

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

OFFICER-INVOLVED SHOOTING – 064-05

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Newton	07/24/2005		

Involved Officer(s)	Length of Service
Sergeant A	10 years, 9 months
Officer A	2 years, 1 month
Officer B	2 years, 6 months
Officer C	9 years, 5 months
Officer D	1 year, 7 months
Officer E	2 years, 9 months
Officer F	2 years, 9 months
Officer G	9 years, 10 months

Reason for Police Contact

Officers responded to a report of domestic assault. The officers were confronted by a male holding a glass bottle. The male threatened to throw the bottle at the officers, prompting the use of a TASER. The male ultimately threw the bottle at the officers and an officer-involved shooting occurred.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
Subject 1: Male, 24 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 BOPC 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 July 18, 2006.

Incident Summary

On the afternoon of Sunday, July 24, 2005, Witness A called 911 and told the operator that a man with a gun was threatening her and was going to kill her. A unit was dispatched to the call, and determined that the alleged perpetrator (Subject 1) had left the location. The unit searched the area for Subject 1, but did not locate him. The unit took a report of Criminal Threats from Witness A.

Later that afternoon, Witness A again called 911 and reported that Subject 1 was knocking on her door. Communications Division (CD) broadcast an "Assault with a Deadly Weapon Domestic Violence" call.

Police Officers A and B responded to the call. As the officers drove toward the call location, Officer B read the comments of the call from the police vehicle's Mobile Data Terminal. Officer B relayed the comments to Officer A, including the information that the subject was reported to have a gun. The officers did not formulate a tactical plan as they responded to the call.

As Officers A and B arrived at the location, they saw a female (Witness A) at a second floor window of the address, motioning toward the western side of the building. Officer A, who was driving, stopped the police vehicle in front of the call location. Officer B informed CD that the officers were on scene at the call. The officers exited their vehicle. Officer B did not take a baton as the officers exited their vehicle.

The officers approached the front of the address and saw a narrow wooden stairway on the exterior of the side of the building. At the top of the stairway was a short landing and a door that led into the second floor residence. Subject 1 was on the stairway, holding a partially-full 40-ounce glass beer bottle.

While positioned at the bottom of the stairway, Officer B broadcast a request for an additional unit. Officer B told Subject 1 to put the bottle down and come down the stairs. Subject 1, whom Officer B described as "agitated," did not comply with this instruction. Officer B then started to approach Subject 1 by climbing the stairs. Officer A followed behind Officer B.

As the officers began climbing the stairs, Subject 1 began to move around and raised the bottle. Officer B told Subject 1 not to throw the bottle, and warned him that he would be shot if he threw the bottle.

Approximately twenty seconds after Officer B had broadcast his request for an additional unit, Sergeant A arrived at the location. Sergeant A observed that Officers A and B were approximately halfway up the stairway. Sergeant A saw Subject 1 at the top of the stairway, holding a large bottle of beer, and noted that Subject 1 was not responding to verbal commands the officers were giving. Sergeant A also noted that Subject 1 was "yelling" into the residence, where he saw a female whom Sergeant A presumed to be the domestic violence victim.

From a position in the street, Sergeant A asked Officer A if the officers had a beanbag shotgun. Officer A replied that they did not have a beanbag shotgun. Sergeant A broadcast a request for a unit to respond with a beanbag shotgun.

Officer B continued to give Subject 1 instructions to put down the bottle. Subject 1 did not comply, and threatened to throw the bottle at the officers.

Subject 1, still holding the bottle, then moved from the landing at the top of the staircase onto the sloping roof of an adjacent building. Officers A and B moved up the stairway and positioned themselves on the landing, facing toward Subject 1, with their backs to the door to the residence. Subject 1 moved to the apex of the roof. Sergeant A broadcast a request for two additional units.

A number of additional officers responded, including Officers C, D, E, F and G. Upon arrival, Officer E, F and G drew their pistols.

