

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

LAW ENFORCEMENT RELATED INJURY – 098-07

Division	Date	Duty-On (X) Off()	Uniform- Yes(X) No()
77 th Street	10/28/2007		

Officer(s) Involved in Use of Force	Length of Service
Officer A	12 years, 11 months
Officer B	13 years, 1 month
Officer C	5 years, 3 months
Officer D	1 year, 5 months
Officer E	5 years, 3 months
Officer F	10 months

Reason for Police Contact

Witness B called 911 after Subject 1 committed an assault. Officers encountered Subject 1, who was naked and running on the street. Multiple uses of force occurred as officers attempted to take Subject 1 into custody. Subject 1 sustained injuries that resulted in his admission to hospital.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 53 years.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 09/16/08.

Incident Summary

Victim A was inside the bedroom of her residence when she heard a “rumbling noise” coming from another bedroom of her house where her friend, Subject 1, was residing. Victim A walked down the hallway and opened the door to Subject 1’s bedroom. Victim A observed Subject 1 standing in the bedroom naked. Victim A asked Subject 1 what

the cause of the noise was. Subject 1 responded that he was exercising and would talk to her later.

Victim A returned to her bedroom. A few minutes later the noise resumed and Victim A returned to Subject 1's bedroom. When Victim A stepped inside the bedroom, Subject 1 grabbed her around the neck with one hand, forced her onto the bed, covered her nose and mouth and straddled her.

Victim A managed to force Subject 1's hand from her mouth and yelled for help. Shortly thereafter, Victim A heard knocking at the front door of her residence and her neighbor, Witness A, asking if everything was all right. Subject 1 then released his grip on Victim A and ran out of the bedroom, down the hallway and out of the front door.

Meanwhile, Victim A's mother, Witness B, and her boyfriend, Witness C, were asleep in another bedroom of Victim A's residence. Witnesses B and C were unaware of the incident until they were awakened by knocking at the front door of the residence. When Witness B came out of her room, she observed Victim A bleeding from her mouth and saw a bite mark on her arm. Witness B was told by her daughter that Subject 1 had bitten her and tried to choke her. Witness B called 911. Communications Division (CD) assigned Officers A and B to respond to the incident.

Meanwhile, Victim B was staying in a nearby apartment. Victim B heard noises downstairs coming from a carport area. Victim B went downstairs to the carport area to ascertain what the source of the noise was. Victim B discovered Subject 1 standing naked in the carport area. Subject 1 appeared startled by her presence and swung at her, striking her in the face underneath her right eye. After being struck, Victim B ran back to her apartment.

Witnesses A and C were standing in the front yard of Victim A's residence, awaiting the arrival of the police and paramedics when they saw Subject 1 walking towards them. Subject 1 approached Witnesses A and C, and, without warning, struck Witness A on the mouth with his right hand, cutting Witness A's lip and knocking a tooth out. Subject 1 then attempted to strike Witness C; however, Witness C grabbed Subject 1 and struggled with him and they both fell into some shrubbery. Witness C then disengaged, stood up, and kicked Subject 1 in his groin. Subject 1 stood up and ran.

Officers A and B advised CD that they had arrived at the call location. Los Angeles Fire Department Personnel (LAFD) were present at the scene and were treating Victim A for her injuries. An LAFD firefighter told the officers that the subject was a naked male who ran away. Officer B interviewed Victim A, who stated that Subject 1 had tried to choke her and had bitten her arm and finger. Officer B observed the injuries to Victim A's arm and finger. Officer B informed Officer A what Victim A had told her about the assault.

Officers A and B then left the location to search for Subject 1. Officer B requested an air unit to assist in the search. Officer A saw a female pointing towards a building. When the officers looked in the direction that the female had pointed, they observed

Subject 1, who was naked, crouched in front of a security gate to the building. Officer A parked the vehicle and both officers exited their vehicle. Officer B broadcast that the officers had found the subject and requested back-up.

Note: Officer B assumed that Subject 1 was under the influence of Phencyclidine (PCP), or was mentally ill.

