

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

LAW ENFORCEMENT RELATED INJURY 056-18

Division	Date	Duty-On(x) Off()	Uniform-Yes(X) No()
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Hollywood	10/11/18		
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Involved Officer(s)	Length of Service
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Officer C	9 year, 4 months
Officer D	20 years, 2 months
Officer E	16 years, four months
Officer F	17 years, 6 months

Reason for Police Contact

Officers detained the Subject for a criminal investigation. The Subject produced a razor blade and threatened the officers with it. He then started to run into a populated area, resulting in the use of less-lethal and non-lethal force.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
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Subject: Male, 29 years of age.

Board of Police Commissioners' Review

This is a 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 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 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 August 27, 2019.

Incident Summary

Officers were assigned to conduct crime suppression on horseback in the Hollywood Entertainment Detail Area.

The Subject, 29 years of age, was on the sidewalk pushing a shopping cart heading east. Officers A and B had just completed issuing shopping cart violation citations on a group of homeless people when the Subject walked past them.

Officers A and B's Body Worn Video (BWV) were activated during the pedestrian stop and captured the Subject walking by the officers.

As the Subject walked past the officers, Officer A told the Subject, "You're not supposed to have that cart, man." The Subject looked at Officer A and continued pushing his shopping cart. Officer A began to follow the Subject. Officer A attempted to have a dialogue with the Subject, however, the Subject began to display erratic speech patterns. The Subject began to reference "the Gods" and told Officer A that everyone was against him.

Officer A asked the Subject for his identification and told the Subject he was not authorized to possess the shopping cart. Officer A told the Subject to step away from the shopping cart, to which the Subject replied, "For what?" The Subject held onto the shopping cart and refused to comply with Officer A's request to step away from the shopping cart.

Officer A's BWV captured the Subject reaching into the shopping cart with his left hand and arming himself with a razor blade. The Subject began to walk backwards on the sidewalk. Officer A then approached his/her horse and retrieved his/her straight baton. Officer A then moved the Subject's shopping cart while he/she redeployed behind the front of his/her horse, placing the horse between himself/herself and the Subject.

Officer B led his/her horse toward Officer A, at which time Officer A advised Officer B that the Subject was armed with a razor blade. Officer A ordered the Subject to put down the razor blade and the Subject replied, "[expletive deleted] you." Officer A put his/her straight baton away on his/her saddle and unholstered his/her Taser. According to Officer A, he/she transitioned to the Taser because it afforded him/her more distance since he/she was still holding onto his/her horse. According to Officer A, he/she attempted to de-escalate the situation by repeatedly giving verbal commands for the Subject to drop the razor blade; however, the Subject refused to comply with his/her commands.

Officer A then got on the radio and requested partner Officers C and D, who were assigned uniformed chase officers, to respond to their location. Officer A also broadcast the circumstances to Communications Division (CD).

Officers A and B attempted to build a rapport with the Subject, however, they were unsuccessful. The Subject continued to hold the razor blade and refused to comply with the officers' commands to drop it. The Subject continued to walk backwards.

Officer A then requested an additional unit and a supervisor.

Several additional officers arrived, including but not limited to Officers C, D, E, and F, as well as Sergeant A, who became the Incident Commander (IC) and began to give assignments and directions.

Officers A and B stood at the corner as the Subject continued to walk away. Sergeant A along with Officers E, F, and two other uniformed officers stood parallel to the Subject in the roadway utilizing parked vehicles for cover. Officer E drew his/her service pistol to a two-handed, low-ready position, and another officer deployed the beanbag shotgun, as Officer F drew his/her baton. Sergeant A took over verbalization and attempted to de-escalate the situation by telling the Subject to relax and explained that he/she just wanted to talk to him. The Subject then began to yell, "Shoot me, shut the [expletive deleted] up, shoot me, either shoot me, or get the [expletive deleted] on!"

Sergeant A formulated a tactical plan and designated Officer E as the lethal coverage role, and another officer as the less-lethal coverage role. Sergeant A turned toward Officers C and D and yelled for them to respond to his/her location. At this time, Sergeant A had Officer C obtain the beanbag shotgun from the officer who possessed it. According to Sergeant A, he/she felt more comfortable with Officer C's shooting abilities and familiarity with weapons. Officer C pointed the beanbag shotgun toward the Subject's direction. Moments later, Officer D left his/her position from the corner and redeployed with the officers in the roadway.

