

Non-Fatal Officer Involved Shooting of Dontavis Marshall
Los Angeles Police Department

Officer Nathaniel Beck, #35886

J.S.I.D. File #20-0195



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

May 11, 2023

MEMORANDUM

TO: CAPTAIN RICH GABALDON
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-fatal Officer Involved Shooting of Dontavis Marshall
J.S.I.D. File #20-0195
F.I.D. File #F025-20

DATE: May 11, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 3, 2020, non-fatal shooting of Dontavis Marshall (Marshall) by Los Angeles Police Department (LAPD) Officer Nathaniel Beck. We have concluded that there is insufficient evidence to prove the officer did not act lawfully in self-defense or in defense of others.

The District Attorney's Command Center was notified of the shooting at 10:51 p.m. on June 4, 2020. Due to county curfew conditions and the civil unrest present in the community at the time, a District Attorney Response Team (DART) was not dispatched to the location.

The following analysis is based on investigative reports, audio recordings, crime scene diagrams and sketches, photographic and video evidence, including body worn video, and witness statements submitted by LAPD Lieutenant Damian Gutierrez. Compelled statements of Officer Beck were not considered as part of this investigation.

FACTUAL ANALYSIS

On June 2, 2020, three LAPD units (25P322, 25P330, and 25P321)¹ were part of a large-scale LAPD mobilization of police resources conducting crowd control operations in Hollywood in response to ongoing civil unrest. At about 12:05 a.m. on June 3, these units were de-mobilized and directed to return to the South Bureau command post at LAPD's 77th Street Division.

¹ The personnel occupying each of these units were: a) 25P322: Officers Jeffrey Joyce, Francis Coughlin, Erick Ortiz and Nathaniel Beck; b) 25P330: Sergeant Kenneth Busiere, and Officers Ivan Lombard-Jackson and James Holliman; and c) 25P321: Officers Matthew Martinez, Edward Pernesky, Jesus Ruiz, and Ricardo Cepeda.

911 Calls and Radio Broadcast

Prior to officers from the above-listed units arriving to their command post, eight 9-1-1 calls came in from civilians to report active shooting occurring around 87th Place and Broadway. During one call received three minutes before the arrival of officers, an unidentified caller stated, “Can you please send the police on Broadway, they’re shooting.” During this 9-1-1 call, the caller screams as at least 15 sounds consistent with gunshots can be heard. Another caller reported hearing at least ten gunshots and people screaming behind their residence.

Communications Division broadcast the following on Southeast Division radio frequency at 12:21 a.m.: “Southeast units, a shooting just occurred [REDACTED], behind the location, possibly on 87th Place, [reporting person] heard approximately ten gunshots and people screaming, code-3...”