According to Officer A, Officer A drew his baton and ordered Subject 1 to get down on the ground. Meanwhile, Officer B drew a TASER and pointed it at Subject 1 (Officer B's baton was left in the police vehicle). Subject 1 was yelling incoherently, did not comply with Officer A's order and assumed a fighting stance. Subject 1 then advanced toward the officers with his hands in the air and fists clenched. Officer B told Officer A to move away from Subject 1. Officer B discharged the TASER at Subject 1, with the darts striking him in the front torso area. Subject 1 reacted to the TASER by shaking and yelling, and then charged toward Officer B. In defense of his partner, Officer A then used his baton to deliver a series of three to four power strokes, striking Subject 1 on his lower legs and on his elbow. During the strikes, Subject 1 grabbed the baton. Officer A then used a front kick to force Subject 1 to let go of the baton. Upon being kicked, Subject 1 released his hold on the baton and ran into the street. Officer A followed Subject 1, telling him to get down and stop running. Subject 1 then turned and moved toward Officer A in an aggressive manner, with his hands in the air. Officer A interpreted this as Subject 1 attacking him and responded by delivering four to five power strokes with his baton to Subject 1's lower legs and elbow. Subject 1 then moved toward Officer B. As Officer A followed Subject 1, Officer B sprayed the approaching Subject 1 with oleoresin capsicum (OC) spray.

Note: Officer A was asked if he warned Subject 1 prior to striking him with his baton. Officer A stated he did not because, "Just the timing. He attempted to assault us before I had a chance to advise him of... the baton."

According to Officer B, when the officers exited their vehicle, Officer A instructed Subject 1 to put his hands in the air and began to approach him. Subject 1 then assumed a fighting stance, began yelling and flailing his arms, and advanced toward Officer A. Officer A began delivering baton strikes to Subject 1; however, the strikes appeared ineffective and seemed only to anger Subject 1. Officer B then drew a TASER and told Officer A to back up. Officer B then discharged the TASER at Subject 1 and both darts struck Subject 1's chest. Upon being struck with the TASER, Subject 1 immediately fell to his knees and then went down on his stomach. Officer A then told Subject 1 to put his hands behind his back, but Subject 1 did not comply. At the conclusion of the TASER's five-second discharge, Subject 1 stood up. Officer B then activated a second discharge. Subject 1 fell to the ground again, where he lay in a fetal position. After the second discharge, Subject 1 got back up again. Officer B believed the TASER was discharged a third time and that Subject 1 again fell into a fetal position. Officer B then noticed that Officer A had become entangled in the TASER wires and that the darts became detached from Subject 1. Subject 1 then moved toward Officer

B, screaming and with fists clenched. Officer B responded by throwing the TASER to the ground, drawing OC spray and spraying Subject 1.

Note: A review of the TASER Data Port Download Program revealed that Officer B actually activated the TASER only twice.

Note: Officer B said that giving a verbal warning to Subject 1 prior to discharging the TASER wasn't practical.

The OC spray did not have an effect on Subject 1 and he continued toward Officer B. As Subject 1 approached Officer B, Subject 1 raised his fists as though he was going to strike Officer B. Officer B then ran from Subject 1 in an attempt to avoid the blows. Subject 1 caught up to Officer B, grabbed Officer B's hair, then struck Officer B approximately five times on the head with his fist.

When he saw Subject 1 striking Officer B, Officer A approached Subject 1 from behind and jabbed Subject 1 several times in his lower back with his baton. After being struck with the baton, Subject 1 stopped the attack on Officer B and ran. Both officers followed Subject 1 on foot. Officer B broadcast that he needed assistance and provided CD with descriptive details of Subject 1's appearance and the officers' location.

Officers A and B followed Subject 1 as he ran to a vehicle. The officers observed a male asleep inside the parked vehicle's driver's seat. Subject 1 tried to open the vehicle doors without success. The officers yelled to the male to leave the area. The male woke up and drove away.

Officer B also broadcast that using OC and a TASER on Subject 1 had not been effective and that Officers A and B needed a beanbag shotgun and at least four officers for a team take-down.

A back-up unit, comprised of Officers C and D, arrived. En route to the call the officers had heard Officer B's radio broadcast about employing OC spray and a TASER, and that these had proved ineffective. Based on this information, both officers decided to deploy the beanbag projectile shotgun which they carried in the trunk of their vehicle. After the officers exited their vehicle, Officer D observed Subject 1 in the street. Officer D observed that Subject 1 was sweating, even though it was a cold night, was screaming, and was running back and forth at the officers with his arms raised and his hands clenched into fists. Officer D believed Subject 1 was going to attack the officers. Officer D also formed the impression that Subject 1 had a mental condition or was under the influence of a stimulant.

