

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

LAW ENFORCEMENT RELATED INJURY – 060-06

| Division | Date | Duty-On (X) Off () | Uniform-Yes (X) No () |
|-------------------------|-------------|----------------------------|-------------------------------|
| 77 th Street | 07/27/2006 | | |

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
| Officer L | 1 year |

Reason for Police Contact

Officers A and B were assigned to investigate a vandalism call. The victims made contact with Officers C and D and identified Subject 1 as the perpetrator. While the officers attempted to apprehend Subject 1, Subject 1 became aggressive. Officer L deployed a beanbag projectile shotgun and fired one round at Subject 1

| Subject | Deceased () | Wounded (X) | Non-Hit () |
|-----------------------------------|---------------------|--------------------|--------------------|
| Subject 1: 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 Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on June 5, 2007.

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.

Incident Summary

Victims 1 and 2 were seated in their vehicle at an intersection when Subject 1 threw a rock at their vehicle. Victim 1 then dialed 9-1-1 and informed Communications Division (CD) of the incident and of Subject 1's description. Communications Division directed Officers A and B to investigate the vandalism incident reported by Victim 1; however,

when they arrived at scene, neither Subject 1 nor Victims 1 and 2 could be located.

As this was occurring, Officers C and D were flagged down by the victims, who advised them of the incident. When Officer C advised CD that he was with the victims of the vandalism call, Officer A overheard the communication.

While completing a follow-up investigation at the intersection, Officers A and B located an individual who matched the description of the suspect described in their radio call. After conferring with Officer C, Officer A believed that this was the suspect described in the vandalism call and set out to detain him for the violation. Officer A monitored Subject 1's movements and advised CD of their status and location.

Meanwhile, Officers C and D heard Officer A's location broadcast and transported the victims to Officer A's location so that the victims could identify Subject 1 as the vandalism suspect.

Officers A and B exited their police car. Officer A contacted Subject 1 while Officer B retrieved a TASER from the trunk of the police car. As Officer A communicated with Subject 1, Officer A noted that he appeared disheveled, with fecal matter spread over his entire body and caked in his hair. Officer A also noticed that Subject 1 was carrying a clear plastic bottle in each of his hands and that one of the bottles contained a brown liquid substance Officer A believed to be human feces.

When Officer A asked if he could speak with Subject 1, Subject 1 replied using profanities and walked away. Officer A requested that a unit equipped with a beanbag shotgun respond to his location. Officers F and G arrived at the scene and, with the assistance of Officers A and B, ordered Subject 1 to stop and to drop the bottles. Despite their commands, Subject 1 did not comply and walked away from the officers.

When Officers C and D arrived at scene, they noted that Subject 1 was not complying with the officers' commands and exited the police vehicle, leaving the victims alone in the police car. Officer D then stopped vehicular traffic to ensure that Subject 1 would not be struck by oncoming traffic. Officer C joined the officers who were attempting to detain Subject 1. Officer C observed a broken piece of glass in Subject 1's hand. Moments later, Officers H, I, and J arrived at the scene. Equipped with a TASER and a beanbag shotgun, Officers K and L also arrived at the scene.

Note: Officers K and L did not notify CD of their status and location.

Officer A advised the additional officers that Subject 1 posed a threat because the bottles he carried possibly contained caustic chemicals.

Officer L retrieved the beanbag shotgun from the truck of the police vehicle, carried it in a "low ready" position, and joined the officers following Subject 1 toward a freeway underpass. As this was occurring, Sergeant A and Officers M and N arrived at the

scene. Officer M armed himself with a TASER, and Officer N assisted with traffic control.

Note: Although Sergeant A was the first supervisor to arrive at scene, he did not give direction or take charge of the incident.

Believing that Subject 1 was going to remove the cap of one of the bottles and expose the possible hazardous material to the officers, Officer L pointed the beanbag shotgun toward Subject 1's center body area.

Despite being warned that the beanbag shotgun would be deployed if he did not comply with the officers' commands, Subject 1 continued to challenge the officers.

Based on Subject 1's aggressive behavior and the threat he presented to their safety, Officers C, F, G, H, and I each drew their duty weapons.

Officer F advised Subject 1 to drop the plastic bottles. Subject 1 complied with Officer F's commands. However, Subject 1 did not drop the piece of broken glass he held in his hand and walked toward the officers. Believing that Subject 1 was going to assault the officers with the broken glass, Officer L alerted his fellow officers of the impending use of the beanbag shotgun. Officer L then fired one round at Subject 1, striking him on the rib cage. Subject 1 then complied with the officers' commands and was arrested without further incident.

