

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

IN-CUSTODY DEATH – 046-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Foothill	05/17/11		

Officer(s) Involved in Use of Force	Length of Service
Sergeant A	21 years, 10 months
Officer A	8 years, 8 months
Officer B	2 years, 6 months
Officer C	2 years, 6 months
Officer D	8 years, 10 months
Officer E	4 years, 4 months
Officer F	5 years, 10 months
Officer G	2 years, 7 months

Reason for Police Contact

Officers responded to a radio call of a subject who was attempting to enter a home, which resulted in a use of force and an in-custody death.

Subject(s)	Deceased (X) Wounded () Non-Hit ()
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Subject: Male, 32 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 subject 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 24, 2012.

Incident Summary

The Subject entered the property of a closed business via a closed, but unlocked, security gate. Based on information that the Subject had entered and was foaming at the mouth, Communications Division (CD) was contacted with a request to respond to an intoxicated male subject who had entered the location and was still inside.

Officers responded to the location and were advised that the Subject had run towards the rear of the property and picked up a pair of garden shears. The Subject was last seen running over a wall and into a residential neighborhood.

Meanwhile, Officers A and F were traveling in a marked black and white patrol vehicle, were attired in plain clothes, and were wearing Los Angeles Police Department approved raid jackets. Officers A and F heard a broadcast via CD regarding the Subject's location that provided information on the Subject's description and stated that he was still inside the business.

In conjunction with the radio call, a Los Angeles City Fire Department Rescue Ambulance (RA) received a call of an unknown medical emergency at the above business. Upon their arrival, fire personnel were advised that the Subject had entered the location and was acting crazy, drooling a lot, and was very anxious.

Shortly thereafter, CD broadcast that a man was located in a residential neighborhood nearby, with a similar description as that of the Subject who had entered the business. The Subject's face was covered with a white powder, and he was running up to doors and attempting to enter homes. Officers A and F believed the calls were related and responded to the area.

Officers A and F were traveling in the residential area when they were directed by an unidentified citizen who advised them "He's in that yard." Officer A parked his police vehicle on the street and both Officers A and F simultaneously exited. Officer A retrieved the beanbag shotgun from the trunk. Officers A and F approached the residence by entering the front yard and observed the Subject, who was standing on the front porch and attempting to manipulate the front door knob to gain entry into the residence. Officer A notified CD of his location and requested back-up and air support.

When Officer A ordered the Subject to step away from the front door, the Subject turned around armed with an object carried in his left hand, initially believed to be a 1 ½ foot long, black metal pipe and faced Officers A and F. According to Officer A, the Subject's mouth was covered with an unknown white substance and his eyes displayed obvious horizontal gaze nystagmus (HGN). The Subject was mumbling incoherently and, based on Officer A's experience, Officer A formed the opinion that the Subject was under the influence of an unknown narcotic.

The Subject continued to turn towards the officers while Officer F observed that the object held in the Subject's hand appeared to have a blade attached to it on one end.

Officer F communicated with Officer A and told him, "blade," as he directed Officer A's attention to the sharp object. At this point, Officer A considered himself the contact officer while Officer F drew his pistol and took a position of cover, maintaining a safe distance between himself and the Subject.

Simultaneously, as other units began to arrive, the Subject placed the blade side of the black metal pipe (later determined to be shears), against his throat while Officer A directed commands for the Subject to drop the knife and to step away from the front door. Officer A gave this command several times in English, while another officer provided the commands in Spanish, but the Subject did not comply.

Sergeant A arrived on scene and provided the Subject with a Garner warning by stating, "If you don't comply with our commands we are going to shoot you with a beanbag shotgun and you could get hurt." The Subject did not respond and remained facing the officers. The Subject placed the blade portion of what was now believed to be garden shears against the right side of his neck.

The Subject contained himself within the front porch of the residence, making it unsafe for officers to approach him. To prevent the Subject from hurting himself or other officers, Sergeant A gave Officer A the command to fire the beanbag shotgun. Officer A yelled "beanbag ready" and fired a total of five beanbag rounds at the Subject from distances of 15-20 feet.