As Officer D prepared the beanbag projectile shotgun for use, Officer B advised that Subject 1 had struck Officer B several times on the head. Officer D believed that Subject 1, having already struck Officer B, was going to attack the officers again. Officers were commanding Subject 1 to get on the ground. To prevent an attack on the

officers, Officer D approached Subject 1 and verbally warned that he would be shot with the beanbag projectile shotgun if he did not comply, and that it was going to hurt.

Officer D then aimed for Subject 1's torso area and fired a super-sock round from the beanbag projectile shotgun. Although Officer D believed the round struck Subject 1 in the stomach, it did not appear to have an effect on him.

Officer D then observed Subject 1 move toward Officer A in an aggressive manner with his fists clenched. Officer D adjusted position and continued to track Subject 1 with the beanbag projectile shotgun. Officer D warned Subject 1 that if he did not stop, he would be shot again. Officer D believed that Subject 1 was going to cause the officers great bodily injury and attack them if he was not shot again. Subject 1 did not comply with Officer D's command, so Officer D aimed for the center of Subject 1's body and fired a second super-sock round. Officer D believed the round struck Subject 1 in his torso.

Officer D observed that the second round did not have an effect on Subject 1. Subject 1 then ran up the driveway of a residence. Officer D moved forward onto the driveway in order to keep Subject 1 in sight.

Officer D then gave a third warning to Subject 1 as Officer D prepared to fire the beanbag projectile shotgun again. Subject 1 continued to jump up and down, scream, and clench his fists. Officer D then fired a third super-sock round at Subject 1's torso area; however, the third round impacted the left side of Subject 1's face. Upon being struck by the third round, Subject 1 put his hands toward his face. Officers then moved in and performed a team take-down.

Meanwhile, Officers E and F had responded to the scene. After Subject 1 was struck with the third round, Officers A and C, followed by Officers E and F, began to approach Subject 1 in order to take him into custody. As they approached, Officer A ordered Subject 1 to stay down. Subject 1, who had placed both hands underneath his body, appeared to Officer A to be attempting to push himself off the ground. Officer A believed that Subject 1 was going to assault the officers. Officer C, along with Officer A, then used body weight to keep Subject 1 from pushing up. Officer A used his baton to pry Subject 1's right arm from underneath him, and in a "chopping motion" on the back of his legs, to prevent Subject 1 from getting up off the ground.

Meanwhile, Officer C tried to grab Subject 1's left arm to handcuff him; however, Subject 1 would not release his left arm from underneath his body. Officer C then used his right knee to strike Subject 1 two to three times on his shoulder in an effort to gain control of the left arm. As he applied the strikes, Officer C ordered Subject 1 to stop resisting. The officers then completed the handcuffing of Subject 1. Meanwhile, Officer B approached and assisted by standing on the back of Subject 1's ankles to prevent Subject 1 from kicking.

Officer A then asked for a Hobble Restraint Device (HRD). Officer F stated that he had a HRD. Officer F applied the HRD to Subject 1's legs. Officer A then tightened the HRD around Subject 1's legs.

As Subject 1 was being restrained, Officers G and H arrived at the scene. The officers observed that Subject 1 was lying face down on the ground and several officers were trying to handcuff him. Once the HRD was applied to Subject 1's legs, Officer H held onto the HRD cord.

Officer G broadcast that the Subject 1 was in custody, and Officer B requested the response of a rescue ambulance (RA).

An RA responded and officers assisted Los Angeles Fire Department (LAFD) personnel in lifting Subject 1 onto a gurney. Subject 1 kicked his legs and spit. The LAFD personnel requested that Subject 1 remain handcuffed for transportation. Subject 1 was then transported to a hospital, where he was admitted for treatment of injuries he had sustained.

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 and F's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that from the onset, Officers A and B were confronted with a violent and aggressive individual, who refused to surrender.

As in most rapidly unfolding tactical scenarios, there have been various aspects identified that warrant improvement in the event the personnel involved are presented with an incident with similar circumstances. To that end, the BOPC would have preferred that Officers A and B had provided a supplemental crime broadcast that would have included the appropriate crime, last known direction of travel, physical description and the fact that Subject 1 was naked. This would have provided responding officers with pertinent information to better evaluate Subject 1's probable mental state and drug and/or alcohol intoxication level.