Officers C and D deployed to the stairway, below Officers A and B. Officers C and D, both of whom spoke Spanish, heard Subject 1 tell Witness A in Spanish that he was going to make the officers shoot him. Officers C and D did not relay this information to other officers at the scene.

Officer B saw that Officer D was equipped with a TASER and asked Officer D for the device. Officer B reholstered his pistol and took the TASER from Officer D. Officers C and D remained on the stairway and drew their pistols.

Officer B told Subject 1 that if he did not put the bottle down the TASER would be used against him. Subject 1 told the officer to go ahead and use the TASER, and repeated his threat that he would throw the bottle.

Officer B discharged the TASER at Subject 1. Both TASER darts contacted Subject 1's shirt, but Subject 1 remained standing and maintained his hold of the bottle. Subject 1 pulled the TASER darts from his clothing and, with his right hand, raised the bottle, stepped forward and threw the bottle at Officer B. The bottle broke on the wall behind Officer B. At or about this time, Officer A fired two rounds from Officer A's pistol at Subject 1, striking him.

According to Officer A, Officer A fired as Subject 1 motioned to throw the bottle. The first round did not stop the throwing motion, so Officer A fired a second round as Subject 1's arm continued to move forward in a throwing motion.

According to Officer B, who ducked and shielded Officer B's face as the bottle was thrown, "the crash [of the bottle] and the pops [of Officer A's gunshots] were pretty close together."

According to Sergeant A, the "suspect aggressively [threw] the bottle and [Sergeant A] heard the two shots, the bottle break against the wall." These events happened, "super quick within seconds."

According to Officer E and witnesses B, C and D, the shots were fired after the bottle was thrown.

Subject 1, who was hit in the abdomen and the right forearm by Officer A's gunshots, clutched his stomach area and began to stagger. Officer B, observing a bulge in Subject 1's pocket, dropped the TASER and re-drew Officer B's pistol. Officer B gave commands to Subject 1 to place his hands above his head. Subject 1 did not respond to these commands and subsequently collapsed on the roof.

Officers A and B climbed onto the roof. Officer B reholstered Officer B's pistol and handcuffed Subject 1. Officer A reholstered Officer A's pistol after the handcuffs had been applied.

Sergeant A broadcast a request for a Rescue Ambulance (RA). Subject 1 was transported to a local hospital. Subject 1, who was determined to have consumed alcohol at the time of the incident, survived his injuries.

Officer B sustained a ¼ inch abrasion to the wrist.

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 Sergeant A and Officers A and B's tactics to warrant administrative disapproval. The BOPC found Officers C and D's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Less Lethal Use of Force

The BOPC found Officer B's less-lethal use of force (TASER) to be in policy.

D. Use of Force

The BOPC found Officer A's use of force to be out of policy, warranting administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that Officer A parked in front of the call location. The BOPC would have preferred that the officers had parked at a more tactically advantageous distance from the location. Additionally, the BOPC would have preferred that the officers had better communicated between themselves regarding their expectations and intentions on how to best handle the radio call.

The BOPC noted that Officers A and B observed a female looking out of a second story apartment window, pointing to the side of the building. Officers A and B saw a staircase attached to the side of the building and saw Subject 1 sitting on the staircase, holding a partially full 40-ounce glass beer bottle. The BOPC would have preferred that Officers A and B had attempted to speak with the witness to obtain more information before making contact with Subject 1.

The BOPC noted that Officer B ordered Subject 1 to walk toward the officers at the bottom of the stairs, and that Subject 1 refused. Officer B returned to the police vehicle to obtain Officer B's baton. The BOPC would have preferred that Officer B had obtained all of the necessary equipment prior to making contact with the subject. Moreover, the BOPC was concerned with Officer B's decision to separate from Officer A to retrieve the baton, and with Officer A's decision to remain at the location without Officer B.