The first, second and third rounds appeared to have little or no effect as the Subject remained standing and continued to hold the shears. Officer A gave additional commands for the Subject to drop the shears, but the Subject did not respond.

Sergeant A directed Officer A to reposition to his left in order to get a better angle to fire additional beanbag rounds towards the Subject's abdominal area. Officer A repositioned and fired a fourth beanbag round at the Subject, striking the Subject's front torso. Officer A continued to give commands ordering the Subject to drop the shears and step away from the front door, but he refused to comply. The Subject remained standing and continued to hold the shears in his hand. Officer A fired the fifth beanbag round, striking the Subject on the front torso. The fifth and final round appeared to have winded the Subject and caused him to drop the shears, which came to rest behind him as he fell forward onto his knees. The Subject moved around, but was still within arm's reach of the shears; however, the Subject began to crawl away from the front door and off of the front porch area away from the shears and down onto the steps leading into the front yard.

Sergeant A then directed a group of officers to be the arrest team and ordered those officers forward to take the Subject into custody. Officer F was the first to make contact with the Subject and placed a firm grip on the Subject's left elbow with his right hand and used his left hand to place a firm grip on the Subject's left wrist. Officer F pulled the Subject away from the front door and off of the front steps. Officer F placed the Subject onto his stomach, at the bottom of the steps while maintaining control of the Subject's

left arm. The Subject immediately tucked his right arm under his body while Officer F secured a handcuff onto the Subject's left wrist.

Officer G used both of his hands and placed a firm grip on the Subject's right arm and attempted to remove it from underneath his body with the assistance of Officer D, who also grabbed hold of the Subject's right arm. Officer D continued to tell the Subject to relax his hands and stop resisting. The Subject continued to thrash his body around on the ground and began to kick at officers pulling away and clenching his fists while being given commands to stop. Officer B placed his right foot against the left hip area of the Subject's body during handcuffing. Officer C used his right foot to control the Subject's left leg. The Subject attempted multiple times to turn from his stomach onto his back while kicking his left leg, causing Officer C to lose control of Subject's left leg. Officer C repositioned to his right foot placing it onto the Subject's left leg three to four times, while providing commands in Spanish for the Subject to put his right hand behind his back. The Subject eventually removed his right arm and handcuffing was completed.

Officer D applied Officer G's hobble restraint device (HRD) to the Subject's knees due to the Subject violently flailing his body up and down while attempting to kick officers. Officer E placed a firm grip on the Subject's ankles while Officer D applied the HRD to the Subject's knees. Within three to five seconds after the completion of applying the hobble restraint device, the Subject was placed onto his left side.

Paramedics treated the Subject at the scene and formed the opinion that the Subject was under the influence of a drug of some sort based on his vital signs and his level of consciousness. The Subject was transported to a local hospital and was treated by medical personnel for severe narcotics intoxication.

The Subject was subsequently admitted to the Intensive Care Unit for severe narcotic intoxication, not related to the use of force.

On May 17, 2011, the Subject failed to respond to continued medical treatment, and was pronounced 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 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 actions, along with those of Officers A, B, C, D, E, F, and G, to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Officer B, C, D, E, F, and G's use of non-lethal force to be in policy.

D. Less-Lethal Use of Force

The BOPC found Sergeant A's direction and Officer A's use of less-lethal force to be in policy.

Basis for Findings

A. Tactics

- 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. However, in this instance, there were no areas for improvement identified.

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. Although there were no tactical considerations that were identified, the involved officers would benefit from the opportunity to review the incident.

In conclusion, the BOPC found Sergeant A's actions, along with those of Officers A, B, C, D, E, F, and G, to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, several officers and one supervisor responded to related radio calls. The officers located the Subject on the front porch of a residence attempting to open the front door of the residence while holding what appeared to be a pipe with a blade on it that was later determined to be pair of pruning shears. The Subject was ordered in English and Spanish to drop the "knife;" however, he did not comply. Due to the possibility of confronting an armed subject, Officers B, C, and F drew their pistols.

The BOPC found that based on the circumstances of this incident, it was reasonable for the officers to believe that the situation may escalate to the point where deadly force may be justified.

