

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

OFFICER-INVOLVED SHOOTING – 090-15

Division Date Duty-On (X) Off () Uniform-Yes (X) No ()

West Valley 11/9/15

Officer(s) Involved in Use of Force Length of Service

Officer A 18 years, 11 months
Officer B 11 months

Reason for Police Contact

Officers responded to a report of a disorderly male in the street. The Subject assaulted and disarmed an officer of a less-lethal beanbag shotgun, resulting in an officer-involved shooting.

Subject(s) Deceased (X) Wounded () Non-Hit ()

Male, 34 years of age.

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 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 Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on November 1, 2016.

Incident Summary

An anonymous male called 911 to report a male individual in the middle of the street, causing vehicle traffic to swerve to avoid hitting him. The caller described the man as bald and wearing a black tank top. The caller refused to provide further information before the line was disconnected.

Communications Division (CD) broadcast a report of a disorderly male in the street.

Police Officer A (passenger), and Police Officer B (driver) were working patrol in a marked police vehicle when the broadcast was made. Officer A advised CD they would handle the call and were responding Code Three.

Air Support Division (ASD) Lieutenant A and Police Officer C (Tactical Flight Officer) also heard the broadcast. Officer C requested CD to repeat the radio call location and advised they would respond.

Officer C broadcast they were over the location of the call and began to check the area for evidence of someone in the street. Shortly thereafter, C broadcast that there was no evidence of anyone in the street and requested further information from CD. CD broadcast there was no further information. Officer C acknowledged and advised CD to show them handling the call and departed from the area.

Officers A and B monitored the broadcasts and decided to continue their response to further check the area to ensure no one was injured.

While driving in the area of the call, the officers were flagged down by an unidentified male who was driving a yellow utility truck. The male asked the officers if they were looking for the man who was in the street. He advised the man was bleeding. When he asked the bleeding man if he needed help, the man mumbled an unintelligible response, then walked behind a house. The male told the officers where the house was located.

Officer A advised CD of the information obtained from the driver of the utility truck and requested that the Air Unit respond.

Note: According to Officer A, he did not request an additional unit because he was aware that another unit was already responding to the radio call.

The officers drove toward the house identified to them. Officer A believed they would be at a tactical disadvantage to stop in such close proximity to the identified location and directed Officer B to continue driving and park their vehicle west of the location. Officer A explained that this provided them the ability to maintain a tactical advantage because it created distance and afforded them more cover and concealment options.

Officer B parked on the north side of the street, three residences west of the house. According to Officer C, the Air Unit arrived overhead as Officers A and B exited their police vehicle. Officers A and B had not observed the Subject at this point but were exiting their police vehicle to check the area where the Subject was reported last seen by the utility truck driver.

Officer A retrieved their beanbag shotgun from the shotgun rack in the trunk of their vehicle. He indicated he deployed it because the comments of the radio call indicated the individual was in the middle of the street and, as Officer A described, was being “disruptive.”

As Officer A chambered a round, he and Officer B observed the Subject standing in the middle of the street. The Subject was facing in their direction at an estimated distance of 380 feet east of the police vehicle. The Subject was bald and was wearing a black tank top shirt, matching the description of the Subject provided in the radio call.

According to Officer B, he stated, “Partner, that’s the guy.” The officers walked eastbound in the middle of the street toward the Subject while the Subject started walking westbound toward the officers. Officer A indicated at the time he chambered the round, he observed the Subject and did not have sufficient time to load an additional round into the magazine before he slung the beanbag shotgun in preparation to initiate contact with the Subject.

Note: According to Officer A, he broadcast their updated location but was unsure whether CD received the broadcast because he heard the Air Unit make a broadcast at approximately the same time.

According to Officer A, the Subject then waved both hands with clenched fists above his head in an aggressive fighting stance while shouting and screaming something unintelligible. Officers A and B shouted commands at the Subject. According to Officer A, he shouted at the Subject to get on the ground three times. According to Officer B, he shouted at the Subject to get on the ground and put his hands up at least twice. The Subject responded by yelling unintelligibly at the officers and then held his hands in fists over his head.

The Subject then appeared to comply when, as Officer A described, he “darted” to the north sidewalk, where he lay down on his back with his head pointed north. The Subject then rolled back and forth on his back for two to three seconds.

Officer A moved to his right as he approached the Subject because a parked vehicle obstructed his view of him and he wanted to create more distance from Officer B, who was positioned to his left. The Subject then suddenly jumped to his feet, faced the officers and moved in their direction at what Officer A described as a “fast walk.”

Note: Officer B said that the Subject was running toward them.

According to Officer A, the Subject had blood on his upper left arm between the shoulder and elbow. The extent and manner of the injuries that resulted in the observed blood was not known. As the Subject moved toward the officers, he reached for his waistband area with his right hand. Officer A could not distinguish whether the Subject placed his hand inside his waistband, but he believed the Subject was reaching for "...either a handgun or a knife or some type of weapon..."