Repeated requests by Sergeant A to have the Subject drop the razor blade failed. Sergeant A advised Officers C, D, E, and F that if the Subject began to run, the beanbag would be utilized. According to Sergeant A, he/she did not want the Subject to continue because he/she was afraid of what could happen to the citizens in the area.

Officers C and D redeployed to the engine hood area of a parked white two-door truck, and then onto the sidewalk, close to where the Subject was standing. Officer C was equipped with the beanbag shotgun while Officer D was equipped with his/her service pistol. Officer D drew his/her service pistol to a two-handed, low-ready position and advised Officer C he/she was behind him/her as his/her designated lethal force coverage. The Subject yelled at the officers to shoot him and then began to run on the sidewalk. Sergeant A then directed Officer C to deploy the beanbag shotgun. Officer C fired four rounds from the beanbag shotgun while moving toward the Subject from an approximate decreasing distance of 32-24 feet.

Officer C did not provide the Subject with the Use of Force (UOF) warning prior to firing the beanbag shotgun. According to Officer C, he/she told the Subject to stop multiple times.

Officer C also did not alert the surrounding officers he/she was ready to fire the beanbag shotgun by announcing, "Beanbag Ready," because he/she did not have time.

According to Witness A, the Subject had a clenched hand as if he was holding something. Witness A stated he observed Officer C fire three rounds from the beanbag shotgun. Witness A recalled the first super-sock round struck the Subject in the center mass, the second super-sock round struck the Subject's neck or face area, and the third super-sock round struck his back or buttocks region. A review of the BWV worn by Officer D does not depict the Subject being struck in the face, neck, back, or buttocks areas.

According to Officer C, the Subject winced in pain, bladed his body, continued to run and appeared to be unaffected by the beanbag rounds.

Officers C, D, E, F, and Sergeant A began to pursue the Subject on foot to apprehend him. Officer F, who was positioned to the point of containment on the street, ran parallel to the Subject and ultimately intercepted the Subject on the sidewalk. Sergeant A's BWV depicts Officer F conducting a baton strike with his/her side handle baton to the Subject's right knee. According to Officer F, the Subject then dropped the razor blade.

According to Sergeant A, a UOF warning was not given prior to Officer F initiating the baton strike. Sergeant A stated he/she told the Subject to drop the razor blade and stop.

During the interview with FID investigators, Officer E stated he/she took the razor blade out of the Subject's right hand while the Subject was on the ground.

Immediately following the baton strike, Officer F simultaneously maintained control of his/her side handle baton in his/her left hand while he/she wrapped his/her arms around the front of the Subject's torso.

Officer F then maneuvered around to the right side of the Subject's body and spun to his/her right as he/she brought the Subject to the ground.

Officer F then placed his/her chest on the Subject's back and straddled the Subject's lower body with his/her legs as Officer F attempted to grab the Subject's hands and wrists to control them.

According to Officer F, he/she bear hugged the Subject with his/her arms around the Subject's biceps.

According to Officer F, his/her BWV fell off his/her chest while he/she was on the ground with the Subject.

According to Officer F, he/she believed he/she threw the Subject over his/her left side into the dirt.

A review of Officer E's BWV depicted that Officer F's side handle baton was lying in the dirt area near the Subject's left foot as officers attempted to handcuff him.

When officers were attempting to take the Subject into custody, Officer D's BWV captured the Subject yelling, "I dropped the razor, I dropped it, I dropped it."

At this point in time, Officers C, D, and E ran up and assisted Officer F, who was struggling with the Subject. Officer C handed his/her beanbag shotgun to Sergeant A, approached the Subject, and placed his/her left leg onto the Subject's legs, applying an HRD to the Subject's ankles. Officer D attempted to use his/her body weight to control the Subject's legs, as Officers E and F were attempting to control his arms. Officer F then advised officers he/she was getting up from the Subject's back, at which time Officers D and E took over efforts to control the Subject's arms.

Officer E placed his/her left knee on the Subject's back, simultaneously as Officer D placed his/her left knee on the Subject's buttocks area. Officer E grabbed the Subject's left wrist, while Officer D grabbed his right wrist and placed both of the Subject's wrists at the small of his back. Officers D and E were able to control the Subject's arms and successfully handcuff him. Officer D then rolled the Subject onto his right side and then placed him into a seated position on the ground.

