

Incident Summary

The Subject walked onto the property of hotel where the OIS later occurred.

The Subject was armed with both a revolver and a military-style rifle and was walking around the property firing his weapons into the ground and unoccupied vehicles in the parking lot. The investigation revealed that the Subject fired a minimum of 28 rounds while on the property.

Officers A, B, and C were assigned to a crime suppression detail in area. They were at the property adjacent to the hotel conducting an unrelated investigation when they heard gunfire.

Officer C broadcast to CD that they heard gunfire and were investigating.

According to the officers, they were very familiar with the hotel and were aware that it housed many people. Upon hearing the continuous gunfire, the officers believed there was an active shooter at the location and drove in that direction. The officers discussed retrieving the rifles from the trunk of the police vehicle as Officer A parked in the lanes adjacent to the driveway of the hotel.

The officers continued to hear gunfire as they exited their police vehicle, and Officers C and B began to retrieve their rifles from the trunk. As they did so, Officer A unholstered his pistol and moved toward the driveway of the hotel. He quickly peeked up the driveway and did not see any evidence of the Subject. Officer C, armed with his rifle, joined Officer A and together they breached the mouth of the driveway and proceeded toward the interior courtyard/parking area.

Officer C then broadcasted a request for a backup unit.

Officer A moved toward the left side of the driveway, while Officer C stayed to the right side of the driveway. Officer A continued up the driveway first utilizing a palm tree as cover and then a vending machine. Officer C utilized the cinder block wall of the adjoining business as cover. The officers continued to scan the property for the Subject as they moved further up the driveway. At this point the gunfire had stopped.

Officer A, from his position at the vending machine, saw the Subject walking through the parking lot in his general direction. Officer A moved further into the property and took cover between two parked cars along the side of the parking lot.

According to Officer A, he immediately identified the Subject as holding a stainless-steel handgun in his right hand and what he believed to be a shotgun in his left hand. The investigation determined the Subject was actually holding an AR-15 type rifle in his left hand.

Officer A held his pistol and flashlight in both hands and pointed his weapon at the Subject. According to Officer A, the Subject was approximately 30 yards away when Officer A began yelling, "Drop the gun. Police. Drop it. Get on the ground." As Officer A repeated his commands, the Subject stopped and looked around.

According to Officer A, the Subject slowly turned his body to his right, clockwise, as he continued to look in Officer A's direction and that of the driveway. The Subject slowly bent at the waist and, according to A, appeared as though he was placing the pistol on the ground. However, the Subject canted his wrist and pointed the muzzle of the pistol at Officer A.

Believing the Subject was intent on shooting him, Officer A fired three consecutive rounds at the Subject.

The rounds were fired in a southeasterly direction from an approximate distance of 25 yards. The Subject was not struck by the gunfire and surrendered without further incident.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A, B, and C's tactics to warrant a Tactical Debrief.

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 Officer A's lethal use of force to be in policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law

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

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

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

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

Law enforcement officers are authorized to use deadly force to:

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

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

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

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

- During its review of this incident, the BOPC considered the following:

1. Simultaneous Commands (Non-Conflicting)

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

2. Police Rifle Loading Standards

The investigation revealed that Officer B stored his patrol rifle in the trunk of his police vehicle with a fully loaded magazine inserted into the magazine well. Officer B was reminded of the Department's Police Rifle loading standards.

3. Profanity

The investigation revealed that Officers A, B, or C utilized profanity prior to taking the Subject into custody.

These topics were to be discussed at the Tactical Debrief.

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

B. Drawing/Exhibiting

- According to Officer A, he could still hear gunshots as he exited his vehicle. Officer A thought it was an active shooter situation. Fearing for the lives of people inside the hotel, he drew his service pistol as he moved toward the location of the gunfire.

According to Officer B, upon exiting the vehicle, he could still hear gunfire. He went into the trunk of the vehicle, deployed his police rifle, and moved towards the sound of gunfire with Officer A.

According to Officer C, the shots continued as he exited the vehicle. He went to the vehicle trunk, and after Officer B deployed his police rifle, Officer C retrieved his own police rifle and moved towards the hotel behind Officers A and B.

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

C. Lethal Use of Force

- **Officer A – (pistol, three rounds)**

According to Officer A, the Subject looked at him with the handgun pointing straight to the ground. The Subject then began to bend over at the waist as if he was going to place the handgun on the ground, but he then turned his wrist, pointing the muzzle of the handgun at Officer A. Fearing the Subject was pretending to comply in order to take a quick shot at him, Officer A fired his service pistol at the Subject to stop his lethal actions.

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

Therefore, the BOPC found Officer A's lethal use of force to be in policy.