

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

Law Enforcement Related Injury 039-05

Division	Date	Duty-On (x) Off()	Uniform-Yes(x) No()
Van Nuys	05/19/05		

Officer(s) Involved in Use of Force	Length of Service
Officer A	3 years, 2 months
Officer B	2 years, 1 month
Officer C	1 year, 1 month
Officer E	11 years, 2 months

Reason for Police Contact

Officers responded to a domestic violence incident during which a subject armed himself with a hammer and a knife, threatened to harm himself and made suicidal statements.

Suspect	Deceased ()	Wounded (x)	Non-Hit ()
Subject 1: Male, 41 years.			

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 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 May 16, 2005.

Incident Summary

On the morning of Thursday, May 19, 2005, Van Nuys Area uniformed Police Officers A and B were assigned to a domestic violence call. The officers responded and approached the front door of the residence. The front door was closed and they could not hear anything from inside. The officers went to the rear of the residence, where they found the back door open. Officer A called through the open door, asking if

anyone had called the police. The officers then spoke to a male (Subject 1) who told them that a “drunk guy” had been “bothering” his wife but had since left. Officer A then noticed two females come from an adjacent residence, into the yard. Both officers left Subject 1 to speak to the females. The officers approached the two females and saw that one of them was crying. Officer A asked her what was wrong. The female asked Officer A, in both English and Spanish, whether they spoke Spanish. Officer A indicated that she did not. Officer B did not speak Spanish either. The female then showed the officers a bruise on her right arm. This led the officers to believe that Subject 1 may have assaulted her.

Officers A and B turned back to see that Subject 1 was now standing in the yard. Both officers approached Subject 1. Officer A twice instructed Subject 1 to turn around and face the wall but he did not comply. The officers took hold of Subject 1’s arms. Subject 1 spun around and swung his right arm upward, causing both officers to lose their grip of him. He then quickly moved north through the yard. Both officers drew their batons and Officer A broadcast a request for back-up. Meanwhile, the two females went back inside their residence and closed the door.

Subject 1 picked up a hammer that was in the yard and, while facing away from the officers, began to repeatedly state, “Shoot me.” Officer B, while still holding his baton, drew his pistol. After approximately 10 seconds, Officer B put his baton down on a piece of furniture next to him in the yard and held his pistol in a two-handed grip. Officers A and B both gave repeated commands to Subject 1 to “Put down the hammer.” Subject 1 failed to comply with these commands, and continued to tell the officers to shoot him.

Shortly after her initial back-up request, Officer A broadcast that the suspect had a hammer, that they were at the rear of the call location, and requested a Spanish speaking officer. Within two minutes of Officer A’s back-up request, Van Nuys Area Police Officers C and D; and West Valley Area Police Officers E and F arrived at the scene of the incident.

As Officers C and D arrived at the scene, Officer D directed Officer C to deploy the TASER. Officer C equipped himself with the TASER, but did not strap on the holster. Rather, he placed an additional cartridge from the holster in his pocket and handed the holster to Officer D. As Officers A and B continued to issue verbal commands, Subject 1 continued to tell the officers to shoot him. Officer C and F began speaking to Subject 1 in Spanish.

Upon arrival in the yard, Officer E observed that no beanbag shotgun was deployed. He returned to his vehicle, equipped himself with such a weapon and returned to the yard. Officer D used his radio to broadcast that they were to the rear of the call location with a domestic violence suspect armed with a hammer, and that a TASER and beanbag shotgun were deployed. Officer D also broadcast a request for a supervisor to respond to the scene of the incident.

Shortly after the back-up officers had arrived in the rear yard, Subject 1 turned around to face them, put down the hammer and produced a box-cutter-type knife from a pocket. He continued to tell the officers to shoot him, made statements indicating that he would kill himself, and raised and lowered the knife, placing the blade to the side of his neck.

Officer D formed the opinion that Subject 1 was preparing to harm himself and announced "Beanbag, Stand by." Meanwhile, Officer E heard Subject 1 curse and say words to the effect of "I'm going to go ahead and do it." According to Officer E, he believed that if he did not stop Subject 1's actions Subject 1 would slice his own neck. To stop him from doing so, Officer E fired two beanbag rounds in rapid succession at Subject 1's chest from a distance he estimated to be 20 feet. The beanbag rounds struck Subject 1 in the center of his chest and caused him to step backward. However, Subject 1 remained standing and continued to hold the knife. As Subject 1 again began to raise his knife toward his own neck, Officer E fired two more beanbag rounds in rapid succession at Subject 1's chest. Again, the rounds impacted but Subject 1 remained standing and continued to hold the knife. Observing that his first four rounds had not proved effective, Officer E aimed his weapon at Subject 1's right hand, in which he was holding the knife, and fired an additional round. The round struck its target, knocking the knife out of Subject 1's hand.

