it was reasonable for Detective C to believe that he was being shot at by Subject 2 and to utilize lethal force in defense of his life. Therefore, the BOPC found Detective C's use of lethal force to be in policy.

Officer A – .45 caliber, 14 rounds

According to Officer A, he entered the kitchen and observed, *"...muzzle flash. I see [Subject 2] kind of crouched down and firing at us."* Based on his observations, Officer A fired six to seven rounds at Subject 2. Officer A observed that Detective C was sitting on the ground and had been shot. Officer A grabbed Detective C with his left hand and pulled him toward the rear door to, *"...take Detective C out of that threat out of the kill zone, because he [Subject 2] was still – suspect was still shooting and just to move him out of there."* As he rescued Detective C, Officer A reported, *"I could still hear the gunshots, and I could still see the reflection, so I went on target towards that last location where I saw suspect [Subject 2] and where I thought the – the gunfire was coming from where I thought he [Subject 2] was at."* Based on Officer A's perception of the deadly threat posed by Subject 2, Officer A utilized cover fire and fired five to six rounds.

Based on his observations, it was reasonable for Officer A to believe that Subject 2 posed a deadly threat and to use lethal force in defense of his and Detective C's lives. Therefore, the BOPC found Officer A's use of lethal force to be in policy.

Detective B – .40 caliber, 7 rounds

As Detective B entered the rear door of the residence he heard gunshots of different calibers emanate inside the residence followed by Officer A yelling, *"Officer down!"* Detective B looked in an easterly direction into the kitchen and observed Officer A, *"...firing in a northerly direction, and in my opinion the rounds were also being fired*

from that direction [north].” Based on Detective B’s perception of the deadly threat posed north of their location, Detective B utilized cover fire and fired seven rounds.

Based on observations made by Detective B, it was reasonable for him to believe that there was a deadly threat located north of him and to utilize lethal force in defense of his life and the other officers’ lives. Therefore, the BOPC found Detective B’s use of lethal force to be in policy.

Officer C – .45 caliber, 1 round

According to Officer C as soon as Detective C entered the residence, *“Shots started being fired. And it’s coming directly toward us.”* Officer C observed muzzle flash. Defending the lives of Detective C and the other officers from serious bodily injury and death, Officer C utilized cover fire and fired one round toward the muzzle flash.

Based on his observations, it was reasonable for Officer C to believe that the officers were being shot at and to utilize lethal force in defense of their lives. Therefore, the BOPC found Officer C’s use of lethal force to be in policy.

Officer F – .45 caliber, 3 rounds

According to Officer F, after Detective C was pulled out of the residence, the remaining officers also exited, with Officer F being one of the last officers to exit. As Officer F walked rearward away from the residence to create distance and obtain cover, he observed, *“...the same – same person [Subject 2] who was shooting initially still standing in the kitchen, kitchen area, wearing a white T-shirt pointing a handgun still pointing in my direction and the officer – the other officers around me, and he’s still firing.”* Believing he was about to be shot by Subject 2, Officer F fired three rounds at Subject 2.

Based on his observations, it was reasonable for Officer F to believe that Subject 2 posed a deadly threat toward him as well as the other officers and to utilize lethal force in defense of their lives. Therefore, the BOPC found Officer F’s use of lethal force to be in policy.