

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

LAW ENFORCEMENT RELATED INJURY – 097-05

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No()
Mission	11/02/2005		

Officer(s) Involved in Use of Force	Length of Service
Officer A	10 years, 1 month
Officer B	9 years, 8 months
Officer C	16 years, 10 months
Officer D	1 year, 4 months
Officer F	8 years, 2 months
Officer G	7 months

Reason for Police Contact

Officers responded to a radio call and observed a potentially injured male, Subject 1, who refused to comply with the officers and attempted to flee. The officers used several non- and less-lethal techniques to apprehend him.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 33 years.			

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 10/24/06.

Incident Summary

After hearing an unknown male yelling for help, Witness A called 9-1-1 and several units responded to her residence. Officers A and B arrived first, followed a moment later by Sergeant A and Officers C and D. Officers A, B, C, and D drove to an adjacent

residence where the yelling appeared to originate and obtained consent from the residents to search that residence's backyard.

While searching the yard, Officers A, B, and D looked into the yard of a neighboring residence. There, they saw Subject 1 wearing only boxer shorts and moving around the yard.

The officers ordered Subject 1 to stop and move toward their location. Subject 1 was unresponsive to the officers' orders. The officers noticed that Subject 1 had lacerations all over his body, and Officer A also noticed that Subject 1 was foaming at the mouth and perspiring. Subject 1 then jumped over a fence into the backyard of an adjacent residence. Officers A, B, and C requested additional units, and Officer B also requested an Air Unit.

Officers A retrieved a TASER and Officer B retrieved a beanbag shotgun from their vehicle.

The officers then formed a perimeter: Officers A and B then positioned themselves near the front of the residence where Subject 1 had jumped. Meanwhile, Officer C repositioned himself at a nearby intersection. Officer D stayed in the backyard of the first residence the officers searched. Sergeant A repositioned himself at a nearby intersection.

Shortly thereafter, Sergeant B and Officer E arrived over the scene in an Air Unit and located Subject 1 in the backyard where he had jumped. Officers F and G arrived at the scene and joined Officers A and B near the front of the residence.

Officers A, B, and C then walked along the side of the house and entered the backyard. Sergeant A followed Officers A, B, and C in the backyard. Subject 1 had moved toward a far corner of the yard.

Officers F and G held their positions, and Officer G stood on a pile of debris in order to see into the backyard. Officer G reported what he saw to Officer F.

When Officer C entered the yard, he believed that he saw Subject 1 holding some kind of long stick, and he drew his pistol in response. Officers A and B issued verbal commands to Subject 1 to stop moving and to get down on the ground, but Subject 1 was unresponsive. Subject 1 then turned toward a fence that bordered the residence and began to climb it. At this point, Officer C realized that Subject 1 did not appear to be holding any kind of a stick in his hand, so he re-holstered his pistol.

Noting that Subject 1 was unresponsive to commands, and in order to prevent him from fleeing to another residence, Officer B fired one round from the beanbag shotgun at Subject 1, which struck Subject 1's leg. Subject 1 maintained the same position on the fence.

Sergeant A entered the backyard as the beanbag shotgun was being fired. The Air Unit broadcast a request for additional officers to respond to the backyard. In response, Officer F, without first notifying Officer G of his intentions, entered the backyard, followed later by Officer G.

Meanwhile, when Officer A saw Subject 1 attempting to climb the fence, he moved closer to Subject 1 and fired the TASER at him, causing him to release his grip on the fence and fall to the ground. Subject 1 attempted to get up, and Officer A used the TASER twice more.

Subject 1 moved toward Officer C, who kicked Subject 1 and knocked him to the ground. Officers A, B, C, F, and G conducted a team takedown of Subject 1. Officer D then responded to the backyard and assisted. Subject 1 continued to resist, but was eventually handcuffed.

