

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

HEAD STRIKE WITH AN IMPACT WEAPON 040-11

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

Devonshire	5/3/11		
------------	--------	--	--

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

Officer A	17 year, 6 months
-----------	-------------------

Reason for Police Contact

The Subject entered a secured perimeter during an operation involving a barricaded subject, acting bizarrely. The Subject failed to comply with commands to stop, resulting in the discharge of a less-lethal weapon, and an inadvertent head strike by one of the projectiles.

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

Subject: 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 person 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 April 3, 2012.

Incident Summary

Officers requested the assistance of a specialized unit for a barricaded person. The barricaded person had threatened a victim with a firearm. The person had taken refuge inside of her residence and was refusing to come out. Information gathered by officers revealed the person had been drinking heavily and had access to additional firearms.

A team of several specialized officers arrived at the location, including Sergeant A, Officers A and B and a Crisis Negotiation Team (CNT).

The CNT tried to negotiate with the person for several hours, without success. A small tracked mechanical vehicle was sent into the residence for tactical reconnaissance purposes and tear gas was eventually introduced. Several volleys of tear gas were fired into the residence; however, the person (the Subject) still did not come out.

Several hours later, the Subject was able to breach the outer perimeter of the crime scene, which was secured by yellow crime scene tape and monitored by patrol officers.

The Subject carried a Bible in one hand and a small home-made doll in the other. The Subject started to walk rapidly toward several specialized unit officers, who were behind the cover of an armored vehicle, parked to the front of the barricaded person's residence.

Several patrol and specialty officers ordered the Subject to stop; however, the Subject did not comply. He continued to rapidly advance on the officers yelling, "I'm going to put a stop to this. I'm going to put a stop to this," while making religious references. Officer A retrieved a less-lethal projectile launcher and fired six projectiles at the Subject. Prior to firing, Officer A did not issue a warning, given that the tactical situation unfolded rapidly and the Subject was quickly moving toward him.

The Subject continued to advance during the first five rounds fired toward him; however was inadvertently struck in the face with the sixth round, as maintained a position where he was bent forward at the waist. The Subject then retreated to the southeast corner where he was taken into custody without further incident. The Subject was later admitted to the hospital with moderate facial injuries.

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 Sergeant A's and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

The BOPC found Officer A's 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:

1. Verbal Warning Requirement

In this instance, Officer A utilized a less-lethal projectile launching device that was loaded with six projectiles to assist in effecting the arrest of the Subject. Officer A stated he did not provide the verbal warning and provided an explanation as to why he did not provide such a warning.

The BOPC determined that Officer A clearly articulated his reasoning for not providing the verbal warning to the Subject prior to firing the projectiles and that it was objectively reasonable for him to not provide the warning due to the Subject's rapid approach.

In conclusion, the tactical situation unfolded quickly and Officer A's decision to fire a projectile without providing a verbal warning was not required in this situation. Therefore Officer A's actions did not substantially deviate from approved Department tactical training.

- The BOPC additionally considered the following:

1. Simultaneous (non-conflicting) Commands: Officers A, another officer and Sergeant A were simultaneously issuing verbal, but non-conflicting commands to the Subject in an attempt to gain compliance.
- 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.

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

Accordingly, the BOPC found Sergeant A, along with Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, specialized officers responded to an armed barricaded subject situation at a residence. Due to the tactical situation, Officer A was armed with a rifle that was slung over his shoulder.

After Officer A fired his sixth projectile, the Subject turned and walked quickly toward the southeast corner adjacent to the location. Once the Subject reached the south sidewalk, he went to his knees, faced the officers in a northeast direction, with his right hand on the ground, bracing himself. Officer A set the projectile launcher down near the rear of the armored vehicle and utilized his rifle to provide cover for Officer B as they approached the Subject from behind.

In conclusion, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer B** – (bodyweight, firm grip)

In this instance, Officer B was to the left of Officer A as they approached the Subject, who placed himself into a prone position. Officer B approached the Subject and took hold of his right arm and placed it behind his back. The Subject's left arm was underneath his body as he continued to move around and was not complying with the officers' orders to give them his left arm. Officer B placed his right knee in between the Subject's shoulder blades to control him and took him into custody with the assistance of other officers.

In conclusion, the BOPC found Officer B's non-lethal use of force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

- **Officer A** – (less-lethal projectile launcher, six projectile rounds)

In this instance, the specialized unit personnel's attention and focus was on the target location, when they heard yelling coming from the southwest. Officer A looked to his left and observed patrol officers yelling at the Subject. Officer A observed the Subject walking quickly eastbound in the street approximately 80 feet from him. The Subject then walked in a northeast direction toward Officer A and the armored vehicle with his right hand raised above his head, clasping a dark object. Officer A could not discern what was in the Subject's right hand due to the limited lighting.

The Subject's left hand was in a fist, near his front waistband. As the officers were giving the Subject commands, he quickened his pace as he walked toward them, stating, "I am going to put a stop to this!" Officer A was unsure of the Subject's intention. He did not know if the Subject was involved with the barricaded subject, and with his statements and his refusal to comply with their orders, it appeared to Officer A that the Subject was going to interfere with the officers from taking the barricaded subject into custody.

Due to the Subject's quickened pace, aggressive manner, and his refusal to comply with their commands, Officer A believed that the Subject wanted to cause the officers harm. Officer A aimed the projectile launcher at the Subject's upper abdomen area.

Officer A stated that the Subject was coming toward him so quickly that he was unable to warn the Subject that he would be injured if a less-lethal was deployed. Officer A fired the first round from a distance of approximately 20 feet, which he believed struck the Subject's stomach area or center body. The Subject did not slow down and continued to advance toward him.

Officer A assessed and fired a second round at the Subject's upper abdomen, striking him in the abdomen area, which did not have an effect on him. Officer A assessed again and fired a third round in the same area of the Subject's body, again striking him in the abdomen. The Subject continued to advance toward him with his right hand still raised in the air and his left hand at his front waistband. Officer A maintained his position, assessed once again and fired a fourth round at the Subject's upper abdomen. Officer A believed the fourth round either struck the Subject in the abdomen or left elbow. After the fourth round, the Subject bent forward at his waist, but continued toward Officer A. Officer A assessed again and fired a fifth round, again aiming at his upper abdomen. However, due to the Subject's body position, it appeared to Officer A that the Subject was trying to block

the round with his left arm and elbow, as it struck him. Although the Subject was bent forward, he continued to advance toward the officers. Officer A fired a sixth round at the Subject's upper abdomen, striking him even though the Subject again attempted to block the round with his left elbow area. Due to the Subject still being in a position of being bent at the waist, the Subject was inadvertently struck in the face by the sixth round. Once the sixth round was fired, the Subject turned and walked quickly toward the southeast corner where he was taken into custody.

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