

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

OFFICER-INVOLVED SHOOTING – 111-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Hollenbeck	12/12/11		

Officer(s) Involved in Use of Force	Length of Service
Officer A	30 years, 7 months
Officer B	7 years
Officer C	10 years, 9 months
Officer D	11 years, 3 months
Officer E	7 years, 7 months

Reason for Police Contact

Witness A was in the process of showing his property to a group of people when they encountered the Subject at the location. Witness A made contact with LAPD, officers responded, and an officer-involved shooting resulted, subsequent to the deployment of several less-lethal use of force options.

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
Subject, Male, 56 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 suspect 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 October 23, 2012.

Incident Summary

Witness A arrived at his property to meet with brokers who wanted to examine his property. At the time of Witness A's arrival, Witnesses B and his support staff, Witnesses C and D, were waiting in their vehicles. As Witness A began to unlock and open the door of the property, he was approached by a male, subsequently identified as the Subject, who appeared to be homeless.

The Subject seemed agitated as he approached Witness A and told Witness B he was part of the "CIA." The Subject was standing approximately three feet from Witness A, with his hands in a fist and moving his arms in a punching manner. Witness A believed the Subject, was about to jump on him and wanted to attack him.

Witnesses A, B, C and D were able to enter the building and lock the Subject outside without further incident. Shortly thereafter, Witness A exited the building and was walking towards his vehicle, when he was again approached by the Subject. Fearing the situation would escalate, Witness A entered his vehicle and called LAPD Parking Enforcement. As Witness A dialed, Witness A observed the Subject pick up what appeared to be a sharp aluminum lid.

Communications Division (CD), received the call from Witness A, who reported that he needed the police to respond to his location. Witness A told the operator that a squatter (Subject) was threatening and harassing him. Witness A also told the operator that the Subject had something sharp in his hand, which he described as a piece of glass or aluminum.

CD initiated a broadcast for a 415 man with a knife who was a potential squatter, wearing a red jacket, blue jeans, and holding a piece of glass or aluminum. Uniformed Officers A and B contacted CD and requested the radio call be assigned to them.

While enroute, Officer B read the comments of the call to Officer A. Officer B reminded his partner that the Subject might be armed. Officers A and B arrived at scene. Officer B indicated that he and Officer A were at the location, via the Mobile Digital Computer (MDC).

Note: Officers A and B had periodically worked together over the course of ten years. It was understood between the two officers that Officer A was the primary contact officer, unless the subject spoke Spanish. In that case, Officer B, due to his fluency in Spanish, would take over as the contact officer.

As Officers A and B approached the location, they observed an individual who matched the description of the Subject, standing on the wall of a building. The Subject had a brown blanket/shawl wrapped around his hands and shoulders. As the officers got closer, the blanket draping around the Subject fell open, revealing a red ski jacket.

Officer A parked the black and white police vehicle at a street corner, approximately 50 feet from the Subject. Officers A and B approached the Subject in an effort to communicate with him. The Subject, speaking Spanish, stated, "No; leave me alone; no, I'm not going there; I don't want to talk to you; I don't want to go with you."

Officer A's intention was to talk to the Subject and find out exactly what kind of problem was involved. Officer A assumed that the Subject was a transient on private property and the owner didn't want him there. Officer A did not know a crime had occurred.

Officers A and B continued to verbalize with the Subject in both English and Spanish. They tried to reassure the Subject by telling him that no one would hurt him, and that the officers were there just to talk to him about being on the property. The Subject refused to comply with the orders and moved towards the street.

As the officers tracked the Subject's movement, he took the blanket off his shoulders and loosely wrapped it around his left hand, providing the officers with a better view of his hands. Officer B observed the Subject reach into his front right trouser pocket with his right hand and remove a shard of glass. Almost simultaneously, Officer A observed a glass shard in the Subject's right hand. The glass shard was between three and four inches long and had the shape of a knife. The Subject was holding the shard in his right hand, and Officer A could tell it was a piece of glass by its clearness. According to Officer B, the glass shard looked like there was a spike at the end of it and looked like a sharp, stabbing instrument.

Officers continued to verbalize with the Subject, telling him in English and in Spanish to drop the glass shard. The Subject became increasingly agitated, and replied in both English and Spanish, "F'ck you; I live here; this is my property; I'm not going anywhere; get out of here."