Officers A and B initiated contact with Subject 1, who was naked and was known to have been previously violent. Officers A and B believed Subject 1 was possibly under the influence of the drug PCP. Officer B advised CD that they had located Subject 1, but did not provide their updated location nor request additional units. Officer B broadcast a backup request but did not provide their updated location. This caused CD to inaccurately broadcast the back-up location as the residence at the original call for service location.

The initial physical altercation with Subject 1 involved the use of the baton, TASER and OC. After Officer B discharged the TASER, Officer B discarded it in the belief that there was insufficient time to secure it, and that Subject 1 could overpower Officer B and use the TASER against the officers. This decision was prudent under the circumstances. Officer B discarded the TASER in a reasonable manner and location that provided the ability to maintain a tactical advantage.

As Subject 1 charged at Officer B with closed fists, Officer B turned away to avert the attack. Subject 1 was then able to grab Officer B's hair with his left hand and strike Officer B on the head approximately five times with his right hand. The BOPC would have preferred that Officer B maintained a frontal position with Subject 1 as opposed to turning away from him. By turning away from Subject 1, Officer B had a reduced ability to ward off the attack and increased the possibility that Subject 1 could gain control of Officer B's service pistol or other equipment.

The BOPC noted that as Subject 1 struck Officer B on the head, Officer A utilized his baton to jab Subject 1 in the back to thwart the attack. Although Subject 1 ceased his attack on Officer B, the severity of the attack warranted consideration for the application of more effective force options.

After Officer A jabbed Subject 1 with his baton, Officer B then broadcast a request for assistance along with their correct location. This updated location was not provided to CD until after Officers A and B initially located Subject 1.

Once the additional officers arrived and Officer D deployed the beanbag shotgun, there was no clearly identified team leader. Officer B directed Officer D to fire the beanbag shotgun; however, Officer D was not aware of any direction being given. The BOPC would have preferred that there be a designated team leader at this stage of the incident to ensure a coordinated effort.

Officer D advised Subject 1 that the beanbag shotgun was going to be used prior to each of the three rounds fired. None of the officers at the scene recalled hearing this warning. When it is reasonable to provide a warning prior to firing the beanbag shotgun, it should be given loud enough for adjacent officers to hear.

Although it was evident that Subject 1 was moving about aggressively and unpredictably, affording a somewhat reduced degree of target acquisition, Officer D indicated that the super-sock rounds were targeted at Subject 1's stomach and chest area. The primary target location is the abdomen, with the aiming point being the navel or belt-line. The secondary target areas are the arms, hands and legs.

Officer D did not eject the third expended shotgun shell and chamber the fourth round immediately following the firing of the third round. This would have created a delay had an additional round needed to be fired. While Officer D did ultimately chamber the fourth round, it was not accomplished immediately. After firing a super-sock round, officers should chamber an additional round and assess the situation, then place the safety in the "on" position.

After the third and final super-sock round had been fired at Subject 1, he fell to the ground. As officers were handcuffing Subject 1 and prior to the HRD being applied, Officer B stood on Subject 1's ankles. Officer B believed that this was a more effective and stronger means of holding his legs. Officer B is reminded that stepping on subjects' limbs can cause an officer to become unbalanced and possibly fall; other options to accomplish similar control are preferred.

The BOPC noted that Officer B's baton was left in the police vehicle throughout this incident. Officers should maintain all required equipment with them, thus affording various force options if necessary.

The BOPC determined that Officers A, B, C, D, E and F will benefit from additional tactical training. The involved personnel would be best served by attending a formal debrief as a group at Training Division, to evaluate those areas where tactical decisions were sound and where improvements could have been made.

The BOPC found Officers' A, B, C, D, E and F's tactics to warrant formal training.

B. Drawing and Exhibiting

The BOPC noted that no officers drew or exhibited firearms during this incident.

C. Non- Lethal Use of Force

The BOPC noted that once Officers A and B located Subject 1, multiple uses of force occurred at two separate locations. Subject 1, who was unresponsive to Officers A and B's commands to surrender, charged at Officer A, and Officer A utilized a power-stroke technique, striking Subject 1 three to four times on one of his lower legs, with one of the strikes possibly making contact with Subject 1's left elbow. Subject 1 then grabbed the long end of Officer A's baton and Officer A delivered a front kick to Subject 1's body, effectively regaining control of his baton. Officer B recognized that the baton strikes were ineffective and removed the TASER from its holder, discharging it at Subject 1.

