

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

**OFFICER-INVOLVED SHOOTING – 041-14**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
West Valley	7/25/14		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	2 years, 2 months
Officer B	1 year, 1 month
Officer C	5 years, 5 months

**Reason for Police Contact**

Officers responded to a radio call of a vandalism subject at a residence. Upon arrival they were confronted by a male, the Subject, armed with rocks and two broomsticks. When the Subject advanced toward the officers with the broomsticks, an OIS ensued.

<b>Suspect</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 39 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 recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 June 30, 2014.

## **Incident Summary**

Witness A was inside his residence when he heard loud banging on the front door. He looked out of the front window of his residence and observed a male, later identified as the Subject, talking to himself on the porch while holding a broom and scooper in his hands. The Subject yelled something unintelligible and moved off of the porch and into the front yard. He reached down, picked up some white decorative rocks from the ground in the front yard and threw them at the front windows of the house. Witness A then observed the Subject pick up more rocks, turn around and throw them at the cars parked at the west curb in front of his residence. The Subject approached a parked vehicle and used the broom and the scooper to strike the window and the side of one of the parked vehicles. For the next several minutes, the Subject continued to throw rocks at the house, knocking and yelling at the front door, and pacing between the front yard of the residence and along the west sidewalk. Based upon these observations, Witness A telephoned the police.

Communications Division (CD) broadcast a radio call of a vandalism subject at the residence, and assigned the radio call to Officers A and B. The comments of the call indicated that the subject, wearing a dark colored jacket, was in front of the location throwing rocks at the residence.

Officers C and D were in the area and had just handled a prowler subject radio call. The description of the subject of their radio call matched the description of the subject of the vandalism radio call. Officers C and D advised CD that this radio call was related to theirs and responded to the location.

As Officers A and B arrived in the area, Officer A advised CD of their status and location. The officers were unable to locate the subject. Officers A and B met with Officers C and D on the street, but each remained in their vehicles. Officer C stated to Officers A and B that this was possibly the same subject from their previous radio call. As they spoke, Officer C heard the sound of rustling and a male voice coming from just north of their location, and he proceeded to drive north.

Utilizing the spotlight on the driver's side of their police vehicle, Officers C and D observed the Subject standing in the front yard of a residence. Officer C parked just south of the location in the median lane. The officers exited their vehicle and walked toward the front yard. As they approached, the Subject shouted in Spanish, "Turn them off, turn them off." Officer C believed he was referring to the spotlight. Officers C and D observed the Subject holding a broomstick and a pole in his hands by his side. Officer D observed that one of the sticks had a metal prong at the end of it. Both officers unholstered their pistols. Officer C called out to the Subject in Spanish and ordered him to drop the sticks and to show him his hands. The Subject bent down and picked up a handful of rocks from the ground. Officer D told his partner that the Subject was going to throw the rocks at them. The Subject threw the rocks toward Officers C and D, who were approximately 50 feet away.

Officer D broadcast a backup request to CD for a "415 man" via his handheld radio. While Officer D pointed his pistol at the Subject, Officer C walked back to the police vehicle and retrieved his TASER. After retrieving the TASER, Officer C continued to verbalize with the Subject in Spanish, and Officer D verbalized in English, telling him to drop the sticks.

Upon hearing the back-up request, Officer B conducted a U-turn, drove north and parked behind Officers C and D's police vehicle. As they exited, Officers C and D advised them that the Subject was throwing rocks.

The Subject was facing Officer D, who had his pistol pointed toward the Subject. He shouted at him to drop what he had in his hand. Officers C and D were north of Officers A and B in the street. The Subject threw the rocks in Officer D's direction. After the Subject threw the rocks, all four officers moved to a row of parked vehicles on the west side of the street, and utilized them as cover. Because the Subject had thrown rocks at them and held the two sticks in his hands, Officers A and B unholstered their pistols. As the officers held their positions behind the vehicles, the Subject again bent down and picked up additional rocks. The Subject threw the rocks again, striking the parked vehicles. The Subject then bent down a fourth time, picked up more rocks and threw them at the officers.

The Subject again picked up more rocks, held them in his right hand and turned in Officer B's direction. Officer B ordered the Subject to drop the rocks and to put the sticks down. Officer B activated the light on his pistol to get a better view of the Subject and told him that if he continued to throw rocks, he might shoot him. The Subject paused briefly, which led Officer B to believe that the Subject heard and understood what he said. However, the Subject ignored Officer B's commands and threw the rocks in his direction. During this time, the officers continued to order the Subject, in both Spanish and English, to drop what was in his hands. The Subject responded with expletives.

