

ABRIDGED SUMMARY OF A LAW ENFORCEMENT-RELATED INJURY AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

LAW ENFORCEMENT-RELATED INJURY – 035-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Harbor	05/14/09		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 years, 10 months
Officer B	9 years, 6 months

Reason for Police Contact

Officers responded to a family dispute radio call. The Subject armed himself with a mop and during his arrest was struck by several bean-bag shotgun rounds. The Subject was injured and hospitalized.

<u>the Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Male, 54 years			

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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) 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.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so 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 April 13, 2010.

Incident Summary

Officers A and B responded to a radio call involving a family dispute. After arriving at the scene, the officers contacted the victim who stated that the Subject had fled the location. Officers A and B completed a crime report, left the location but returned a short time later during the course of their patrol duties. The officers observed the Subject seated inside his vehicle, which was adjacent to the closed garage door. Officers A and B exited their vehicle and saw the Subject, who was very excited and animated. Officer B notified Communications Division (CD) that his unit had arrived on scene and requested a back up.

The Subject began screaming at the officers and stood behind his vehicle door and concealed his left hand behind his back. The officers believed that the Subject might be holding a weapon, so they drew their pistols and held them at a low-ready position. Officers A and B told the Subject to put up his hands up, but the Subject did not comply and said that he was going to kill the officers. The Subject then reached inside his vehicle, retrieved a silver colored object and pointed the object at the officers. The subject told the officers to shoot him. Officer B saw that the Subject was standing in a two-handed pistol shooting stance and making motions with his fingers like he was pulling the trigger of a firearm. Officer B broadcast a request for assistance, and immediately after the broadcast, Officer B realized that the Subject was holding car keys in his hands.

The Subject then reached inside the vehicle and utilized a remote garage door opener to raise the garage door to the residence. The Subject ran to the rear of the garage and attempted to open the door leading to the residence, but the door was locked. The Subject then picked up a mop, pointed it at the officers and taunted them to kill him. As the Subject swung the mop toward them, both officers ordered him to drop it, but the Subject did not comply. Officer A told Officer B that he was going back to the police vehicle to retrieve the bean-bag shotgun.

After Officer A left, the Subject advanced toward Officer B and swung the mop at him. Officer B then holstered his pistol, withdrew his OC canister from his equipment belt and, from an approximate distance of 11 feet, sprayed the Subject's face with a two-second burst, but the spray had no apparent effect. The Subject again advanced toward Officer B who sprayed him again.

Meanwhile, Officer A returned with the Beanbag Shotgun and resumed his position on the left side of the garage when suddenly the Subject stepped toward Officer A and swung the mop at him. Officer A fired a round at the Subject, but it had no apparent effect. Officer A fired two more Beanbag rounds at the Subject, which struck the left side of his stomach area/body. The Subject dropped the mop and was taken into custody without further incident.

The Subject sustained injuries from the beanbag rounds and was hospitalized.

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 while 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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing/exhibiting/holstering to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officer B's non-lethal use of force to be in policy.

D. Less-Lethal Use of Force

The BOPC found Officer A's less-lethal use of force to be in policy.

Basis for Findings

Tactics

In their analysis of this incident, the BOPC identified the following considerations:

1. Simultaneous Commands

In this instance, Officers A and B made contact with the Subject and both began to give the suspect commands to put his hands up.

In conclusion, Officers A and B are reminded of the importance of coordinating their roles to ensure that the integrity of the contact and cover concept is not compromised. As noted in this incident, one common result of violating the contact and cover concept is multiple officers giving commands, which can lead to confusion in the mind of the suspect and possibly result in non-compliance from the subject.

2. Broadcast/Help Call

In this instance, Officers A and B made contact with the Subject who appeared to be angry and began to yell profanities at the officers. Officers A and B repeatedly ordered the Subject to raise his hands. The suspect refused to comply and concealed his left hand behind his back. Fearing the suspect may possibly be armed, Officer B broadcast a back-up request. Given the circumstances, Officer B appropriately requested back-up. When the Subject retrieved a silver object from his vehicle, pointed it at the officers in a shooting position and shouted that he was going to kill the officers, Officer B immediately upgraded the back-up request to an assistance call. In conclusion, the officers are reminded of the importance of being familiar of when to request back-up and help.

The BOPC will direct that Officers A and B attend a Tactical Debrief.

Drawing/Exhibiting/Holstering

In this instance, Officers A and B elected to conduct a follow up investigation from a prior radio call to determine if the Subject returned. Upon their arrival, the officers observed the Subject seated on the driver's side of a vehicle with the door slightly ajar. Officers A and B elected to make contact with the Subject who appeared to be angry and combative. The officers attempted to give the Subject commands to put his hands up, without success. The Subject ignored the officers' orders and kept his left hand concealed behind his back. Fearing the Subject maybe armed with a weapon, Officers A and B drew their service pistols.

In conclusion, due to Officers A and B's reasonable belief that the situation may escalate to a level where deadly force could become necessary, the BOPC found Officer A and B's Drawing/Exhibiting to be in policy.

Non-lethal Use of Force

Based on the Subject's actions, it was unsafe for the officers to approach him to affect an arrest. Officer B's utilization of OC spray was objectively reasonable in an attempt to overcome the Subject's uncooperative and aggressive actions.

The BOPC found Officer B's use of Non-Lethal force to be in policy.

Less-lethal Use of Force

In this instance, after numerous attempts to get the Subject to comply failed, he actively resisted and became increasingly combative by advancing toward the officers while simultaneously swinging a mop handle at them. Due to it being unsafe to approach, Officer A utilized the Beanbag Projectile Shotgun.

In conclusion, the BOPC found Officer A's less-lethal application of force to be in policy.