According to Officer B, as the Subject continued to advance toward them, he removed his hand from his waistband and simulated pointing a weapon at him with his hand extended in a two-hand grip. According to Officer C, he observed the Subject running toward the officers while both his hands simulated holding a handgun.

Officer A perceived the Subject's initial action of placing his hands over his head in fists, as well as his reaching for his waistband area while advancing toward him, as actions consistent with "aggressive and combative" behavior. This prompted him to unsling his beanbag shotgun.

Officer A then fired one beanbag shotgun round in an easterly direction at the Subject from a distance of approximately 40 feet, aiming at his abdomen/torso. Officer A believed the beanbag round struck the Subject because the Subject lurched forward. According to Officer A, he was unable to give a warning because the Subject was rapidly advancing toward him and appeared to be arming himself.

According to Officer A, he stepped backward in an effort to create additional distance from the Subject and seek cover. Officer A was cognizant of a yellow car parked on the south curb and a blue Jeep parked on the north curb. However, the Subject was advancing faster than Officer A could back up, which prompted Officer A to fire a second and third beanbag round in an easterly direction at the Subject from a decreasing distance of approximately 38 and 26 feet, again aiming at his abdomen/torso. Officer A was not sure if the second and third beanbag rounds struck the Subject. He did not observe a response from the Subject that would be consistent with being struck by either of the additional two rounds.

Note: Officer B stated Officer A fired approximately two beanbag rounds. He observed one of the beanbag rounds strike the Subject in the torso area. However, he was unable to recall which round struck him. He stated the Subject did not react to being struck by a beanbag round. The Coroner was advised at the subsequent autopsy that the beanbag shotgun was fired at the Subject. Although the Coroner documented various injuries, he did not attribute any of them to the impact of a beanbag sock round.

According to Officer A, the Subject continued to advance toward him in a continual motion and when the Subject got to within approximately two feet of him he observed TASER darts come from his left (east) and contact the Subject somewhere on his upper body. According to Officer A, Officer B was to his left (east) when he discharged the

TASER in what he presumably believed to be a southerly direction at the Subject from an unknown distance.

Officer B recalled that after the beanbag rounds were fired and before he discharged his TASER, the Subject "...kind of was like almost in a drunken fashion was kind of walking back and forth...like in a swaying motion...he appeared to be drunk..." The Subject moved in this manner back toward a driveway. At that point, the Subject put his hands above his head, smiled at him and said, "What?...Is that all you got?" As he continued to give verbal commands, the Subject started to walk toward him. It was at that time that Officer B deployed and discharged the TASER in a southwesterly direction at the Subject from a distance of approximately 12 feet. He described the activation as a single five-second cycle that struck the Subject in the torso area, but appeared to have no effect.

Note: According to Officer C, he observed the Subject run toward the officers. He described the movement as a continual progression with no mention of the Subject pausing to move back toward the driveway.

According to Officer A, the Subject was "right on top of me." Officer A then raised the muzzle of his beanbag shotgun with his left hand at the butt stock and his right hand toward the slide handle and, in a downward striking motion, struck the Subject's left shoulder with the barrel.

According to Officer A, he lost his balance and fell backwards onto his buttocks and dropped the beanbag shotgun to his right. Officer B stated he was standing to the left (east) of Officer A when, out of the corner of his eye, he saw him go down.

Note: According to Officer C, the Subject appeared to knock Officer A down. Officer C broadcast, "Hey control make this a help call, he [the Subject] just knocked a copper down."

The Subject immediately bent over and picked up the beanbag shotgun. According to Officer A, the Subject held it in a port arms position and tried to manipulate the slide handle before he raised it over his head, as if to use it to strike Officer A. According to Officer B, when he observed the Subject had possession of the shotgun, and no other force options had worked, he unholstered his service pistol and obtained a two-hand Weaver shooting position, pointed at the Subject.

Officer A began to "scoot" away on his buttocks, using his left arm to brace against the ground and his feet to propel him backward. He believed the Subject was about to strike him with the beanbag shotgun, so he unholstered his service pistol and held it in a right-hand close contact shooting position.

Officer A then attempted to stand up and believed he fired one round from either a right-hand close contact or extended-arm seated shooting position in a southeast direction at the Subject's center body mass from a distance of approximately two feet. At the time

he believed he fired the initial round, Officer A feared he would sustain serious injury if struck by the beanbag shotgun.

Note: According to Officer B, while his partner was on the ground, the Subject “racked the action” and placed the stock of the beanbag shotgun against his right shoulder, as if to take a shooting stance with the muzzle downward, and pointed it at Officer A. It was at this time he heard a gunshot. He did not see the Subject discharge the beanbag shotgun and did not know where the gunshot came from.