Officers E and F arrived at the scene and were positioned north of Officers C and D in the street. Officer G arrived and positioned himself in the street, between Officers A and B at the south side of the location. As Officers E and F exited their vehicle, the officers asked who had a beanbag shotgun. Officer A stated that he did and retrieved the beanbag shotgun from the trunk of his police vehicle.

As the Subject continued to disregard the officers' commands, Officer C advised the officers that he would use the TASER on the Subject when he had a clear target. Officers A and D heard Officer C yell at the Subject that if he did not put down the sticks and stop throwing rocks, he was going to be tased.

The Subject began to walk back toward the north side of the yard, turned, and then walked west along the north side of the house. The officers believed that the Subject's intention was to jump the fence or run to the back of the property. In response to the Subject's actions, the officers deployed onto the sidewalk, just east of the residence. Officers B and C took a position of cover behind a tree located slightly south of the

pedestrian gate of the location's front yard. Officers A and G took positions of cover south of the pedestrian gate behind cinderblock pillars, approximately four feet tall. Officers D, E and F took positions of cover north of the pedestrian gate behind cinderblock pillars, approximately four feet tall.

While the Subject continued pacing back and forth in the yard, the officers discussed a tactical plan. Officer C was designated to deploy the TASER, Officer A was designated to deploy the beanbag shotgun, and Officers B and D were designated cover officers. Once the subject complied, Officers C, E and F would assume the role of the arrest team.

As the Subject moved back and forth in the front yard, he would intermittently raise the sticks over his head and make lunging motions toward the officers. At one point during the incident, the Subject walked down the front yard walkway, shut the pedestrian gate, and ran south in the front yard. He then turned and began running in a "zigzag" pattern north and south in the yard, which caused the officers to slightly shift their positions to mimic the Subject's movements, in case the Subject attempted to escape the front yard.

Officer C moved up to the pedestrian gate and pushed it open. He re-deployed and stood slightly north of the tree in front of the pedestrian gate of the location. The officers continued to order the Subject to drop the sticks in English and Spanish.

Officer B moved from his position at the tree to the sidewalk area and utilized the second cinderblock pillar south of the pedestrian gate as cover. The Subject paced to the west side of the walkway close to the house, held the sticks at his shoulder level, and began walking forward toward Officer C. As he approached Officer C's position, Officers B and F told Officer C to tase the Subject. Officer C moved up to the open gate and activated the TASER from a distance of approximately ten to twelve feet, striking the Subject in the navel area. The TASER appeared to have no effect.

The Subject continued to advance toward Officer C with the sticks clenched in his right hand. The Subject then immediately raised both of the sticks over his head and lunged forward toward Officer C. The Subject's gaze was intent on Officer C, and the expression on his face was of anger. Officer B was not sure if Officer C, who had backed away and out of his view, was still holding the TASER but believed that he had no more room to maneuver due to the parked car behind him.

While backpedaling, Officer C dropped the TASER on the ground as he transitioned to his pistol. As he backed away, the Subject continued to advance toward him and began to swing the sticks down at his head. Believing that he was in danger of serious bodily injury, he pointed his pistol at the Subject and placed his finger on the trigger.

Officer E then yelled out, "Beanbag, beanbag!" simultaneously as Officer A observed that the TASER seemed to have no effect. According to Officer A, the Subject swung the sticks back over his shoulder, raised them over his head and continued to advance approximately eight feet from Officer C. Officer A, thinking that the Subject was going to strike him with the sticks, fired two rounds from his beanbag shotgun from a distance of

approximately 23 feet. According to Officer A, he observed the second bean bag round strike the Subject, and he could see the smoke coming out of the barrel of his beanbag shotgun.

Officer G was standing between Officers A and B at the time the beanbag round was fired. According to Officer G, the first shot had no effect, and the Subject swung the poles that he still held down toward Officer C. Officer A cycled the action on the beanbag shotgun and fired a second shot, after which he observed the Subject double over and fall to his knees. The Subject began to spit up blood, and Officer G could smell gunpowder. He observed Officer A cycle the action of his shotgun out of his peripheral vision, but was unaware that Officer B had fired his pistol.

According to Officer F, he observed Officer A shoot the beanbag shotgun twice. He observed the second beanbag round hit the Subject's side and saw him drop down to his knees. Officer F was unaware that an OIS had occurred until he heard someone ask who fired the shot, and Officer B answered that he had. Officer F did not observe the OIS. It was Officer F's recollection that Officer B was standing to his left, south of his location.

