

ABRIDGED SUMMARY OF A LAW ENFORCEMENT RELATED INJURY AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

LAW ENFORCEMENT-RELATED INJURY – 008-08

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
Harbor	01/29/08		

Officer(s) Involved in Use of Force	Length of Service
Officer A	2 years, 0 months

Reason for Police Contact

Officers responded to a call of two subjects throwing objects from the overpass of a freeway. The officers located Subject 1 sitting on the railing of the overpass. As Subject 1 stepped from the railing to the ground, officers fired beanbag rounds, striking Subject 1 in his torso. Subject 1 then returned to the railing and jumped to the street below.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Male: 36 years old.			

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 subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) 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. 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.

The following incident was adjudicated by the BOPC on December 16, 2008.

Incident Summary

Officers B and E responded to a radio call of two subjects throwing flares onto a freeway. Upon arrival, Officer E observed Subject 1 sitting on top of a railing along the

freeway. As the officers drove closer, Officer E noticed that Subject 1 had a sword on his lap. Officer E informed Officer B of his observations.

Officers B and E exited their vehicle and they both drew their service pistols. Officers B and E then ordered the subject to drop the sword. The subject responded by making some hand gestures then extending his middle finger. Based on his behavior, Officer B believed that Subject 1 might be hearing impaired.

Officer B broadcast to Communications Division his observations of Subject 1, including that he was in possession of a sword. To assist in communicating with Subject 1, the officers made a request for a System wide Mental Assessment Response Team (SMART) and an American Sign Language interpreter.

Meanwhile, additional units arrived at the scene. Among them were Captain A, Sergeant A, and Officers A, C, D, and F. Captain A requested a Special Weapons and Tactics (SWAT) crisis negotiator; however, he did not communicate this information to Sergeant A or other officers on scene.

In the mean time, Subject 1 kept possession of his sword and maintained his position on the railing.

Sergeant A directed Officer A to arm himself with a beanbag shotgun and directed Officer B to be responsible for using lethal force, should it become necessary. Sergeant A told the officers that if Subject 1 stepped down off the rail, to deploy the beanbag shotgun in an attempt to get Subject 1 to drop his sword.

Officer C saw Subject 1 make a gesture as if he was thirsty. Officer C threw a bottle of water at Subject 1's feet. After initially hesitating, in an attempt to retrieve the water bottle, Subject 1 climbed down from the railing with the sword in his hand. Once Subject 1 stepped down, Officer A fired one beanbag round at him. Subject 1 appeared stunned, but he did not drop his sword. Officer A fired two more rounds at Subject 1.

After being struck by the third beanbag round, Subject 1 dropped his sword, jumped up onto the railing, and jumped over the railing to the street below.

Once Subject 1 jumped from the railing, Officer D placed his beanbag shotgun on the ground so he could assist the other officers in taking Subject 1 into custody. Officer D failed to recover his weapon.

Subject 1 was transported to a nearby hospital for treatment of his injuries.

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 while 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 that the tactics of Captain A, Sergeant A, and Officers A, B, C, D, E, and F warranted a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officers B and E's drawing to be in policy.

C. Less-Lethal Use of Force

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

Basis for Findings

In adjudicating this incident, the BOPC considered that:

Tactics

1. Communications between Captain A and Sergeant A was limited. For example, Captain A did not communicate to Sergeant A that SWAT was responding to the location.

It would have been prudent for Captain A to have advised Sergeant A of all pertinent information including that SWAT was responding to the location.

2. Officer B was designated as the lethal force officer on the tactical team; however, he did not have his service pistol drawn while acting in that capacity.

As Subject 1 was armed with a sword and in close proximity to the officers, it would have been prudent for Officer B to have had his service pistol drawn.

3. Officer C threw a water bottle to Subject 1 without communicating his intentions to any of his fellow officers.

It would have been prudent for Officer C to communicate his intentions to Sergeant A prior to throwing the water bottle to Subject 1.

4. After Subject 1 jumped from the railing, Officer D placed his beanbag shotgun on the ground and left it unsecured and unattended.

It would have been prudent for Officer D not to have left his weapon unattended.

5. Officer C was not informed of Sergeant A's instruction to the other officers that the beanbag shotgun would be deployed against Subject 1 if he were to step down from the railing.

It would have been prudent to maintain communication amongst all officers involved in the coordinated tactical effort.

The BOPC found that the tactics of Captain A, Sergeant A, and Officers A, B, C, D, E, and F warranted a tactical debrief.

B. Drawing/Exhibiting/Holstering

As Officers B and E arrived at a call for service, they observed Subject 1 sitting on a freeway railing holding a sword. As the officers approached, Subject 1 did not relinquish the sword. As such, Officers B and E had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary and each drew their service pistol.

The BOPC found Officers B and E's drawing to be in policy.

C. Less-lethal Use of Force

Subject 1 was ordered by officers to drop his sword but failed to comply. The BOPC determined that the force used by Officer A was reasonable based on Subject 1's actions. The BOPC found that Officer A's use of force was reasonable based on the standards set forth in Department Policy.

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