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

C. Non-Lethal Use of Force

- **Officer B** – Bodyweight
- **Officer C** – Bodyweight
- **Officer D** – Firm Grip
- **Officer E** – Firm Grip
- **Officer F** – Firm Grip, Physical Force
- **Officer G** – Firm Grip

Officer F was first to make contact with the Subject in an effort to take him into custody. Officer F placed a firm grip on the Subject's left elbow with his right hand and used his left hand to place a firm grip on the Subject's left wrist. Officer F pulled the Subject away from the front door and off of the front steps. Officer F placed the Subject onto his stomach, at the bottom of the steps while maintaining control of the Subject's left arm. The Subject immediately tucked his right arm under his body while Officer G secured a handcuff onto the Subject left wrist.

Officer G used both of his hands and placed a firm grip on the Subject's right arm and attempted to remove it from underneath his body with the assistance of Officer D, who also grabbed hold of the Subject's right arm. Officer D continued to tell the Subject to stop resisting. The Subject continued to thrash his body around on the ground and began to kick at officers pulling away and clinching his fists while being given commands to stop. Officer B placed his right foot against the left hip area of the Subject's body during handcuffing. Officer C used his right foot to control the Subject's left leg. The Subject attempted multiple times to turn from his stomach onto his back while kicking his left leg causing Officer C to lose control of the Subject's left leg. Officer C repositioned to his right foot, placing it onto the Subject's left leg three to four times while providing commands in Spanish for the Subject to put his right hand behind his back. The Subject's right arm was eventually removed from underneath his body allowing the officers to complete the handcuffing.

Once the handcuffing was completed, the Subject violently flailed his body up and down while attempting to kick officers. Officer E placed a firm grip on the Subject's ankles while Officer D applied the HRD to the Subject's knees.

The decision to use force must be judged through the perspective of a reasonable officer with the same/similar training and experience, facing the same/similar circumstances. In this instance, officers with similar training and experience faced with similar circumstances would reasonably believe that the application of Non-Lethal force to overcome the Subject's resistance was reasonable.

In conclusion, the BOPC found Officers B, C, D, E, F, and G's use of non-lethal force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

- **Officer A** (Beanbag shotgun, five Super-Sock rounds).
- **Sergeant A** (Directed force)

In this instance, the officers and the community were faced with a subject armed with pruning shears who was running through the neighborhood attempting to enter residences. The officers confronted the Subject on the front porch of a residence that he was trying to enter. As Officer A approached the residence, he observed that the Subject's mouth was covered with an unknown white substance and he was mumbling incoherently. Based on Officer A's experience, he formed the opinion that the Subject was under the influence of an unknown narcotic. The Subject failed to comply with the officers' commands in both English and Spanish to drop the weapon. Simultaneously, as the other units began to arrive, Sergeant A provided the Subject with the verbal warning requirement for the Beanbag shotgun.

The Subject did not respond and remained facing the officers. The Subject then placed the blade portion of the pruning shears against the right side of his neck. To prevent the Subject from hurting himself or other officers, Sergeant A directed Officer A to fire the beanbag shotgun at the Subject. According to Sergeant A, he deployed the beanbag for the safety of the Subject because he felt it was too dangerous for the officers to approach him.

The first three Super-Sock rounds had little or no effect on the Subject, who remained standing and was still holding the pruning shears. Sergeant A directed Officer A to reposition to his left in order to get a better angle to fire additional Super-Sock rounds toward the Subject's abdominal area.

Officer A repositioned and fired a fourth Super-Sock round at the Subject, striking his front torso. Officer A continued to give commands ordering the Subject to drop the pruning shears and step away from the front door, but the Subject did not comply. The Subject remained standing and continued to hold the pruning shears in his hand. Officer A fired the fifth Super-Sock bag round, striking the Subject on the front torso. The fifth and final round appeared to have winded the Subject and caused him to drop the pruning shears, which came to rest behind him as he fell forward onto his knees. The Subject began to crawl away from the front door and off of the

front porch area away from the pruning shears and down onto the steps leading into the front yard.

Officers with similar training and experience, facing similar circumstances would reasonably believe that the Subject's actions made it unsafe for officers to approach and that the use of less-lethal force to overcome the Subject's resistance was reasonable.

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