Subject 1 then ran toward Officer A, and Officer A used a power-stroke technique and struck Subject 1 four to five times on his lower legs and mid-torso. Subject 1 then re-directed his attention to Officer B and began to approach. Officer B advised Officer A that Officer B was going to deploy OC spray at Subject 1 and did so, striking Subject 1 in the face with two or three, three to four second bursts.

The OC spray had little effect on Subject 1, and he quickly advanced toward Officer B with his fists raised. Officer B turned away from Subject 1 in an attempt to thwart his attack. Subject 1 grabbed Officer B by the hair and struck Officer B approximately five times on the head with his fist. Officer A utilized a jab technique with the long-end of his baton, striking Subject 1 two or three times on his lower back. Subject 1 ran and stopped in front of a church, as Officers C, D, E and F arrived to assist. Officer D deployed the beanbag shotgun, firing it at Subject 1 a total of three times, causing him to ultimately fall to the ground after the third round.

Subject 1 began to push himself up from the ground and Officers A, B, C, E and F used their bodyweight to prevent him from escaping. Officer C grabbed Subject 1's left arm and applied bodyweight to the rear of Subject 1's left shoulder. Officer C ordered Subject 1 several times to give him his left arm, although Subject 1 refused. Officer C struck Subject 1 two to three times on his left arm and shoulder with his right knee, eventually obtaining control of Subject 1's left arm. Officer A struck Subject 1 three to four times on his lower legs with his baton, utilizing a chopping motion to gain his compliance to be handcuffed. Officer E placed his right knee on Subject 1's right upper back and head area and his left knee in Subject 1's lower back to prevent him from moving about. Officers A and E grabbed Subject 1's right arm and pulled it from under him and placed a handcuff on his right wrist. Officers C and F placed Subject 1's left hand behind his back and completed the handcuffing.

After being handcuffed, Subject 1 continued to behave aggressively. The officers applied a HRD to Subject 1's legs in order to control his movements and ensured that he was placed in an upright seated or left lateral position.

The BOPC determined that Officers A, B, C, E and F's non-lethal use of force was reasonable to overcome Subject 1's aggressive combative actions.

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

D. Less- Lethal Use of Force

Officer B

The BOPC noted that once the initial baton strikes by Officer A proved ineffective, Officer B advised Officer A to move away from Subject 1 in order to safely deploy the TASER. Officer B discharged the TASER, striking Subject 1's front upper torso. Subject 1 went to his knees and then to his stomach, but after the five second activation cycle, Subject 1 stood and resumed a fighting stance. As Subject 1 again approached Officer B, the TASER was re-activated, with the darts still attached to Subject 1. Subject 1 screamed and fell to the ground in a fetal position on his left side. It was determined that the spontaneous and ongoing nature of the attack precluded Officer B from providing a verbal warning before the activation of the TASER.

Officer D

The BOPC noted that Officer D arrived as Subject 1 was in front of the church. Officer D deployed the beanbag shotgun based upon Officer B's previous request. Officer D fired three separate super-sock rounds from the beanbag shotgun at Subject 1 to stop his aggressive and combative actions, assessing between each round. Officer D warned Subject 1 that the beanbag shotgun would be used and that it was likely to cause injury prior to firing each of the three super-sock rounds.

As Subject 1 moved about aggressively and unpredictably, charging toward the officers, Officer D aimed the beanbag shotgun at Subject 1's center torso and fired one super-sock round, striking him in the abdomen. This super-sock round was ineffective and Subject 1 continued to move about aggressively, charging toward the officers. Officer D fired a second super-sock round, striking Subject 1 in the upper right chest. Subject 1 again appeared unaffected and moved to the rear of a vehicle that was backed into the driveway. Subject 1 continued to move around and charge toward the officers in a threatening manner. Officer D fired a third and final super-sock round at Subject 1, striking him on the face. Subject 1 fell to the lawn and Officers A, B C, E and F approached him, ultimately taking him into custody.

The BOPC determined that Officers B and D's less-lethal use of force was reasonable to overcome Subject 1's aggressive combative actions.

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