An expended beanbag sock round was later recovered from a location northwest of Officer A, consistent with the Subject having discharged a beanbag sock round at Officer A. The investigation did not identify the exact point in the incident when this round was fired.

According to Officer A, he believed his round struck the Subject because the Subject began to walk backward toward the south sidewalk. As the Subject walked backward, he continued to manipulate the slide handle of the beanbag shotgun. Officer A indicated he observed that the TASER darts were still attached to the Subject’s body with the TASER being dragged on the ground.

Note: According to Officer B, the Subject grabbed the TASER wires and pulled on them, causing Officer B to lose grasp of the TASER. Officer A did not see this occur.

When the Subject reached the sidewalk, he bent down and pointed the beanbag shotgun at Officer A. Officer A described that the Subject was in a crouched position with the stock of the beanbag shotgun above his waist and the muzzle pointed in his direction. Officer A stated he believed his life was in danger. Officer A stood up, assumed a two-handed grip on his service pistol and fired five additional rounds with an aiming point of center mass in a southeast direction from a distance of approximately 35 feet.

Note: Officer A believed he fired seven to eight rounds. The post-incident weapon inspection was consistent with Officer A having fired six rounds. In addition, six expended casings were recovered and determined to have been fired from Officer A’s service pistol.

Officer A was not sure but believed he may have made a quick, two-second assessment after firing the first three rounds and observed that the Subject was still standing and manipulating the shotgun, at which time he fired his remaining rounds.

Officer B stated he feared the Subject would shoot Officer A and/or him with the beanbag shotgun. He obtained a two-hand Weaver shooting stance and fired three rounds with an aiming point of center mass in a southerly direction from an approximate

distance of 19 feet. Officer B then experienced a “spongy” trigger and felt the magazine from his service pistol fall to the ground.

Note: Officer B believed he fired two rounds, assessing between each round. He fired each round because the Subject was still standing and was perceived to be a continual threat. The post-incident weapon inspection was consistent with Officer B having fired three rounds. In addition, three expended casings were recovered and determined to have been fired from Officer B’s service pistol.

Officer B believed he experienced a malfunction and redeployed 18 feet to the north, behind a parked vehicle parked. He removed a fully-loaded magazine from his magazine pouch and inserted it into the magazine well of his pistol.

The Subject dropped the beanbag shotgun and fell down backward on the grass parkway with his feet on the street.

Note: The Subject sustained a total of seven gunshot wounds including one to his right thumb. The stock of the beanbag shotgun was also struck by a projectile.

Officer B broadcast, “Shots fired! Shots fired!”

Officers A and B approached the Subject with their weapons pointed toward him in low-ready positions. The Subject remained motionless on the ground. Residents of a nearby house exited the residence and began to shout and curse at the officers. Officer A decided to wait until backup officers arrived to commence handcuffing the Subject.

Officer C broadcast a request for a Rescue Ambulance (RA) for a male with gunshot wounds.

Los Angeles Fire Department (LAFD) personnel arrived at scene. The Subject displayed no signs of life and was declared deceased.

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). 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, made the following findings:

A. Tactics

The BOPC found Officer A's tactics to warrant Administrative Disapproval, and Officer B's tactics to warrant a Tactical Debrief

B. Drawing/Exhibiting

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

Tactical Communication (Substantial Deviation – Officer A)

Officer A did not effectively communicate with his partner, Officer B, a probationary officer with less than four months of field experience.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

Based on the totality of the circumstances, the BOPC found that Officer A's lack of communication with his partner, a probationary officer with minimal time in the field at the time of the incident, was a substantial deviation without justification from approved Department tactical training, warranting Administrative Disapproval.

Utilizing Cover

Officers A and B did not utilize cover when they observed the Subject continuing toward them after being ordered to get down on the ground.

The utilization of cover enables officers to confront an armed subject while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, the officers did not seek cover after the Subject ignored their commands and continued walking towards them with clenched fist while yelling and screaming at them. Seeking a position of cover would have provided the officers with an opportunity to have more time to react, formulate a plan, and wait for additional resources.

The BOPC found that in this circumstance, the officers' actions were not a substantial deviation from approved Department tactical training.

Requesting Back-Up

The investigation revealed that Officers A and B did not request a back-up prior to approaching the Subject whom they believed was possibly suffering from mental illness or under the influence of an unknown substance. Although officers are given discretion regarding the appropriate time to request additional resources during an incident. It would have been tactically advantageous for the officers to request back-up when they become aware that the situation may escalate, thus ensuring appropriate resources were responding in the event they were needed.

Agitated Delirium

Throughout this incident, the Subject's behavior was consistent with a person suffering from a state of Agitated Delirium. In an effort to improve future tactical performance, the officers should review Department training regarding Agitated Delirium.