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 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 Sergeant A along with Officers A, B, C, D, E, and F's, tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers D and E's drawing and exhibiting of a firearm to be In Policy

C. Non-Lethal Use of Force

The BOPC found Officers C, D, E, and F's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

The BOPC found Officer C and F's less-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 subject 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.)

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Contact and Cover

Officer A initiated a detention of the Subject without the benefit of a cover officer. In this case, it was determined that Officer A's partner, Officer B, was a short distance away and could observe Officer A's initial contact with the Subject. However, Officer B was also operating as a contact officer while he/she was completing a citation on another individual. After completing his/her citation, Officer B immediately joined Officer A. Officer A, knowing the location of his/her partner, did not take any additional action with the Subject until Officer B arrived to provide cover. While waiting for Officer B to walk over to his/her position, Officer A utilized his/her horse as cover and deployed a long baton.

Based on the totality of the circumstances, the BOPC determined that Officer A recognized the unsafe situation of confronting a Subject who had armed himself with a razor blade and waited for his/her partner prior to taking further action and ensuring a successful resolution. Therefore, Officer A's actions were determined not to be a substantial deviation from approved Department tactical training.

2. Utilization of Cover

Officers C and D left their positions of cover to redeploy on a suspect armed with a razor blade.

In this case, Officer C explained that due to the large size of the vehicle that he/she was using as cover, Officer C needed to redeploy around the front of it to maintain a clear view of the Subject. Had Officer C not redeployed around the vehicle, he/she would have lost sight of the Subject and not been able to act as the designated beanbag officer. Additionally, Officer D redeployed along with Officer C to provide lethal cover as the assigned DCO. During the redeployment, the officers did not close the distance to the Subject.

Based on the totality of the circumstances, the BOPC determined that the officers' actions were a substantial deviation with justification from approved Department tactical training.

3. Approaching a Suspect Armed with an Edged Weapon

Officer F approached a Subject armed with a razor blade to conduct a baton strike and takedown.

In this case, Officer F decided he/she needed to approach the Subject to prevent him from fleeing outside of the officers' containment and becoming a threat to the pedestrians in the area. Officer F recalled that the beanbag shotgun had been ineffective and believed the officers had limited options available to them to ensure public safety.

Additionally, Officer F was cognizant of approaching an armed suspect and waited until the Subject looked away from him/her, before approaching and striking the Subject with a baton. Officer F, believing that the Subject dropped the razor blade, conducted a takedown of the Subject.

Based on the totality of the circumstances, the BOPC determined that Officer F's actions were not a substantial deviation from approved Department tactical training. In this particular case, the officer's action was appropriate and reasoned based on the fact that the Subject was armed with a two-inch razor blade. Additionally, the officer maximized the effectiveness of the baton strike and minimized the risk to himself/herself by waiting until the Subject had looked away from him/her. Lastly, the BOPC also considered that there was not an opportunity for the officer to utilize cover or other force options due to the exigency created by the Subject's movement toward bystanders.

4. Command and Control

Upon arrival, Sergeant A immediately assumed the role of Incident Commander and assessed the incident. Sergeant A communicated with officers and formulated a tactical plan which involved designating a less-lethal officer and arrest team.

Sergeant A also directed his/her officers into a "L" shaped containment configuration to prevent crossfire and directed the deployment of less-lethal

munitions to prevent the Subject's movement toward bystanders. When the Subject moved toward the bystanders, the officers utilized less-lethal and non-lethal force to prevent his escape and take him into custody.

Additionally, while the Subject was being taken into custody, Sergeant A continued to monitor the situation. Sergeant A immediately directed officers to place the Subject on his side and then into a seated position after the HRD was applied. Sergeant A also immediately requested an RA upon hearing the Subject say that he could not breathe. The BOPC determined that Sergeant A exhibited commendable command and control during this tense and dynamic situation. Sergeant A was decisive, provided strong direction to his/her subordinates, attempted to establish a rapport with the Subject in an effort to de-escalate the situation, made appropriate decisions such as replacing patrol personnel with more experienced and trained Metropolitan personnel, and overall provided the calm and competent leadership.

Sergeant B ensured that the involved personnel were separated and monitored once the incident was classified as a Categorical Use of Force.

