

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

**OFFICER-INVOLVED SHOOTING – 093-06**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Rampart	10/20/2006		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	18 years, 5 months
Officer B	11 months

**Reason for Police Contact**

Officers A and B and an Air Unit staffed by Officers C and D responded to a radio call of a prowler subject who was believed to be intoxicated and armed with an axe. When Subject 1 approached the officers, Officer B fired one round from a Beanbag Projectile Shotgun. Subject 1 continued to advance. Officer A fired one round from his service pistol.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1: 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 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 08/28/07.

**Incident Summary**

Officers A and B heard a radio call of a prowler subject in their area. The broadcast included a partial subject description and indicated that the subject was intoxicated. Officers A and B acknowledged the call and placed themselves en-route.

Shortly thereafter, an Air Unit staffed by Officers C and D acknowledged the radio call and advised Communications Division (CD) that they were responding to the incident. Officer C was the pilot and Officer D was the Tactical Flight Officer of the air ship.

CD broadcast an update advising responding units of the subject's clothing description and exact location. CD further advised that the subject was armed with an axe, and that an additional subject was involved in the incident. CD then broadcast that the subject was also vandalizing nearby vehicles with the axe.

Officers A, B, C, and D arrived on scene. Officers A and B broadcast their status and location and Officers C and D broadcast that the Air Unit was over the call location.

Officer A observed a male on a cellular telephone standing on a street corner. Simultaneously, Officer D advised the officers that a possible subject was walking along the street and directed the officers to that location. Officer A switched his radio from the area base frequency to "simplex" mode in order to more effectively communicate with the Air Ship.

Officer A observed a male (Subject 1) on the sidewalk swinging an unknown yellow object in the direction of a nearby fence while looking up at the airship. The object Subject 1 was swinging at the fence was later determined to be a hand mattock, a type of tool commonly used for gardening work. Officer D broadcast a request for "assistance."

Meanwhile, Officer A stopped the police vehicle at an angle near the sidewalk, and he and Officer B exited the police vehicle. Officer A unholstered his pistol, held it in a low ready position and stood behind the cover of his vehicle door.

Subject 1 turned, looked in the direction of the officers, and began yelling in Spanish. As Officer B exited the police vehicle, he issued verbal commands to Subject 1 in English to drop the mattock. Subject 1 did not respond to the commands. Meanwhile, Officer A instructed Subject 1 to "stop" in both English and Spanish.

Officer A formed the opinion that the TASER would not be effective because of Subject 1's distance from the officers. Officer A directed Officer B to retrieve the Beanbag Projectile Shotgun from the trunk of the police vehicle.

Officer B went to the trunk, removed the beanbag projectile shotgun and chambered a round. Officer B returned to the open passenger side door of the police vehicle. Subject 1 advanced toward the police vehicle. By the time Officer B returned to the passenger door, Subject 1 was at the front driver's side of the police vehicle.

As Subject 1 advanced on the police vehicle, he raised the mattock above his head and aggressively moved toward Officer A. Officer A moved to the rear of the police vehicle.

Officer B believed that he did not have time to switch from the beanbag projectile shotgun to his duty pistol to address the threat to Officer A. Officer B fired one super sock round from the beanbag projectile shotgun at Subject 1, striking him. The round initially struck Subject 1's arm, deflected and then hit him in the lower abdomen.

Apparently unaffected by the beanbag projectile, Subject 1 got closer to Officer A and yelled, "Kill me, kill me," in Spanish. Officer A, who understood the statement, replied, "No, no." Subject 1 then raised the mattock. Officer A fired one round in the direction of Subject 1, striking him once. Subject 1 fell onto his back and dropped the mattock. Officer A de-cocked his weapon and covered Subject 1.

Officer A broadcast that shots had been fired on the simplex frequency used to communicate with the Air Unit. Hearing this, Officer D broadcast a help call and informed CD that shots had been fired.

Officers E and F responded to the assistance call and arrived on the scene. Based on the updated information regarding the shots fired and help call, Officer F unholstered his pistol and went to Officer A's location. Seeing that Subject 1 appeared unarmed and wounded, Officer F holstered his pistol. Officers G and H also arrived on-scene.

Officer A holstered his pistol and broadcast a request for a Rescue Ambulance (RA).