Officer A drew his pistol and held it at a low ready position because he could clearly see the object in the Subject's hand. Officer A believed that if the Subject fled from the scene, he would probably hurt and attack someone else with the glass shard. He believed it was imperative to take the Subject into custody and disarm him.

Officer B informed Officer A that he was going to equip himself with a beanbag shotgun from the trunk of the officers' black and white vehicle. Officer B contacted CD and requested an additional unit via his police radio. Shortly thereafter, he retrieved his Beanbag Shotgun from the trunk of his police vehicle, chambered a round and returned to Officer A.

Officers A and B positioned themselves to the Subject's left and right respectively. The officers continued to verbalize numerous times, both in English and in Spanish, telling the Subject to drop the glass shard. The Subject ignored the officers' commands while holding the glass shard in his right hand at his waist level, pointed outward, towards the officers.

Uniformed Officer C next arrived at the scene. Officer C placed himself at the location via his in-car police radio and parked his black and white police vehicle at a corner. Upon arrival, Officer C observed Officers A and B and the Subject in the middle of the street. Officer C retrieved a TASER from the center console of his police vehicle and proceeded to assist Officers A and B. Equipped with the TASER, Officer C positioned himself between Officers A and B, and directly in front of the Subject, whom he observed holding a glass object in his right hand. Officer A activated his ASTRO radio and requested a supervisor at the location.

Uniformed Officers D and E subsequently arrived at the scene. Officer D deployed himself between Officers B and C. Officer D observed a sharp glass object in the Subject's hand and drew his pistol in a low ready position, covering Officer B who was equipped with the beanbag shotgun. Officer E positioned himself near the Subject.

Officers A and B continued to verbalize with the Subject, continually telling him in English and in Spanish to drop the weapon, but to no avail. In turn, the Subject taunted the officers stating, "Oh come on sissies, what are you going to do?" With the Subject's behavior becoming increasingly agitated, Officer B informed Officer A that he was going to deploy the beanbag shotgun. Officer A alerted the other officers that the beanbag shotgun was going to be deployed. Speaking in Spanish, Officer B pointed to the beanbag shotgun and wanted him about what would happen if he used it. Once again, the Subject refused to comply and ignored Officer B's warning.

At a distance of approximately 18 feet, Officer B discharged one Super-Sock round from his beanbag shotgun, striking the Subject in the torso. The round had no effect on the Subject. Officer B discharged another Super-Sock round from the same distance, again with no effect. The Subject simply flinched and continued to walk toward a chain link fence.

In an attempt to persuade the Subject to drop the glass shard, Officer C removed the TASER cartridge from the TASER and activated the device. Officer C showed the Subject the electrical spark and informed him that if the officers used the TASER, it would hurt him. The Subject replied in English, "I don't care. Use it." From a distance of approximately 12 feet, Officer C discharged the TASER at the Subject. The TASER darts struck the Subject and lodged in his jacket, but still had no effect on the Subject, who attempted to pull the darts from his clothing.

With the glass shard held in his right hand and the sharp end pointed outward, the Subject took a step towards Officer B in a threatening manner. Officer C responded by re-activating the TASER. The Subject stopped his advance towards Officer B, pulled the darts from his clothing and again taunted the officers by saying, "Come and get me now. Come on sissies." With his TASER cartridge expended, Officer C tucked the TASER in his left rear trouser pocket and transitioned to his pistol, held in a two-handed low ready position as cover for the other officers.

Realizing that the officers needed another TASER, Officer D holstered his pistol and together with Officer E went to the trunk of the officers' black and white police vehicle. Officer D retrieved a TASER while Officer E armed himself with a beanbag shotgun. When they returned, Officer D deployed himself between Officers B and C. Officer E, armed with the beanbag shotgun, deployed himself to the right side of Officer A. The officers formed a semi-circle around the Subject, who had backed up to the chain link fence. Officers continued to verbalize, both in English and in Spanish, with the Subject. They ordered him to drop the glass shard and the Subject continued to ignore the officers' commands.