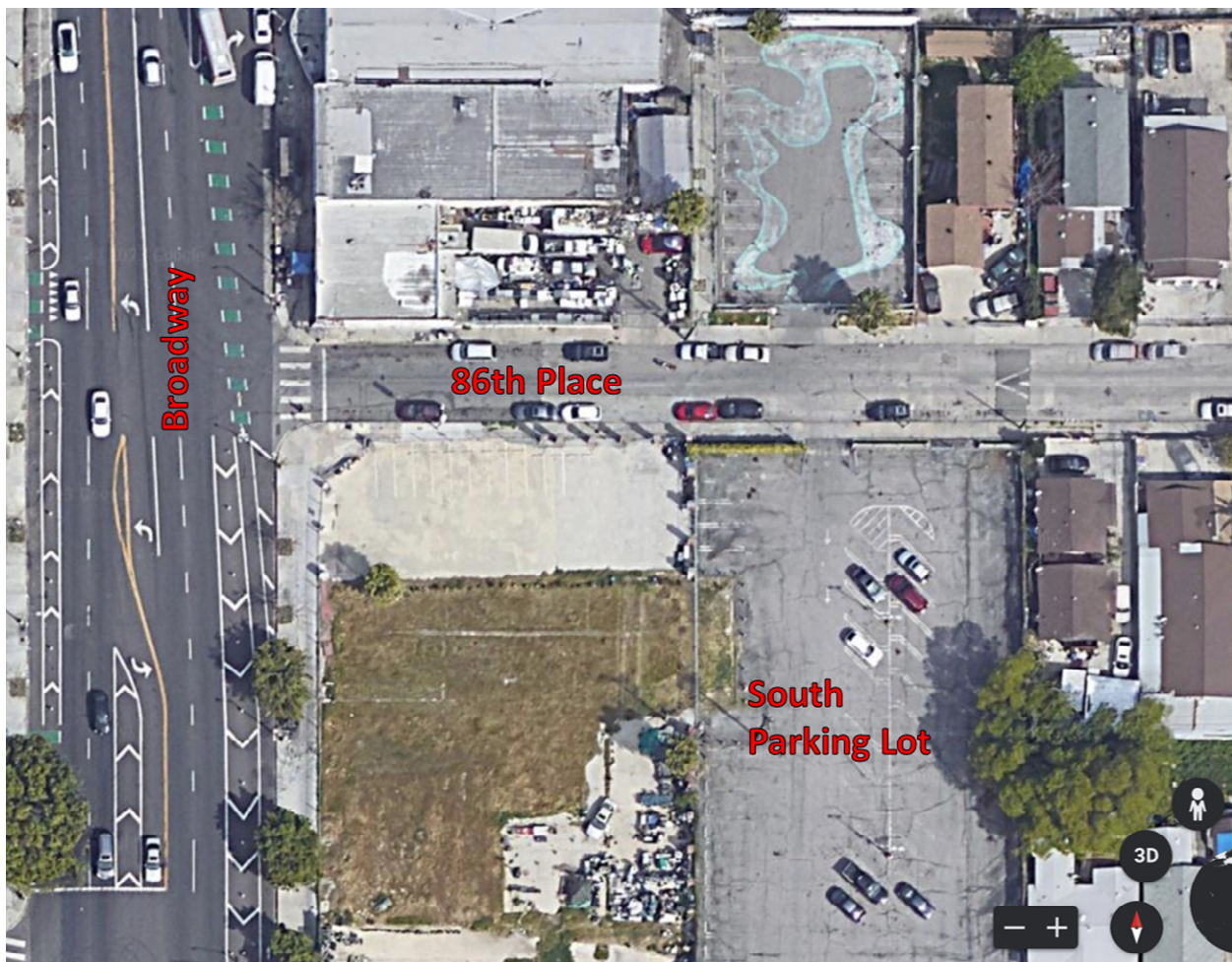


Figure 1: Google map depicting overhead view of the intersection of Broadway and 86th Place.

Arrival of LAPD Officers

Units 25P322, 25P330, and 25P321, while on their way to the South Bureau command post, exited Interstate 110 at Manchester Avenue. Officer Coughlin, the front passenger of the lead vehicle (25P322), in which Beck was a passenger, was monitoring Southeast Division radio, when he heard the above radio broadcast. Coughlin told Joyce, the driver, of the radio call and directed him to turn onto Broadway, toward the location provided in the call.

At 12:22 a.m. the three units approached the scene and the officers heard continuous gunfire² as they approached the intersection of Broadway Avenue and 86th Place. Officer Joyce, who was driving the lead vehicle, 25P322, said, “Immediately when we pull up and come to a stop, I hear 20 to 30 rapid-fire gunfire [*sic*]. Which to me sounded like an AK-47 style weapon.” Joyce stopped the vehicle near the intersection of Broadway and 86th Place facing south in the northbound lanes of Broadway. All four officers exited the vehicle. At that time, a four-door vehicle with tinted windows drove rapidly from westbound 86th Place to northbound Broadway, near the officers’ position. Officer Joyce drew his weapon. The gunfire, which was emanating from the area of a parking lot on the south side of 86th Place just east of Broadway, continued, and Joyce took cover.

Officer Ortiz was in the same vehicle as Joyce and Beck. He gave the following statement about his impressions of what was happening when he exited the police vehicle:

I believed the situation was gonna escalate to a use of deadly force due to the fact that we had a radio call of the ADW shots fired. I hear the volley of gunshots and then I see the second volley of gunshots ... and then I see the muzzle flash and believed I was the target. I drew and unholstered my weapon.

As Officer Ortiz unholstered his service pistol, he met Officer Beck in the middle of Broadway. Together, they moved eastbound toward 86th Place. Beck’s body worn video shows³ Beck running toward 86th Place while holding his pistol in his right hand and his side-handle baton in his left hand. Beck raised his pistol in his right hand and fired one round, in a southeasterly direction. Beck continued running towards 86th Place, then, two seconds after firing his first shot, Beck raised his pistol again and fired four more rounds in approximately one second in the same direction as the first shot. Ortiz said that as Beck was firing, Ortiz kept looking “down range because I assume that’s where [the shots are] coming from because that’s where I saw the muzzle flash.”

