

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

OFFICER-INVOLVED SHOOTING – 007-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Southeast	01/24/11		

Officer(s) Involved in Use of Force	Length of Service
Officer A	4 years, 2 months
Officer B	4 years, 2 months

Reason for Police Contact

A witness called the Los Angeles County Department of Mental Health for assistance with a suspect who was becoming violent. Officers responded to the location and were confronted by the suspect, resulting in an officer-involved shooting.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 48 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 and addenda items); the 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 Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, 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 December 20, 2011.

Incident Summary

Witness 1 telephoned the Los Angeles County Department of Mental Health for assistance regarding the Subject, who had been diagnosed as bipolar and with depression. Witness 1 indicated she initiated a “call for help” as a last resort because earlier in the day, other witnesses had taken the Subject to two mental health facilities, but the Subject was not admitted. When Witness 1 told the Subject he was going to have to get some help, he responded by saying he would not leave.

Witness 1 advised the mental health representative that the Subject had refused to take his medication, and over the course of the day, his behavior had become more aggressive toward others. She was troubled by his cursing and believed he could become violent.

According to Witness 2, she and others were concerned about Witness 1’s safety because the Subject had exhibited violent behavior toward Witness 1 in the past. According to Witness 3, the Subject would put his finger in Witness 1’s face, though he would not get physical with her. According to Witness 4, the Subject never hit anybody, but his demeanor was very threatening.

The mental health representative called the police, and Communications Division (CD) broadcast a call for service. Officers A and B heard the call for service and advised CD they would respond. The comments of the call described a male who was refusing to take his medications, and witnesses feared that he would become violent as he had a history of becoming violent in the past.

Officers A and B responded to the location. Officer B put his TASER in his pants pocket prior to exiting their police vehicle, in case the Subject needed to be subdued.

Although the comments of the call indicated that officers should contact the Department’s Mental Evaluation Unit (MEU) upon arrival, and although Officer A did attempt to begin that process of obtaining the pertinent information required by MEU, such as diagnosis, medications, whether the criteria for a 72-hour psychiatric evaluation hold had been met, it never got to the point to where the officers had enough information that would be useful to MEU.

Events leading to the use of force (UOF)

The Subject was in a room within visual sight of Officers A and B. Witness 1 indicated that other witnesses had made a strong attempt over the past week to convince the Subject to take his medications, and to get him some help. Others also advised that the Subject was violent, sometimes broke objects in the house, and that they were afraid of him.

The Subject exited his bedroom and sat down on a couch in the living room. The officers asked the Subject if he wanted help or wanted to go to the hospital, to

which he responded “No,” and that he wanted to stay in the residence. In a continuous attempt to conduct an evaluation of whether the Subject met the criteria for a psychiatric evaluation hold, Officer B asked the Subject if he had any intention of hurting himself or others.

The Subject appeared to become more agitated. He was looking around quickly, shifting his eyes between the officers and witnesses, and making furtive twitching movements, though he was not aggressive at this point.

Suddenly, the Subject stood up and said, “I don’t need to talk to you. I don’t have to deal with this,” and walked back into his bedroom. Officer A stepped inside the threshold of the door and requested that the Subject come outside to talk to the officers in a more secluded environment. The Subject did not cooperate.

Officer A believed he and Officer B may have to physically remove the Subject and, thus, believed the incident could escalate to a use of force situation. Officer A broadcast a request for an additional unit at the location so the officers could call the Subject out of the house.

Officer B remained on the porch, while Officer A returned to the police vehicle and retrieved a beanbag shotgun from the trunk. Officer A chambered a round in the beanbag shotgun as he walked back to the porch and heard the Subject say that he had heard that sound before and that the beanbag wasn’t going to affect him.

As Officer A stepped into the front doorway, the Subject stood up, balled up his fist, yelled something unintelligible, and ran directly toward Officer A. Officer B was standing behind Officer A when he saw the Subject running toward his partner.

UOF incident

Officer A’s account

Officer A fired one round from his beanbag shotgun, aiming at the Subject’s mid-torso area. The round did not have an effect on the Subject, who continued to run toward Officer A. Accordingly, Officer A fired a second round at the Subject, but the Subject still continued to run toward the officers.

Officer A fired a third and fourth round from his beanbag shotgun, again with no effect. Officer A then stepped away from the doorway to reload his beanbag shotgun, while Officer B utilized the TASER against the Subject. Officer A then broadcast a request for backup.

Officer A reloaded his beanbag shotgun, observed the Subject charging at the officers again, and fired a fifth beanbag round at the Subject’s mid-torso area. This round also had no effect on the Subject, who reached toward Officer A’s beanbag shotgun and attempted to grab the muzzle.