Maintaining Control of Equipment

Both officers had the presence of mind to deploy less-lethal force options on the unarmed Subject. The investigation revealed that during the altercation, Officer B lost control of the TASER when the Subject pulled on the wires and Officer A lost control of the Beanbag Shotgun when he fell to the ground.

Simultaneous Commands (Non-Conflicting)

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

compliance.

Weapons Manipulations

Officer B experienced a *spongy trigger* and observed his magazine on the ground near his feet. Officer B redeployed behind cover and inserted a loaded magazine into his service pistol and came back up on target without verifying the condition of his weapon. Officer B's service pistol was later found to have an empty firing chamber.

B. Drawing/Exhibiting

Fearing that the Subject was going to shoot him with the Beanbag Shotgun or strike him with the raised butt stock, Officer A drew his service-pistol and held it in a right-hand close contact shooting position.

According to Officer B, he observed the Subject pick up the Beanbag Shotgun and begin to manipulate it. Fearing for his safety and the safety of his partner he drew his service-pistol.

Based on the totality of the circumstances, the BOPC found that an officer with similar training and experience as Officers A and B, while faced with a similar circumstance would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

The BOPC found Officers A and B's Drawing/Exhibiting to be in policy.

C. Non-Lethal Use of Force

Officer A– Hammer strike, Barrel of Beanbag Shotgun, from a distance of two feet.

According to Officer A, as the Subject moved closer, he raised his Beanbag Shotgun into a Port Arms position and brought it in close to him to *protect it from being grabbed* by the Subject. He then raised the muzzle of the shotgun and came down with a *hammer strike* on the Subject's left shoulder with the barrel of the Beanbag Shotgun to stop his actions

After a review of the incident and the non-lethal force used by Officer A, the BOPC found that an officer with similar training and experience as Officer A would believe that this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape and effect an arrest.

The BOPC found Officer A's Non-Lethal Use of Force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

According to Officer A, the Subject quickly walked toward them, reached for his waistband with his right hand and appeared to be arming himself with either a handgun or a knife, or some type of weapon. He un-slung his Beanbag Shotgun and fired a sock round at the Subject to stop him from continuing to advance. The Subject continued to advance toward them, so he fired a second and a third sock round at the Subject to stop him from continuing to advance toward them.

Based upon the totality of the circumstances, the UOFRB determined, the BOPC found that an officer with similar training and experience, while faced with similar circumstances, would reasonably believe that the Subject posed a threat and created a situation wherein it was unsafe for officers to approach. Therefore, the decision by Officer A to deploy the Beanbag Shotgun was objectively reasonable.

According to Officer B, he continued to give the Subject verbal commands to get down on the ground as he started to come toward him. The Subject ignored his commands, so he drew his TASER and deployed a five second activation at the Subject in an attempt to stop his attack.

The BOPC found that an officer with similar training and experience as Officers A and B would reasonably believe that the application of Less-Lethal force to stop the Subject's actions during this incident was reasonable and would have acted in a similar manner.

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

E. Lethal Use of Force

Officer A – six rounds in three sequences of fire, in a southeasterly direction from an increasing distance of two feet to 35 feet.

First Sequence of Fire – Round No. 1 – from a distance of approximately two feet.

Fearing the Subject was going to shoot him with the Beanbag Shotgun or strike him with the raised butt stock, Officer A drew his service-pistol, held it in a right-hand close contact shooting position and fired one round from his service-pistol at the Subject to stop his actions.

Second Sequence of Fire – Rounds No. 2, 3 and 4 – from a distance of approximately 35 feet.

According to Officer A, the Subject backed up several feet while still holding the Beanbag Shotgun while attempting to manipulate the slide to load the weapon. He observed the Subject crouch down in a shooting stance while pointing the Beanbag Shotgun at him. Fearing for his life, he assumed a two-hand shooting position with

his service-pistol, and fired approximately three rounds from his service-pistol at the Subject to stop deadly threat.

Third Sequence of Fire – Rounds No. 5 and 6 – from a distance of approximately 35 feet.

According to Officer A, he observed that the Subject was still holding the Beanbag Shotgun and fired two additional rounds at the Subject to stop his actions, at which time the Subject fell to the ground and the Beanbag Shotgun fell to his feet.

Officer B – three rounds in a southerly direction from an approximate distance of 19 feet.

According to Officer B, he observed the Subject backing up while manipulating the Beanbag Shotgun slide handle. The Subject continued to point the Beanbag Shotgun at Officer A. Fearing for his safety and the safety of Officer A, Officer B fired three rounds at the Subject to stop the deadly threat.

Based on the totality of the circumstances, the BOPC found that an officer with similar training and experience as Officers A and B would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury, and the Use of Lethal Force would be objectively reasonable to address this threat.

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