Officers E and F each held Subject 1's arms while Officer H conducted a cursory search for weapons as Subject 1 lay on his back. Officers E and F then handcuffed Subject 1, placing his hands in front of him.

Los Angeles Fire Department Paramedics arrived on scene. Subject 1 was transported to a hospital, where he 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/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 Officer A, B, and D's tactics to warrant formal training.

## **B. Drawing/Exhibiting/Holstering**

The BOPC found Officers A and F's drawing to be in policy.

## **C. Less-Lethal Use of Force**

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

## **D. Lethal Use of Force**

The BOPC found Officer A's use of lethal force to be in policy.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that upon their arrival, Officers A and B properly advised CD of their status and observed the Air Unit overhead. Officer D observed Subject 1 hitting a chain-linked fence with an unknown object and directed Officers A and B to his location. Although Officer D appropriately requested assistance for the officers, it would have been prudent for Officer D to advise the responding patrol unit of these observations instead of directing the ground unit to the subject. It is the responding patrol officers' responsibility to dictate the tactics used in resolving and handling calls for service. The Air Unit is designed to be a tool to assist patrol officers in developing tactics to resolve various incidents. Had this protocol been followed, other options, such as the pre-deployment of less-lethal tools, surveillance of Subject 1 at a distance, or awaiting the arrival of additional resources, may have been used.

At the direction of the Air Unit, Officers A and B proceeded to Subject 1's location and observed the subject striking the chain-link fence with a mattock. At this time, Subject 1's actions did not warrant an exigency to initiate contact. Upon noting the officers' presence, Subject 1 immediately advanced upon them in an aggressive manner. Officer A advised Officer B to obtain the Beanbag Projectile Shotgun from the trunk. The lack of pre-planning created a situation where Officer B had to divide his attention between a potential deadly threat and the retrieval of equipment from the trunk of the police vehicle. Officer B was also not in a position to assist his partner.

After the officer-involved shooting, Officer D appropriately broadcast a help call and coordinated the response of additional units for a crime scene perimeter.

Lastly, the investigation revealed that Officer A was not attired in body armor.

The BOPC found Officer A, B, and D's tactics to warrant formal training.

## **B. Drawing/Exhibiting/Holstering**

The BOPC noted that, as Officer A exited the police vehicle, he observed Subject 1 look directly at him. Subject 1 started walking toward Officer A while holding the mattock. In order to confront an armed subject, Officer A drew his service pistol.

As a result of the information that was broadcast, which included a subject armed with an axe, a possible second subject, and shots fired, Officer F believed that he might encounter a scenario that required deadly force and drew his service pistol.

The BOPC determined that Officers A and F had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

The BOPC found Officers A and F's drawing to be in policy.

## **C. Less-Lethal Use of Force**

The BOPC noted that the subject was standing next to a telephone pole swinging a mattock at a chain-link fence. Officer B exited the police vehicle, took a position behind the opened front passenger door and gave commands to the subject without success. Officer A advised Officer B to retrieve the Beanbag Projectile Shotgun from the trunk of the police vehicle. Officer B retrieved the shotgun and took a standing position at the right front of the police vehicle as the armed subject continued to advance toward Officer A. In response to the immediate threat to his partner, Officer B fired one less lethal sock round from his Beanbag Projectile Shotgun at the subject, striking him in the lower abdominal region.

The BOPC evaluated the circumstances surrounding the use of the Beanbag Projectile Shotgun and determined that it was objectively reasonable. Although the situation had escalated to the point where lethal force was warranted, Officer B elected to use the Beanbag Projectile Shotgun. Officer B deployed the Beanbag Projectile Shotgun from the trunk of the police vehicle and was immediately confronted with a deadly threat.

The BOPC determined that Officer B's decision to use the Beanbag Projectile Shotgun rather than transition to his service pistol was prudent and within Department policy.

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

## **D. Lethal Use of Force**

The BOPC noted that Subject 1 continued to advance toward Officer A while holding the mattock up over his head. Officer A ordered Subject 1 to stop, but Subject 1 kept advancing. As Subject 1 approached the driver's door, Officer A stepped backward to create more distance between him and Subject 1. Officer A heard Subject 1 make a statement which translated to "Kill me, kill me."

Officer A fired one round at Subject 1. The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

The BOPC found Officer A's use of lethal force to be in policy.