According to Officer D, the Subject was in a fighting stance, with one leg back behind the other. He had one pole in his left hand, raised at his eye level in front of his face, and held the other stick in his right hand, with the sharp point at the end of it, raised above his head. The Subject lunged at Officer C. Officer D believed the Subject was going to hit Officer C with the stick. He heard the sound of a shot from the beanbag shotgun and, within seconds, a larger boom. At the time of the OIS, he thought both of the shots were from the beanbag shotgun.

According to Officer E, he heard two shots from the beanbag shotgun and heard three or four shots from a pistol. He looked over at Officer B, who was at a distance of eight feet from the Subject, and observed smoke from the barrel of his pistol.

According to Officer B, he heard a gunshot south of his location, and was unsure if it was Officer A with the beanbag or Officer G. Officer B believed that the beanbag round missed the Subject or had struck him and simply had no effect. Officer B could see the Subject still holding the sticks above his head and his grip on them was so tight that his knuckles appeared white. The Subject was visibly angry and, as he continued to advance, swung the sticks in a downward arc toward Officer C. The distance between Officer C and the Subject was approximately two to three feet. Officer B knew that Officer C had no more room to back up, as there was a row of parked vehicles behind him. Believing that the Subject was going to strike Officer C's head and cause him serious injury, Officer B fired two rounds from his pistol at the Subject's center body mass from a distance of approximately ten feet.

Officer B observed the Subject slouch toward his left side and lower his arms. As he slouched, he placed the ends of the sticks on the ground and seemed to be using them to support his body. The Subject attempted to stand and raised the sticks off of the ground. The Subject's gaze continued to be focused on Officer C. In order to get a

better view of the Subject, Officer B took a step north. As the Subject attempted to get back to his feet, Officer B believed that the Subject still intended to advance with the sticks toward Officer C and strike him. Based upon these observations, Officer B fired a third round at the Subject, targeting his center body mass.

According to Officer C, he did not fire because Officer B fired first and stopped the Subject from advancing further on him.

The Subject dropped the sticks and stepped backwards as Officer E instructed him to get down on the ground. The Subject turned completely around, took a few steps west toward the house, and went down to his knees. The Subject placed his head face down on the ground toward the house and laid down with his body fully extended with his feet pointed toward the officers.

Officer B broadcast an "officer needs help" call, notifying CD that there had been shots fired. Officer E also activated the emergency help button from his radio, which prompted CD to put out an "officer needs help" broadcast.

Officer G remained at his position on the sidewalk as Officers B, C, E and F approached the Subject. Officer E handcuffed the Subject, and Officer B holstered his pistol. Officer F broadcast that all officers were accounted for. Officer D remained at the sidewalk and took over communications with the Air Unit.

Sergeant A arrived and was the first supervisor at scene. Sergeant A obtained a Public Safety Statement (PSS) from Officer B and began monitoring him. He ordered the percipient officers to leave the front yard and fall back behind their police vehicles. Sergeant A coordinated with responding supervisors and additional units to clear the house and the backyard, and to obtain a PSS from the other officers.

A rescue ambulance arrived and upon assessing the Subject, the paramedics determined him to be 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 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 made the following findings.

## **A. Tactics**

The BOPC found Officers A, B and C's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

The BOPC found Officers A, B and C's drawing and exhibiting of a firearm to be in policy.

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

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

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

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

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

#### 1. Utilization of Cover

Officers A, B, C and D moved from a position of cover behind their parked vehicles on to the sidewalk area located in front of the residence. Officers are given the discretion to utilize the best available cover based on the tactical situation. The utilization of cover affords the officers the benefit of time when involved with an individual armed with a weapon other than a firearm. In this circumstance, Officers B and C moved forward to address the Subject as he moved about in the front yard of the location. Consequently, Officers B and C assumed a position of cover behind a tree, located south of the wrought iron gate door while Officers A and D moved forward toward the sidewalk.

Within moments, Officers E, F and G arrived and observed that Officers A, B, and C were deployed on the sidewalk. Officer G stated he positioned himself between Officers A and B. Officers E and F positioned themselves on either side of Officer D, with Officer F to the south and Officer E to the north.

The BOPC made an assessment of Officers A, B and C's decision to move away from cover and approach the Subject. Accordingly, the BOPC noted the Subject's movements about the yard reasonably led officers to believe he may attempt to flee from the location on foot. As such, the officers moved closer to the residence in an attempt to prevent his escape. However, by doing so, the officers left the optimal amount of cover afforded to them at the time. That being

said, the officers were not void of cover, as the fence, cinderblock wall base and the pillars provided the officers with some form of cover.