Officer D also issued commands to several civilians standing outside on a loading dock to go back inside the nearby location. Officer D indicated that his main concern was crossfire because he knew the situation might get to the point where officers would have to shoot the Subject. Again, in an attempt to have the Subject comply with the officers' commands to drop the glass shard, Officer D, at a distance of approximately eight feet, discharged the TASER at the Subject. The Subject deflected the TASER darts by waving his blanket, which covered left arm. Officer D once again returned to his black and white police vehicle and retrieved his side-handle baton.

Officer E, from a distance of approximately 17 feet, discharged one Super-Sock Round at the Subject. The less-lethal round struck the Subject in the mid-section, with no effect. The Subject then turned towards Officer E, who again from a distance of approximately 17 feet, discharged another Super-Sock round at the Subject. The Subject took a few steps and then charged in Officer E's direction. The Subject held the glass shard in his right hand with the sharp end pointed toward the officer. Officer E took a few steps backwards to maintain the distance between himself and the Subject. The Subject continued charging and was approximately 15 feet from him when Officer E discharged a third Super-Sock round at the Subject, as he was afraid that the Subject was going to stab him.

Simultaneously, believing that the Subject was going to stab Officer E with the glass shard, which would have caused Officer E to be seriously injured or possibly killed, Officer A, from an approximate distance of 11 feet, fired one round from his pistol, striking the Subject in the right hand and right torso. The Subject fell forward on his stomach, motionless.

Note: According to Witness B, he did not see where the fired round came from, but he observed the Subject fall to the ground and heard the round being fired. Witness B expected that the Subject was going to get shot eventually.

As Officer A stood by in a covering capacity, Officer C holstered his pistol and transitioned to his TASER in the event that a drive/direct stun became necessary. Officers C and D ultimately handcuffed the Subject's hands behind his back without further incident.

Officer B contacted CD and broadcast a “shots fired/help” call, in which he indicated that the Subject was down with a gunshot wound to the upper torso and requested a Rescue Ambulance. Officer D subsequently contacted CD and broadcast that the Subject was in custody and all officers had been accounted for.

Uniformed Sergeant A arrived at scene and broadcast accordingly. Sergeant A observed the Subject on the ground lying on his back. Sergeant A was informed by Officer A that an Officer-Involved Shooting (OIS) had occurred, and he had been involved. Sergeant A separated the involved officers, instructed them not to talk about the incident, and to wait for additional responding supervisors.

Los Angeles Fire Department (LAFD) personnel responded to the scene and transported the Subject to a local hospital. Officer D accompanied LAFD personnel in the RA as they transported the Subject to the hospital. The Subject did not make any statements while being transported.

The Subject was treated at the hospital for a single through-and-through gunshot wound to the middle finger on his right hand, traveling through the right side of his chest below the rib area, and exiting his back. The Subject was listed in critical condition and admitted into the Intensive Care Unit.

Note: No weapon was recovered from the Subject subsequent to the incident, though the investigation concluded that at the time of the OIS the Subject was armed with a glass shard. The weapon was recovered at the scene in fragments. Thus, the true dimensions of the shard at the time of the OIS could not be determined.

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 weapon 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 unanimously made the following findings.

A. Tactics

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

B. Drawing/Exhibiting

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

C. Less-Lethal Use of Force

The BOPC found Officers B, C, D and E's less-lethal use of force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:
 1. In this instance, the Subject was in possession of a glass shard and demonstrated an uncooperative demeanor through refusing to comply with verbal commands. As the incident unfolded, the circumstances were consistent with a situation wherein the deployment of additional personnel resources and use of force options (e.g. Beanbag Shotgun and TASER) afforded the officers the ability to best handle any eventuality.

Although it would have been tactically prudent to have requested a back-up unit rather than an additional unit, the BOPC commended the officers for their effective communication and recognition that the situation warranted the response of additional personnel resources. The intent of the involved officers was consistent with the expectation that officers, to the extent allowable by each tactical scenario, maximize their ability to most effectively handle an incident.

Therefore, the request for an additional unit rather than a back-up did not substantially deviate from approved Department tactical training.

2. Subjects Armed with Edged Weapons

In this instance, the Subject held a glass shard in his right hand, was uncooperative and failed to comply with the officers' orders to surrender. As the incident progressed, the Subject became increasingly agitated and threatened the officers.