² A number of the officers responding to the scene reported hearing gunfire, including Officers Matthew Martinez, Edward Pernesky, Ricardo Cepeda, Jesus Ruiz, and Sergeant Kenneth Busiere.

³ None of the officers had activated their body worn cameras prior to the OIS. Therefore, the cameras were in buffer mode, recording only video during the time Officer Beck fired his pistol.



Figure 2: Still frame of Officer Beck's body worn video depicting the moment he fired his first shot. Beck's muzzle flash in red circle.



Figure 3: Still frame of Officer Beck's body worn video depicting the moment he fired his second shot from a position closer to 86th Place. Beck's muzzle flash in red circle.

Officer Joyce said that he saw multiple sets of muzzle flashes toward the parking lot east of Broadway, and he thought that the source of the gunfire was moving. This is when Joyce remembers Beck firing “two or three rounds.” He said Beck was, in his opinion, firing in a controlled manner and “putting rounds down towards a target where ... I thought he was firing where I was seeing the muzzle flash.” Joyce thought a round hit his police vehicle, stating, “I thought I heard what sounded like an impact on my vehicle or around me. So I ducked back behind my ballistic panel,” referring to his police vehicle’s door.

Approximately 12 seconds after Beck fired his gun, a dark four-door sedan came westbound towards the officers along 86th Place. The vehicle had its headlights off and drove past the officers and fled southbound on Broadway. According to Officer Coughlin, the vehicle’s right rear window and possibly the entire rear window was “shot out.” Two additional vehicles – a Dodge Charger and a Mercedes – also approached the intersection of Broadway westbound on 86th Place, which officers were able to stop. The occupants of these vehicles were ordered out and detained. The Mercedes was searched, and a .40 caliber Glock semiautomatic handgun with a drum magazine was recovered from the passenger side floorboard. The handgun’s slide was open due to a jam.



Figure 4: Glock .40 caliber pistol with drum magazine recovered from the Mercedes that emerged from the area from which gunshots were fired prior to and during the OIS. The handgun was jammed.

Beck’s body worn video shows that approximately three minutes after firing his duty pistol, he told Sergeant Paul Rodriguez he “fired three or four rounds that way,” gesturing with his hand toward the south parking lot on 86th Place. Rodriguez asked if any civilians were hit. Beck responded, “We don’t know, the gunfire was over here,” again gesturing with his hand toward the same parking lot. Rodriguez later asked Beck if he identified the person he got into a shooting with. Beck replied, “It was dark.”

As officers attempted to contain the scene at 86th Place and Broadway Avenue, Southeast Area Patrol Officers Gregorio De La Rosa and Yolotsi Jaral, assigned unit 18A17, and Officers Albert Enriquez and Victor Villanueva, assigned unit 18A97, who were in marked black and white police vehicles, responded to the scene.

Pursuit of Dontavis Marshall

While responding to 86th Place and Broadway Avenue, Officers De La Rosa, Jaral, Enriquez, and Villanueva observed a grey 2015 Chrysler 200S – later determined to be driven by Dontavis Marshall – driving against traffic on 86th Place, a one-way roadway. Officers believed the occupants of the vehicle may have been involved in the shooting and attempted to conduct a traffic stop. The driver failed to yield. A two-minute, 2.3-mile pursuit ensued.

The Chrysler evaded officers before abruptly stopping in front of 7512 San Pedro Avenue. Two occupants got out, fleeing on foot. The driver of the Chrysler continued driving and evading officers. Officers Jaral and De La Rosa stopped to pursue and detain the individuals who fled from Marshall's vehicle. Officers Enriquez and Villanueva continued pursuing the Chrysler.

Marshall collided with the north curb of Slauson Avenue west of San Pedro Place, exited the Chrysler, and fled on foot, but was detained by officers. He had a gunshot wound to his face and said he had been shot. The bullet was surgically removed and preserved for later comparison.

Two handguns were thrown from the vehicle during the pursuit. Officers retraced the pursuit path and located a 9 mm Ruger semiautomatic pistol on the sidewalk in front of 160 West 80th Street. The Ruger pistol had the hammer back with a cartridge in the chamber and a seated magazine. Officers also located a 9 mm Taurus semiautomatic pistol in front of 143 East 80th Street. The Taurus pistol had a 9 mm cartridge in the chamber and three 9 mm cartridges in the seated magazine. Each firearm was recovered and booked into evidence for further analysis by the LAPD Firearms Analysis Unit (FAU).