Officer A retained control of his beanbag shotgun, and as the Subject continued straight toward Officer B, Officer A fired his last beanbag round at the Subject. Officer A, who was on the porch at the time, observed the Subject continuing to run straight at his partner. Officer A jumped off the porch because the Subject chased Officer B outside the gate of the front yard and to the front of the police vehicle.

Officer A described the Subject running at Officer B with flailing arms, and it appeared to Officer A that the Subject was striking Officer B in his head and upper torso area. Officer A observed the Subject knock Officer B down and against the front hood of a parked vehicle, such that Officer B slid down toward the ground, and the Subject was able to get on top of him.

Next, Officer A observed the Subject's left hand reach toward Officer B's gun, and it appeared to Officer A that the Subject was trying to grab onto the gun. Officer A saw a muzzle flash and knew his partner had fired.

When Officer A saw Officer B's gun out of its holster, Officer A broadcast that shots had been fired, and requested help.

It appeared that the Subject was again getting closer to Officer B and that Officer B attempted to keep his distance as he backed up into the street. Officer A again saw Officer B go down to the ground, and the Subject appeared to try to jump on top of him. Also, Officer A again observed the Subject reaching and trying to grab Officer B's gun.

Officer A observed the Subject grab ahold of Officer B with his right hand and reach for Officer B's gun with his left hand. Officer A then drew his weapon and fired one round because the Subject was attempting to disarm Officer B, and if the Subject had been able to grab ahold of Officer B's firearm, Officer A was concerned that the Subject would have killed Officer B. Officer A also indicated that he was close to Officer B and the Subject when he fired, aiming at the Subject's rear torso and back area.

Subsequent to Officer A firing his round, he observed the Subject drop to the ground on his stomach, and his aggressive actions ceased. Officer A holstered his weapon.

Officer B's account

Officer B observed Officer A fire two or three rounds with the beanbag shotgun at the Subject, but the Subject continued moving toward Officer A. The Subject was running at a fast pace toward the officers, and he was screaming with his mouth open and his hands up. Officer B discharged his TASER at the Subject, and observed a TASER dart strike the Subject on the chest, causing the Subject to go down to the ground, but he immediately got back up.

The front door closed, with the Subject on the inside and the officers outside. The officers did not wait for a backup unit to arrive prior to reentering the residence. In

Officer B's mind, the officers were going to try to call the Subject out of the house and wait for the additional unit to arrive, but Officer B did not discuss this with Officer A.

The door opened, and Officer B observed the Subject coming out and grabbing Officer A's beanbag shotgun. Officer B indicated that Officer A was holding the beanbag shotgun in an upright position, while the Subject put one hand on the butt stock of the beanbag and his other hand on the barrel.

While positioned in the front yard, Officer B drew his pistol, when suddenly the Subject looked at him, and started running toward him. The Subject jumped off the porch, landed on the front yard, and grabbed Officer B's gun. Officer B blocked the Subject with his left hand, while the Subject continued to grab the front of his gun and pull it, but Officer B twisted a little bit to his right and fired what he believed to be one or two rounds at the Subject. The Subject was within arm's reach of Officer B. According to Officer B, he fired his initial two rounds because if the Subject had gotten ahold of his (Officer B's) gun, the Subject could have killed both officers.

Subsequent to firing what he believed to be his first two rounds, Officer B indicated that the Subject grabbed Officer B's badge as Officer B was moving backwards toward the police vehicle. The Subject continued moving toward Officer B and continued trying to grab Officer B's shirt, badge, and gun. Officer B blocked the Subject with his elbow, but he and the Subject continued moving back. Officer B fired what he believed to be two additional rounds at the Subject from close range because the Subject did not stop his actions, and Officer B was still in immediate defense of his life. The investigation revealed that Officer B fired 7 total rounds.

Officer B observed the Subject fall face down to the ground and stop moving. Officer B then reholstered his weapon. Officer B did not know what happened to his badge, other than that it had been ripped out of his uniform.

Witness accounts

Witness 3

According to Witness 3, officers requested that the Subject "come outside," but the Subject did not follow this command. Witness 3 believed that the officers retrieved a TASER from the police vehicle, came back inside, and shot the Subject a couple of times with the TASER. The Subject fell to the ground. The officers continued to tell the Subject to come outside. Witness 3 also observed the officers utilizing a beanbag shotgun against the Subject a couple of times prior to the Subject being tased.

The Subject went outside and was hit a couple of times with the TASER again. He fell to the ground, and as soon as he got back up, the officers started shooting. The Subject continued walking toward the officers, who were positioned by the police vehicle. Witness 3 was also in the front yard because he had followed the Subject out of the house, and indicated that the Subject was walking quickly toward the officers and

that the Subject appeared to be angry as a result of being tased. Witness 3 indicated that although the Subject was upset and directing profanity toward the officers, the Subject did not move aggressively toward the officers at any time.