After Officer E had fired his fourth round, Officer D observed that the beanbag rounds were not proving effective and directed Officer C to use the TASER. Officer C fired a TASER cartridge at Subject 1's chest from a distance of approximately 15 feet. One dart from Officer C's TASER struck Subject 1's chest. The second dart did not strike him. Officer C discharged the TASER simultaneously with Officer E's discharge of the fifth beanbag round. According to Officer C, he used the TASER because he believed Subject 1 would cut himself with his knife.

Subject 1 used his hands to support himself against a wall. Officer E announced that he had dropped the knife. Subject 1 was taken into custody without further incident. An ambulance responded and transported Subject 1 to a local hospital for treatment. Subject 1 was determined to have sustained fractures to the fingers of his right hand, and abrasions to his chest and right arm.

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 the following areas: Tactics of the involved officer(s); Drawing/ Exhibiting/ Holstering of a weapon by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. 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 and E's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Use of Non-Lethal Force

The BOPC found Officer A and B's use of firm grips to Subject 1's arms to be in policy.

D. Use of Less-Lethal Force

The BOPC found Officer C's use of the TASER to be in policy, warranting divisional training. Further, the BOPC found Officer E's use of the beanbag shotgun to be in policy, warranting formal training.

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B left Subject 1 (a possible domestic violence suspect) as they communicated with the females and would have preferred that they had remained with him for control while conducting their investigation. The BOPC also noted that Officers A and B were unable to effectively control Subject 1 when they initially attempted to detain him, and that this lack of control allowed Subject 1 to flee and to retrieve a weapon. The BOPC would have preferred that Officer B had returned his baton to the baton ring prior to drawing his pistol and that Officer A had drawn her pistol when the situation escalated to the point where deadly force may have become necessary. Additionally, the BOPC would have preferred that Officer C had attached the TASER holster to himself for proper retention and additional cartridge retrieval.

The BOPC noted a lack of communication and planning among the officers as the incident progressed. The BOPC would have preferred that a team leader had been designated and a Combative Suspect Control Team established to include a contact officer, beanbag shotgun officer, cover officer, Oleoresin Capsicum (OC) officer and arrest team.

The BOPC found Officers A, B, C and E's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Subject 1 retrieved a hammer from the ground and determined that Officer B had sufficient information to believe the incident might escalate to the point where lethal force may be justified.

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

C. Use of Non-Lethal Force

The BOPC noted that Officers A and B determined a crime had occurred and attempted to detain Subject 1. When instructed to turn around and face the wall, Subject 1 was unresponsive to commands. When Officers A and B grabbed Subject 1's arms he aggressively pulled away from their grasp.

The BOPC found Officer A and B's use of firm grips to Subject 1's arms to be in policy.

D. Use of Less-Lethal Force

The BOPC noted that Officer E observed Subject 1 repeatedly raise the box cutter to his neck while telling the officers to kill him, and deployed the beanbag shotgun to stop Subject 1's actions. The BOPC also noted that Officer E fired his final beanbag round as Officer C simultaneously discharged a TASER at Subject 1. The BOPC determined that Officers C and E's uses of force were reasonable to stop Subject 1's actions. The BOPC noted that Officer E aimed at Subject 1's upper torso, striking him in the chest with four of the five beanbag rounds fired. Officers are trained that the chest is not a primary or secondary target area for the beanbag shotgun due to the risk of serious injury or death.

The BOPC additionally noted that Officers C and E did not communicate with regard to the deployment of the beanbag shotgun or TASER. The BOPC would have preferred that one option be used and that an assessment be made to determine if the use of another option was necessary. Lastly, the BOPC noted that Officer E fired the beanbag shotgun rounds in pairs and did not assess after each round fired. This was contrary to training, which instructs officers to assess after each round is discharged.

The BOPC found Officer C's use of the TASER to be in policy, warranting divisional training. Further, the BOPC found Officer E's use of the beanbag shotgun to be in policy, warranting formal training.