

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

HEAD STRIKE WITH AN IMPACT WEAPON – 009-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Northeast	02/04/11		

Involved Officer(s)	Length of Service
Officer A	14 years, 6 months

Reason for Police Contact

Officers observed subjects fighting, who then ignored the officers' commands to disperse. When the subjects charged toward the officers, an officer discharged his beanbag shotgun, resulting in a head strike with an impact weapon.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Subject A, 36 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 Chief 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 January 12, 2012.

Incident Summary

On the date of the incident, a group of males had been drinking at a bar until it closed. Two males, subsequently identified as Subjects A and B, had left the bar first and had stopped at a nearby mailbox and urinated on it, while screaming and yelling. As the other males left the bar, a male, subsequently identified as Subject C, had approached Subject A and they became involved in a physical confrontation.

Officers A and B were on patrol in the area when they observed the subjects aggressively pushing and shoving each other, with additional individuals attempting to stop the fight. Officer A conducted a U-turn and stopped the police vehicle at the intersection. The subjects were still fighting and had moved into the street. Officer B used the police vehicle's Public Address (PA) system and told the group to disperse. Officer B used the PA several times; however, the subjects continued to fight. Officer A requested back-up over his radio.

Officer A noted that the subjects were aware of the police presence, but they continued to fight with each other. Due to the subjects continuing their violent behavior, Officer A exited the police vehicle and retrieved the beanbag shotgun from the trunk. Officer A then went to the passenger side of the vehicle and took up a position to the right of Officer B. According to Officer A, he continued to order the subjects to stop fighting, and heard Officer B also giving commands to the subjects.

Officer A broadcast a "help call" as the subjects started approaching the officers and he feared they were going to be taken over by the subjects.

As the subjects continued to walk toward the officers, Officer A chambered a beanbag round into the chamber to make the beanbag shotgun ready to fire. Officer A hoped that the sound of the shotgun being chambered would de-escalate the situation; however, Officer A recalled that the subjects continued to approach.

Officer A pointed the beanbag shotgun at Subject C, who had his fists clenched and had a violent posture, because he was the closest subject to Officer B. Officer A aimed at the abdominal area of Subject C and fired one beanbag round. Subject C immediately went down to the ground in a prone position, leading Officer A to believe that the round struck Subject C. Unbeknownst to Officer A, the first round missed Subject C.

According to Officer A, he then turned his attention to Subjects A and B, who were walking close to each other, and approaching the officers in an aggressive manner. Officer A gave another verbal warning that he was going to shoot them, but the subjects continued to get closer. Officer A then aimed the beanbag shotgun at the abdominal area of Subject B and fired a beanbag round at him. Officer A briefly assessed the situation and determined that the round had no apparent effect as Subjects A and B continued to approach the officers. Officer A then aimed again for the abdominal area of Subject B and fired a second beanbag round at Subject B (third beanbag round overall). Officer A noted that Subject A was bleeding from his forehead, and went down to the ground on his hands and knees. Subject A then stood back up and started

walking around in the street. The investigation revealed that Subject A was struck twice with beanbag rounds, one to his abdomen and one to his forehead.

Officer A broadcast a request for a Rescue Ambulance (RA). Assisting officers responded and handcuffed the subjects without further incident.

Los Angeles Fire Department (LAFD) arrived at the scene and treated Subject A for the injury to his forehead. Subject A was subsequently transported to the hospital with a fractured skull.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas 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. Less-Lethal Use of Force

The BOPC found Officer A's use of less-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:

Officer B recognized the potential threat represented by the group and notified Communications Division about the fight. Additionally, Officer A constantly evaluated the circumstances of the incident and appropriately requested a back-up then upgraded the request to a help call. The BOPC noted that the officers attempted to de-escalate the situation and break up the fight by utilizing the police vehicle's PA system from a safe distance to give orders to the group. Further, Officer A positioned the vehicle appropriately and immediately recognized the benefit of deploying a less-lethal force option and appropriately issued the less-lethal warning to the group prior to deploying the beanbag shotgun.

The BOPC noted the level of tactical planning that occurred during this incident and found that the involved officers' tactics did not substantially deviate from approved Department tactical training.

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

B. Less-Lethal Use of Force

The BOPC noted that in this instance, Officer A raised the beanbag shotgun from the low ready position and aimed at Subject C, as he placed the safety off and moved his finger to the trigger. Officer A fired one sock round at the abdominal area of Subject C because Subject C was the closest in proximity to Officer B. Officer A believed the sock round struck Subject C because Subject C went down to the ground and assumed a prone position. Unbeknownst to Officer A, the first round missed Subject C.

Officer A then turned his attention to Subjects A and B, who were still advancing toward him and his partner. Officer A reassessed and issued another verbal warning that he would utilize the beanbag shotgun. Subjects A and B, undeterred by the first sock round and warnings, continued advancing toward the officers. Officer A fired a second sock round at the abdominal area of Subject B. Unbeknownst to Officer A, the second round missed Subject B and struck Subject B's abdomen.

Officer A again assessed and observed Subjects A and B still approaching in a threatening manner. Officer A fired a third sock round, inadvertently striking Subject A in the head. Officer A stated that as he fired the third sock round, Subject A, possibly due to intoxication, stumbled or tripped in front of Subject B, and was struck in the forehead with the sock round.

The BOPC noted the officers were faced with a situation where they were outnumbered and threatened by an advancing group of males. Based on the totality of the circumstances, the use of deadly force would not be justified; however, the advancing group did represent a substantial threat to the officers and it would not be tactically advantageous for the officers to approach the group and attempt to detain them by initiating physical contact. Therefore, an officer with similar training and experience would believe that the application of less-lethal force was reasonable to defend themselves and stop the group's actions, and the use of the beanbag shotgun to be an appropriate force option.

Although the use of lethal force was not justified, the impact to Subject A's head was the inadvertent outcome of an appropriate decision to discharge the beanbag shotgun sock round to stop the subjects' actions to prevent potential injury to the officers. The BOPC determined that Officer A's use of less-lethal force was objectively reasonable.

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