Witness 3 observed both officers fire at the Subject, but Witness 3 did not believe there was a physical altercation between the Subject and the officers because the Subject did not get close enough to the officers.

Witness 4

According to Witness 4, he observed two uniformed officers engaged in a confrontation with the Subject. Witness 4 indicated that the confrontation led to a couple of beanbag shots being fired at the Subject. As the Subject stumbled out the gate, the officers opened fire on him approximately six times. Witness 4 further explained that he observed the Subject's arms coming up around his upper chest area, such that he seemed less threatening. As soon as the Subject appeared to be stunned, the officers backed off, but the Subject followed them.

Witness 4 indicated that he heard the Subject use profane language as he was coming out of the house. And by the time Witness 4 positioned himself in his driveway, he heard gunshots. At the time the Subject came down off the porch and toward the officers, the officers were approximately ten feet away from the Subject. Then, according to Witness 4, the officers moved ten feet into the street while the Subject moved a couple feet forward, and the officers shot him. Finally, according to Witness 4, it was hard to determine if the Subject was just standing or if he was advancing.

Events subsequent to the UOF

Officer B requested an ambulance for the Subject.

Additional officers arrived at the scene. Officer C observed the Subject lying in the street unhandcuffed, so he directed Officer B to handcuff him, which he did, while Officer C and other responding officers continued to handle the crowd that was forming at the location.

The ambulance arrived and Los Angeles Fire Department personnel began treating the Subject for his injuries. Fire Department personnel then determined the Subject to be dead.

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 revolver 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 and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Less-Lethal Use of Force

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

D. 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 their analysis of this incident, the BOPC noted the following tactical considerations:

1. Backup Unit Request

Officer A requested an additional unit rather than a backup unit to respond. When evaluated by the applicable standard, the request for an additional unit did not deviate from protocol in that the circumstances did not require additional units immediately.

The situation unfolded rapidly, and a backup unit may have been beneficial given both the aggressive nature of the Subject's actions shortly after Officer A's request and because the radio call's comments specifically informed the officers that the Subject was becoming violent. However, in spite of the initial radio call's comments about the Subject's escalating behavior, the officers conducted an on-scene assessment of the situation and further investigated information relayed by CD. In this case, the officers' decision to request an additional unit rather than backup when they were confronted by the Subject was consistent with established Department standards in that regard. Accordingly, Officer A's request for an additional unit did

not substantially deviate from approved Department training. However, a backup unit would have enabled additional resources to be available to the officers for the purposes of potentially diffusing the incident.

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. Each tactical incident inherently results in considerations for improvement.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. In this case, although there were identified areas where improvement could be made, the tactics utilized did not substantially and unjustifiably deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

Officer B

In this instance, Officers A and B determined that the Subject was to be detained for mental evaluation and treatment. As the officers waited for additional units to arrive, the Subject became enraged and charged Officer A. Once the incident moved to the front porch, the Subject attempted to take control of Officer A's beanbag shotgun; Officer B drew his pistol.

Officer B perceived that the Subject was attempting to grab the beanbag shotgun out of Officer A's grasp. If successful, that beanbag shotgun could have been used against the officers as a possible projectile weapon or as an impact device. The BOPC determined that an officer with similar training and experience would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Officer A

In this instance, once Officer B drew his pistol, the Subject shifted his attention from Officer A and charged Officer B. When Officer A observed the Subject attempting to grab Officer B's pistol, Officer A drew his pistol.

Officer A believed that the Subject was attempting to obtain control of Officers B's pistol, which could then be used against the officers. The BOPC determined that an officer with similar training and experience would reasonably believe that the situation had escalated "to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Less-Lethal Use of Force

Officer A: Beanbag Shotgun (six rounds)

Once it was determined that the Subject was to be detained for mental evaluation, Officer A, believing that the Subject would not go willingly, returned to his police vehicle to retrieve a beanbag shotgun and request an additional unit.

According to Officer A, he chambered a round into the shotgun as he approached the front porch. The sound of the shotgun being chambered caused the Subject to become enraged and charge Officer A.

According to Officer A, the Subject charged from his bedroom directly at him. In self-defense, Officer A, who was now standing inside the threshold of the front door, fired four beanbag rounds at the Subject, aiming at his mid-torso area. Officer A quickly assessed between each round and noted that they appeared to have no effect.

In an effort to create distance from the Subject, Officer A backed out the front door and took a position on the porch, west of the doorway, to load his remaining two beanbag rounds. Having seen Officer A deploy the beanbag rounds with no effect, Officer B deployed his TASER.