Subject 1 continued to struggle by kicking his feet, and Officer C applied the Hobble Restraint Device (HRD) to Subject 1's ankles. Once the HRD was in place, some of the officers present attempted to sit Subject 1 in an upright position. Subject 1 did not comply, so the officers rolled Subject 1 onto his side.

Meanwhile, Officers C and D spoke to the occupants of the residents, Subject 1's parents, who verified that he lived at that address.

Sergeant A requested a Rescue Ambulance (RA), and Subject 1 was transported to the hospital where he was admitted and treated for bleeding in his brain.

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, B, C, D, F, and G's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer C's drawing to be in policy.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

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

Basis for Findings

A. Tactics

The BOPC noted that Officer D was left alone while as Officers A, B, and C pursued Subject 1. It would have been safer to leave a second officer with Officer D. Officer F, a field training officer, left his partner, Officer G, when Officer F decided to enter the backyard.

Sergeant A did not initially join the officers in the rear of the residence. It would have been more appropriate for Sergeant A to accompany the officers to provide supervisory oversight, rather than remaining near the front of the residence. Sergeant A should have also taken an active role and participated in the planning of the arrest team. Once Sergeant A did enter the backyard, it would have been safer for Sergeant A to enter the location through the same side that the arrest team had entered.

Officers A and B did not equip themselves with batons. This additional resource could have provided the officers with an additional force option to resolve the incident. Furthermore, Officer C was not wearing his Department-issued ballistic vest at the time of the incident.

There appeared to be a substantial lack of clear communication throughout the course of this incident. It does not appear that Sergeant A informed the other officers present of his movements along the side of the residence near where Subject 1 was located, creating a potential crossfire situation. Also, Officer B did not give any notification to his fellow officers that he planned to fire the beanbag shotgun, and Officer A did not give any notification that he planned to discharge the TASER.

The BOPC found Sergeant A and Officers A, B, C, D, F, and G's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that upon entering the backyard, Officer C believed that Subject 1 was armed with a long stick or broom. Based on this belief, Officer C drew his service pistol, but holstered it when he realized that what he believed to be a weapon was actually the branches of a tree that Subject 1 was standing beside.

The BOPC determined that Officer C had sufficient information to believe that Subject 1 had possibly armed himself and that the incident might escalate to the point where deadly force would be justified.

The BOPC found Officer C's drawing to be in policy.

C. Non-Lethal Use of Force

The BOPC noted that the final activation of the TASER against Subject 1 caused him to lay flat on the ground, and, that when Officers A, B and C approached him to apply handcuffs, Subject 1 began to rise to his feet. Officer C then delivered a front kick to Subject 1's back, forcing him to the ground in a prone position again.

To prevent Subject 1 from rising to his feet again, Officers A, B, C, D, F, and G used their bodyweight, firm grips, and physical force. Officer B also struck Subject 1 once on the right shoulder with his fist. This strike gave the officers an opportunity to control Subject 1's arms, and they were able to apply two sets of handcuffs to his wrists and an HRD to his ankles.

The BOPC determined that the non-lethal force utilized by the officers was reasonable in order to overcome Subject 1's resistance.

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

D. Less-Lethal Use of Force

The BOPC noted that Subject 1 attempted to flee from the officers. Officer B fired the Beanbag Projectile Shotgun at Subject 1. It would have been safer for Officer B to alert the surrounding officers of his intention to deploy the beanbag shotgun. Also, Officer B did not have Subject 1 in a clear line of sight, causing the beanbag round to strike a tree branch and, thereby, breaking the "Super Sock" round.

The BOPC determined that Officer B's less-lethal use of the Beanbag Projectile Shotgun was reasonable to overcome Subject 1's resistance, but that Officer B would benefit from additional training regarding the proper verbalization required prior to using the weapon.

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

The BOPC also noted that Officer A fired the TASER, causing Subject 1 to fall to the ground. Subject 1, however, refused to comply with the officers. Officer A used the TASER several more times. The BOPC determined that Officer A's use of the TASER was reasonable to overcome Subject 1's resistance and to take him into custody.

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