As in this case, officers are often confronted with circumstances that require that a balance be maintained between officer safety and the ability to resolve a situation. The involved personnel appropriately assessed the situation and determined it would be unsafe to approach Suarez and employed a tactical plan that incorporated use of force options to best manage the incident. Although officers must always be cognizant of their distance from a suspect who is armed with an edged weapon, there are a number of variables that must be considered. Most importantly, the distance from Suarez was in part influenced by the maximum range of the use of force tools used to resolve the situation. The situation was continuous and evolved in a manner that required the involved personnel to continually assess and maintain an appropriate tactical position.

- 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 merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found that Officers A, B, C, D, and E's actions did not substantially deviate from approved Department tactical training. The BOPC directed that the identified topics be discussed during the Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Officer A communicated with the Subject in an attempt to gain his cooperation. The Subject became increasingly agitated, yelled at Officers A and B and armed himself with a glass shard. Officer A, believing that the Subject may use the glass shard to cause serious bodily injury to either him or his partner, drew his service pistol.

Officer C was the first additional unit to arrive at scene. Officer C deployed and discharged his TASER. After the second activation of the TASER, Officer C secured the TASER on his person and drew his service pistol based on the Subject's aggressive movements and close proximity to the officers.

Officer D responded to the additional unit request and observed the Subject armed with a glass shard in his right hand. Officer D saw that Officer B was armed with a Beanbag Shotgun and decided to assume the role as cover officer and drew his service pistol.

The BOPC determined that officers with similar training and experience as Officers A, C and D and faced with similar circumstances would reasonably believe that the situation may escalate to the point where deadly force may be justified.

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

C. Less-Lethal Use of Force

- **Officer B**

In this instance, the Subject was uncooperative and refused to comply with the officers' verbal commands. The Subject walked through the parking lot as officers attempted to contain him. Officers A and B continued to verbalize with the Subject in English and Spanish to drop the shard of glass he was holding. Believing that the Subject was unsafe to approach, Officer B retrieved the beanbag shotgun and advised the surrounding officers that he was going to discharge it. Officer B fired one sock round at the Subject, which had no noticeable effect. Officer B then fired another sock round at the Subject which also had no effect.

- **Officer C**

Initially, Officer C removed the TASER cartridge from the TASER and activated it, to show the Subject the electrical spark and warned him that if he used the TASER on him that it would hurt. Officer C then discharged the TASER on the Subject. The TASER darts lodged in the Subject's jacket but had no effect on him physically. The Subject then stepped toward Officer B and Officer C re-activated the TASER. The additional TASER activation also had no effect on the Subject, and he pulled the darts from his jacket.

- **Officer D**

Fearing that the Subject was going to attempt to flee and confront individuals in the area, Officer D deployed the TASER. Officer D activated the TASER at the Subject, who deflected the TASER darts with his left arm which was covered with a blanket.

- **Officer E**

Officer E deployed approximately 17 feet west of the Subject and, upon realizing that the Subject was unsafe to approach and wasn't going to comply, fired one sock round at him. The Subject turned toward Officer E and he fired another sock round to stop the Subject's actions. The Subject started to charge toward Officer E with the glass shard in his hand, causing Officer E to re-deploy rearward several steps. Fearing that the Subject was going to stab him with the glass shard, Officer E fired a third sock round at the Subject to stop his advance.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that officers with similar training and experience would reasonably believe that the force used to affect an arrest was reasonable and would have acted in a similar manner. Therefore, the force used by Officers B, C, D and E was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officers B, C, D and E's deployment and use of the beanbag shotgun to be objectively reasonable and in policy.

D. Lethal Use of Force

Officers A and B responded to a radio call wherein the Subject was threatening and harassing a property owner. Officer A and his partner arrived, identified the Subject and attempted to speak with him. The Subject became agitated and uncooperative with the officers, at which time the Subject armed himself with a glass shard and refused to obey the officer's commands to drop it and surrender.

Additional officers responded and less-lethal force options were deployed and utilized on the Subject (see Less-Lethal Force). During the incident, the Subject aggressively lunged toward Officer E, while armed with the glass shard. Officer A, fearing for Officer E's life, fired one round at the Subject to stop his attack.

The BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances would reasonably believe that the Subject's actions represented an imminent threat of serious bodily injury and that the use of lethal force would be reasonable in order to stop his actions.

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