Upon the TASER being deployed, the Subject fell to the ground. Once on the ground, the Subject used his foot to close the front door. Noting that the front door was slightly ajar, Officer A used his left foot to kick open the door to keep a visual on the Subject.

According to Officer A, once the door was open, the Subject charged through the front door in the officers' direction. Believing that the Subject was charging Officer B, Officer A fired a fifth beanbag round at the Subject's mid-torso area. The round appeared to be ineffective and the Subject reached for the barrel of the beanbag shotgun. Officer A quickly backed away and pulled the shotgun away from the Subject. The Subject then redirected his attention to Officer B. As the Subject began to charge at Officer B, Officer A fired his sixth and last beanbag round at the Subject's mid-torso area.

In this instance, Officer A was confronted by an aggressive and combative subject who was charging at him. In an effort to stop the Subject's actions, Officer A fired a total of six beanbag rounds. In each case, the force used was in direct response to the Subject's sustained aggressive and combative actions.

Based on the totality of the circumstances and the Subject's combative actions, Officer A's use of the beanbag shotgun was objectively reasonable to defend himself and Officer B.

Officer B: TASER (three activations)

After Officer A deployed his first four beanbag rounds, he backed out of the front door to create distance from the Subject and to reload his beanbag shotgun. As the Subject

continued to charge, Officer B remained at the threshold of the doorway and assumed the role of contact officer.

According to Officer B, he observed the Subject approach with his fists in the air. In response, Officer B deployed TASER and discharged the TASER at the Subject's torso area from a distance of three to five feet.

In this instance, Officer B was confronted by an aggressive and combative subject who was charging at him. In an effort to stop the Subject's actions, Officer B fired his TASER. Based on the totality of the circumstances and the Subject's combative actions, Officer B's use of the TASER was objectively reasonable to defend himself and Officer A.

In conclusion, the BOPC found Officers A and B's use of less-lethal force to be in policy.

D. Lethal Use of Force

Officer B

When Officer B saw the Subject grab Officer A's beanbag shotgun, he unholstered his pistol. According to Officer B, the Subject jumped off the porch and ran after him with his eyes open and hands in the air. While backing up to create distance, Officer B brought his pistol close to his body with his finger alongside the frame. As the Subject reached with his left hand and grabbed the slide of Officer B's pistol, Officer B used his left arm to block the Subject's left hand and pulled his pistol away. After managing to free his service pistol, Officer B fired two rounds at the Subject's center body mass in an effort to stop the Subject's actions.

According to Officer B, the Subject did not appear to be affected by the first rounds and continued to charge. Officer B, in an effort to create distance, moved backward through the front yard in the direction of his police vehicle. At this time, the Subject grabbed Officer B's badge with his right hand, tearing it away from his uniform shirt, while simultaneously trying to grab Officer B's pistol with his left hand. Officer B maintained control of his pistol and fired one or two additional rounds at the Subject from a distance of approximately three to five feet.

In this instance Officer B was confronted by an aggressive and combative subject who had grabbed his pistol and was attempting to take it away. In an effort to stop the Subject's actions, Officer B fired his pistol. As the Subject continued his assault on Officer B, he once again tried to grab Officer B's pistol. In an effort to stop the Subject's actions, Officer B fired a second volley from his pistol.

The BOPC determined that an officer with similar training and experience would reasonably believe that the Subject's attempts to gain control of Officer B's pistol posed an imminent threat of death or serious bodily injury. Therefore, the decision by Officer B to utilize lethal force was objectively reasonable and consistent with Department policy.

Officer A

According to Officer A, after the Subject jumped off the porch, he observed him running at Officer B as Officer B backed up toward the sidewalk. It appeared to Officer A that the Subject was striking Officer B in the head and torso area and had knocked Officer B against the hood of a parked vehicle. During the altercation, Officer A observed the Subject reach with his left hand toward Officer B's duty belt, and realized that the Subject was going for Officer B's pistol. Suddenly, Officer A observed muzzle flash and believed Officer B fired three to four rounds from his pistol.

Officer A believed Officer B's rounds did not have any effect on the Subject because he was still standing, moving and flailing his arms at Officer B. As Officer A attempted to broadcast with his left hand, he unholstered his pistol with his right hand. It appeared to Officer A the Subject had already struck Officer B in the head and torso several times and was once again trying to grab Officer B's pistol. From a distance of approximately three to four feet, Officer A aimed his service pistol at the Subject's right rib cage area and fired one round.

The BOPC determined that an officer with similar training and experience would reasonably believe that the Subject's attempts to gain control of Officer B's pistol posed an imminent threat of death or serious bodily injury. Therefore, the decision by Officer A to utilize lethal force was objectively reasonable and consistent with Department policy.

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