The BOPC noted that when Officer B returned, the officers approached the bottom of the staircase. The BOPC would have preferred that Officers A and B had requested additional units and waited for their response prior to approaching the suspect. The BOPC further noted that Officer B again ordered Subject 1 to walk toward them, and that Subject 1 refused and threatened to throw the bottle at the officers. Officer B then requested an additional unit and began to walk up the staircase toward Subject 1. The BOPC would have preferred that Officers A and B had requested a backup unit and a beanbag shotgun. Additionally, the BOPC would have preferred that the officers had remained behind cover, given Subject 1's elevated position and the information that he was armed with a handgun.

The BOPC noted that following the officer-involved shooting, Officers A and B jumped onto the roof of the building where Subject 1 was laying. As Officer A provided cover, Officer B handcuffed Subject 1 without further incident. The BOPC would have preferred that Officers A and B had communicated their intentions to the additional officers and developed a plan to take Subject 1 into custody. The BOPC was critical

that the officers opted to handle the entire incident by themselves without the use of the additional resources that were readily available to them.

The BOPC also noted that Sergeant A arrived on scene and observed Officers A and B approaching Subject 1, and that Sergeant A did not approach the officers' location, but instead remained on the street to coordinate with the responding units. The BOPC would have preferred that Sergeant A had taken an active role in supervising the incident and established communication with Officers A and B. The BOPC was critical of Sergeant A's decision to allow Officers A and B to continue their approach, which placed them in harm's way. The BOPC was also critical that Sergeant A did not approach Officers A and B's location, take control of the tactical situation and develop a plan to contain and control Subject 1.

The BOPC was critical of the tactics used by Officers A and B, and the lack of supervision provided by Sergeant A, noting that the officers' response to the suspect's actions unnecessarily exacerbated an already dangerous tactical situation. The BOPC found that Sergeant A's and Officers A and B's tactics to be seriously deficient, warranting administrative disapproval.

The BOPC additionally noted that, when Officers C and D responded to assist the primary unit, they overheard Subject 1 yelling in Spanish that he was going to force the officers to shoot him. The BOPC would have preferred the officers had communicated Subject 1's statement to the other officers at scene. The BOPC found Officers C and D's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B had prior knowledge that Subject 1 was armed with a handgun from the comments of the earlier incident, and that Officers A and B drew their pistols when Subject 1 threatened to throw a bottle at them. The BOPC also noted that when Officers C and D arrived at scene, they drew their service pistols when they observed Subject 1 holding the beer bottle and threatening the officers. The BOPC further noted that Officers E, F and G drew their pistols when they responded to the incident. Officers E and F reported that they drew because the call indicated that the suspect was armed with a gun; and Officer G reported that Officer G drew because Subject 1 was in a position of advantage with a bottle, and Officer G did not know whether Subject 1 was armed with any other weapons. The BOPC determined that the officers had sufficient information to believe that the incident may escalate to the point where deadly force may be justified.

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

C. Less Lethal Use of Force

The BOPC noted that, when Officers A and B reached the top of the stairs, Subject 1 jumped over the railing onto the roof. Subject 1 then threatened to throw the bottle at

the officers. The BOPC further noted that Officer B then deployed the TASER on Subject 1, striking him in the upper torso, that the TASER darts lodged into Subject 1's shirt and were ineffective and that Subject 1 was able to pull the darts out.

The BOPC determined that Officer B's use of the TASER was a reasonable attempt to overcome Subject 1's resistance and found the officer's less-lethal use of force to be in policy.

D. Use of Force

The BOPC was critical of Officer A's decision to use lethal force, noting that the officers' actions leading up to the officer-involved shooting did not indicate they believed that Subject 1 presented an immediate threat of serious bodily injury or death. The BOPC determined that it was not reasonable for Officer A to resort to lethal force and that the use of force was not a last resort.

The BOPC found Officer A's use of force to be out of policy, warranting administrative disapproval.