Firearm and Expended Cartridge Case Comparison

The bullet extracted from Marshall's face was determined to have been fired from Beck's service weapon. FAU determined five .45 caliber discharged cartridge cases recovered at the OIS scene, near the intersection of 86th Place and Broadway, were fired from Officer Beck's service pistol.

The Taurus 9 mm handgun thrown from Marshall's vehicle was determined to have discharged four expended cartridge cases, three of which were located at the corner of 86th Place and Broadway, and one of which was located in the middle of 86th Place just north of the south parking lot entrance. Seven different 9 mm expended cartridge cases located in the south parking lot were fired from the Ruger 9 mm handgun. A fired bullet recovered from 8615 S. Broadway (in front of impact point "C1," associated with bullet pathway "C"; see Figure 6) was determined to have been fired by the Taurus 9 mm handgun. Three total impact points were discovered at 8615 S. Broadway. Bullet path analysis by FAU determined that two impact points are consistent with a bullet traveling east to west, south to north, and level. This is consistent with a bullet being fired from 86th Place towards Beck's location during the OIS.

Twenty of the expended cartridge cases in the parking lot were fired from the .40 caliber Glock pistol found in the Mercedes stopped at 86th Place and Broadway after the OIS. FAU determined that 11 distinct firearms were used to discharge a total of 65 expended cartridge cases located in the south parking lot and along 86th Place between the parking lot and Broadway.

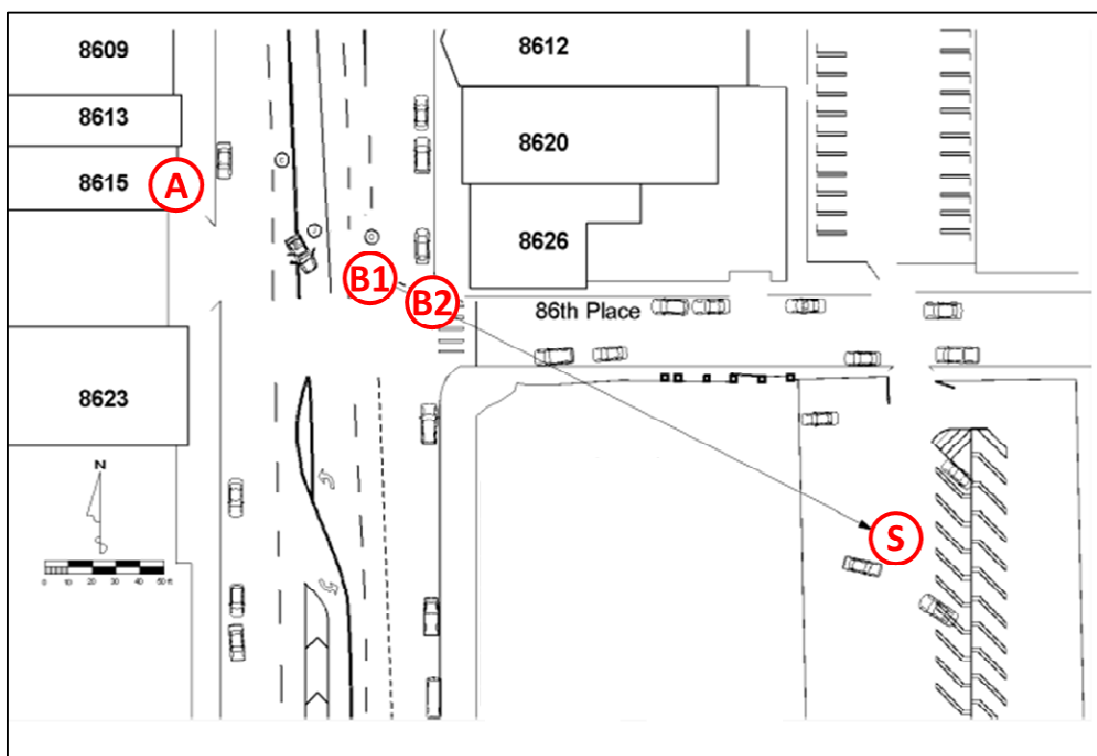


Figure 5: Diagram showing approximate locations of bullet impact damage at 8615 S. Broadway (A), behind officers' position; Officer Beck's starting and ending positions during the OIS (B1 and B2, respectively), and approximate position of Marshall (S).