Paramedics from the Los Angeles Fire Department (LAFD) arrived at scene, treated Subject 1 for a circular abrasion to his rib cage area, and transported him to the hospital for further treatment. Once at the hospital, medical staff determined that Subject 1 sustained a laceration to his liver and that he would be admitted to the hospital for further medical treatment.

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, B, C, D, E, F, G, H, I, J, K, L, and M and Sergeant A's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers C, F, G, H, and I's drawing to be in policy.

C. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B were assigned the call generated by CD and responded to the location. While awaiting further information from CD, the victims made contact with Officers C and D, who were in the area. After interviewing the victims, Officers C and D determined a felony crime had occurred and relayed that information to Officers A and B.

Officers A and B searched the area for Subject 1 and subsequently located him. As Officer B withdrew the TASER from the police vehicle trunk, Officer A attempted to engage Subject 1 in conversation. Subject 1 responded by yelling expletives. Officer A noticed that Subject 1 appeared to be covered in fecal matter and also held two plastic containers, which contained a brown liquid resembling fecal matter. Based on Subject 1's demeanor, Officer A requested additional resources to the scene. Officers A and B followed Subject 1 from a safe distance until sufficient resources arrived.

Officers C and D transported the victims to Subject 1's location, where they positively identified Subject 1 as the person responsible for throwing the object at their vehicle. As additional officers began to arrive, Officers C and D opted to leave the victims in their police vehicle and join the contact team. Although the BOPC was satisfied with the officers' foresight to contact the victims and secure an identification of the suspect, the BOPC was concerned with the officers' decision to leave the victims unattended in the police vehicle. The BOPC would have preferred that at least one officer remain with the victims for their own safety until the termination of the tactical scenario.

Officers A, B, G, and F were following Subject 1 when Officers H, I, and J joined them. An ongoing dialogue was maintained with Subject 1 in order to solicit Subject 1's cooperation. He refused to follow the officers' directions and continued to walk. Officers B and H both issued verbal warnings to Subject 1, warning him that if he did not stop, he may be "tased" or shot with the beanbag projectile shotgun. Subject 1 did not heed the warnings.

Officers K and L arrived equipped with a beanbag projectile shotgun. The BOPC would have preferred that Officers K and L placed themselves at scene through CD and advised that they were equipped with the beanbag projectile shotgun. This would have enabled CD to update their status and would have informed other responding units that the requested less-lethal equipment was at scene.

Officer M arrived on scene armed with a TASER, followed shortly thereafter by Sergeant A; both joined the formation of officers. Sergeant A indicated that when he arrived, it appeared that the officers had a tactical plan in place so he did not give direction or take charge. Although tactical situations are fluid and ever evolving, the BOPC would have preferred that Sergeant A had assumed the role of incident commander and taken control of the situation. Additionally, the investigation revealed that Sergeant A did not initially notify CD that he was at scene. Doing so would have informed the Watch Commander and other field supervisors that there was a supervisor at scene.

During the subsequent categorical use of force investigation, Officer L was unable to articulate the proper target area for the beanbag projectile shotgun. Although the impact area was correct, it is imperative that Officer L know the correct criteria related to any piece of Department equipment in order to ensure its proper deployment in any future incident.

The BOPC found Officers A, B, C, D, E, F, G, H, I, J, K, L, and M and Sergeant A's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that upon approaching Subject 1, the responding officers observed that he possessed what appeared to be to clear plastic bottles containing fecal matter. Additionally, Subject 1 had placed his right index finger into a broken glass bottleneck and, throughout the course of the incident, Subject 1 repeatedly threatened to kill officers.

The BOPC determined that Officers C, F, G, H, and I had sufficient information to believe the situation may escalate to the point where deadly force may become necessary. The BOPC found Officers C, F, G, H, and I's drawing to be in policy.

C. Less-Lethal Use of Force

The BOPC noted that Subject 1 threw one of the bottles at officers, missing them. Subject 1 then stood in place armed with the second bottle and the broken glass bottleneck. Officers continued to verbalize with Subject 1, who eventually dropped the second bottle. Subject 1 then raised his hands, still armed with the glass bottleneck, and began to walk toward the officers. Unable to safely approach Subject 1, Officer L believed Subject 1 posed a threat and alerted all the officers to stand-by for the beanbag projectile shotgun deployment.

Simultaneously, Officer A gave Officer L the order to discharge the beanbag projectile shotgun. Officer L fired the beanbag projectile shotgun at Subject 1, striking Subject 1 in the rib area. Subject 1 immediately dropped to his knees and placed his hands behind his head. Officers then approached Subject 1 and detained him without further incident.

The BOPC determined that Officer L's less-lethal use of force was reasonable to prevent Subject 1 from injuring other officers. The BOPC found Officer L's less-lethal use of force to be in policy.