- The BOPC also considered the following:
 1. **Required Equipment** – The investigation revealed that Officer D was not in possession of his/her Oleoresin Capsicum (OC) spray at the time of this incident.
 2. **Tactical Communication** – The investigation revealed that Officer A requested additional units for a “415 man,” rather than for a man who was armed with an edged weapon.
 3. **Use of Force Warning** – The investigation revealed that the personnel at the scene did not provide a Use of Force Warning prior to utilizing the beanbag shotgun and baton. In this case, the BOPC found it was reasonable not to provide the Use of Force Warning due to the exigency of the Subject moving toward bystanders while holding an edged weapon.
 4. **Beanbag Shotgun Preparatory Commands** – The investigation revealed that Officer C did not provide a beanbag shotgun preparatory command prior to utilizing the beanbag shotgun. The Subject began to move outside of the containment formation and run from officers necessitating the immediate use of the beanbag shotgun. In this case, the BOPC found it reasonable that the beanbag shotgun preparatory commands were not utilized due to the exigency of the Subject moving toward bystanders while holding an edged weapon.

These topics were to be addressed at the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Thus, the BOPC found Sergeant A along with Officers A, B, C, D, E, and F's, tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer D, he/she provided lethal cover for Officer C while Officer C utilized the beanbag shotgun in an attempt to prevent the Subject's actions. Officer D drew his/her service pistol because the Subject was holding something in his hand, and Officer D believed the situation could escalate to the use of deadly force.

According to Officer E, he/she advised Sergeant A that he/she would provide lethal cover and drew his/her service pistol due to the Subject being armed with an edged weapon.

Therefore, the BOPC found Officers D and E's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

- **Officer C** – (Bodyweight and firm grips)

According to Officer C, he/she gave his/her beanbag shotgun to Sergeant A and then assisted with taking the Subject into custody. Officer C observed that the Subject was kicking and flailing his legs, so Officer C applied a Hobble Restraint Device (HRD) to the Subject's legs to prevent him from kicking.

Sergeant A's BWV captured Officer C use bodyweight on the Subject's legs, and Officer B's BWV captured Officer C using firm grips on the Subject's legs while applying the HRD.

- **Officer D** – (Bodyweight and firm grip)

According to Officer D, upon approaching the Subject, Officer D utilized bodyweight and a wrist lock to assist with handcuffing the Subject.

- **Officer E** – (Firm grips, physical force, and bodyweight)

According to Officer E, he/she approached the Subject who was lying on the ground and pulled the Subject's arms out from underneath him and held his wrists. Officer E was then able to open the Subject's right palm to make him drop the razor blade. Officer D then controlled the Subject's left wrist while Officer E maintained control of the Subject's right wrist. Officer E then utilized his/her left knee to apply bodyweight to the Subject's back while he/she assisted with handcuffing the Subject.

- **Officer F – (Takedown and bodyweight)**

According to Officer F, after he/she struck the Subject with the baton, he/she believed that the Subject dropped the razor blade. Officer F immediately grabbed the Subject and took him down to the ground. Additional officers then assisted Officer F with bodyweight and handcuffing.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C, D, E, and F, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome the Subject's resistance.

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Therefore, the BOPC found Officers C, D, E, and F's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

- **Officer C – (Beanbag shotgun, four sock rounds)**

According to Officer C, he/she was approximately 20 to 30 feet away from the Subject. The Subject did not listen to any commands and kept pacing back and forth, rocking his body, clenching his fists, and holding the razor blade in his right hand. The Subject then fled, causing Officer C to engage the Subject, discharging one round from the beanbag shotgun aimed at the Subject's naval area/beltline. Officer C then assessed. The Subject winced in pain, bladed his body towards Officer C, and continued to run. Officer C, while moving, fired another round from the beanbag shotgun aimed at the Subject's naval area. The Subject again winced in pain, bladed his body, and continued running. Officer C shot and assessed. The Subject again winced in pain, bladed his body, and again continued running. Officer C fired a fourth time and the same thing occurred. The beanbag shotgun rounds had no apparent effect and the Subject continued to flee.

- **Officer F – (Baton, one strike)**

According to Officer F, he/she ran on the Subject's left side and observed the Subject looking back over his left shoulder as he turned towards the officers with the razor blade in his right hand. Officer F approached the Subject as the Subject moved away from him/her and struck the Subject one time on his knees with the baton (Less-Lethal Use of Force).

The investigation revealed that Officer F struck the Subject's right knee one time with the baton.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C and F, while faced with similar circumstances, would believe that the same applications of less-lethal force would be reasonable to protect themselves and others, and to affect the Subject's arrest.

Therefore, the BOPC found Officers C and F's less-lethal use of force to be objectively reasonable and In Policy.