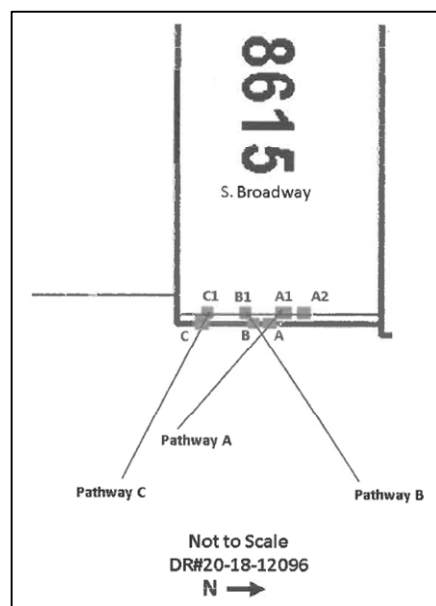


Figure 6: Depiction of pathways of bullets impacting 8615 S. Broadway behind Officer Beck.

DNA Analysis

LAPD's Forensic Science Division (FSD) analyzed numerous pieces of evidence collected, including the Ruger 9 mm, Taurus 9 mm, and Glock .40 caliber handguns. A brown stain on the Ruger 9 mm handgun, as well as an unexpended cartridge recovered from Marshall's pocket, were analyzed. The brown stain was presumptively determined to be blood. FSD concluded that the Ruger 9 mm handgun, the stain on that handgun, and the cartridge in Marshall's clothes all contained Marshall's DNA profile.

Interview of Dontavis Marshall

On June 5, 2020, detectives interviewed Marshall regarding the incident. Detectives told Marshall they knew the large gathering at the south parking lot on 86th Place was a "6-Deuce hood day party," referring to the Six Deuce East Coast Crip gang's "hood day" celebration, which falls on June 2, or "6-2." Marshall replied, "Yeah, yeah." Marshall said that a series of fist fights broke out, and while he was trying to break up one fight, he heard gunfire. According to Marshall, he ran to his vehicle, got in, and, while trying to drive from the parking lot, he saw someone run up to him from his left side and shoot him in the face. Marshall said he saw two or three police vehicles on Broadway, but turned the other way towards Main Street. He was not asked about, nor did he admit, being in possession of or firing a gun at any time.

Marshall was ultimately charged in case TA153887 with three felony counts: Assault with a semiautomatic firearm (Penal Code § 245(b)); evading a peace officer (Vehicle Code § 2800.2(a)); and possession of a firearm by a felon (Penal Code § 29800(a)(1)). On July 26, 2021, Marshall pled no contest to assault with a semiautomatic firearm and was sentenced to three years formal probation, with a six-year suspended prison sentence.

LEGAL ANALYSIS

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code § 835a(c)(1)(A) & (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code § 835a(e)(2).

In assessing the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, is taken into consideration. Penal Code § 835a(a)(4) & (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code § 835a(a)(4).

The evidence in this matter shows that officers responded to an active shooting that had been reported by multiple civilians who had called 9-1-1 to report the events. Upon their arrival, officers exited their vehicles on Broadway and at least two officers who had been in the same vehicle as Officer Beck saw muzzle flashes. One officer reported hearing a bullet impact near his position. A bullet, fired from a handgun that was thrown from Marshall's vehicle during the police pursuit, was recovered from a building directly behind where officers were positioned during the OIS. The pathway taken by that bullet is consistent with having been fired from the south parking lot on 86th Place, where Beck was directing his fire. This supports a reasonable conclusion that, at the time he fired his gun in the direction of Marshall, Officer Beck and his accompanying officers faced an imminent threat of death or serious bodily injury from several armed individuals in the south parking lot who were firing weapons, at least one of which was being fired towards the officers.

Forensic evidence provides strong support for an inference that Marshall at minimum possessed, and possibly fired, the Ruger 9 mm handgun during the time leading up to the OIS. Marshall's DNA profile was detected on the gun, as well as a live 9 mm cartridge found in the clothing he was wearing. Both the Ruger and another handgun – the Taurus 9 mm, also thrown from Marshall's vehicle during the police pursuit – were linked by ballistic evidence to the shooting taking place in the south parking lot on 86th Place. Therefore, a reasonable fact finder could conclude that Marshall was armed with a deadly weapon and closely associated with somebody shooting at police officers at the time of the OIS.

Based on the totality of the circumstances, there is insufficient evidence to prove Officer Beck did not reasonably believe his use of deadly force was necessary to defend himself and his fellow officers from this imminent threat of death or serious bodily injury.

CONCLUSION

For the foregoing reasons, we have concluded there is insufficient evidence to find Officer Beck acted unlawfully.