Given the circumstances that the officers were faced with, and the fact that the fence provided a barrier between the Subject and the officers, the BOPC determined that Officers A, B and C's decision to move to the sidewalk did not substantially deviate from approved Department tactical training.

In conclusion, Officers A, B and C were reminded that when confronting an armed subject, including those with blunt weapons, the decision to move from cover increases the inherent risk.

## 2. Subjects Armed With Blunt Weapons

Officer C approached the Subject and opened the front gate door of the residence in an attempt to provide access to the front yard. Officers must continually assess their tactical situation while utilizing distance and cover to enhance their time to manage the incident. Consequently, the benefit of time allows officers to formulate a tactical plan to ensure an optimal resolution of the incident. In this circumstance, it was not Officer C's intention to enter the front yard, but to ensure it was unlocked, in the event the need arose to enter the front yard.

The BOPC discussed Officer C's decision to approach and open the front yard gate in light of the fact that the Subject was armed with a blunt weapon. The BOPC noted that Officer C's decision to approach the yard provided a tactical advantage to the other officers while they adjusted to the Subject's movements. Consequently, the officers were ensured of an avenue of approach to deal with the Subject in the event he fled the front yard. As such, the BOPC determined that Officer C's decision to approach the front yard gate did not substantially deviate from approved Department tactical training.

In conclusion, Officer C was reminded of the inherent dangers when dealing with Subjects Armed with Blunt Weapons. As such, these topics were to be discussed during the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were additional areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Officers A, B and C's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- In this instance, Officers A, B and C responded to a radio call of a vandalism, wherein a male was described throwing rocks at the location. Upon the officers' arrival they observed the Subject either retrieving or throwing rocks, while armed with the two sticks. In response, the officers believed the situation could rise to the level of lethal force, and drew their respective service pistols.

As a tactical plan developed and less-lethal force options were discussed, Officers A and C holstered their service pistols and transitioned to the TASER and beanbag shotgun respectively. When the deployment of the TASER proved ineffective, and the Subject continued to close the distance toward Officer C, Officer C dropped the TASER on the ground and drew his service pistol for a second time.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B and C, while faced with similar circumstances would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A, B and C's drawing and exhibiting of a firearm to be in policy.

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

- In this instance, the Subject had displayed a propensity for violence as he threw rocks at the officers. Officer A recalled the Subject raising the sticks over his head and was gesturing towards the officers, while Officer C recalled the Subject was lunging towards him with the sticks from a distance.
- **Officer C** – (One TASER activation)

As the Subject ignored the officers' repeated commands to drop the sticks, Officer C advised all the officers, "If I get a good shot...I'll tase him. And once he's down...we can take him into custody."

The Subject ultimately began to advance toward the open front gate, beyond which stood Officer C. After the Subject closed the distance to within 10 to 12 feet of Officer C, while armed with the sticks, Officer C deployed the TASER at the Subject.

- **Officer A** – (Beanbag shotgun – two sock rounds)

Officer A observed one TASER barb contact the Subject's shirt and one TASER barb glance off and fall to the ground. With the TASER appearing to have no effect, the Subject raised both hands fully while armed with the sticks and charged at

Officers C and D. When the Subject was approximately eight feet from Officer C, Officer A fired two sock rounds from his beanbag shotgun at the Subject.

As the situation escalated to a level warranting lethal force, Officers A and C's less-lethal applications of force was objectively reasonable to stop the Subject's aggressive actions and minimize the risk of injury to the subject and officers.

In conclusion, the BOPC found Officers A and C's less-lethal use of force to be in policy.

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

- **Officer B – (pistol, three rounds)**

Officer B observed the TASER deployment had no effect on the Subject. Subsequently, the Subject continued his violent behavior toward the officers. Officer B recalled, "...as soon as the dart hit him he raised those -- he raised the sticks over his head and...started coming towards him...he didn't look like the Taser had affected him at all...when the Taser hit him...the sticks came up immediately."

Officer B recalled the Subject's actions and demeanor while in the front yard, and "...the fact that he was, you know, that he -- that he was arming himself in an attempt to -- to get us away." Officer B continued, "I -- I could see the whites of his knuckles so he was holding them fairly tightly."

Shortly thereafter, Officer B heard a gunshot emanate south of his location. Unsure if the gunshot was Officer A with the beanbag or if it was Officer G, Officer B noted the Subject did not stop. Instead, the Subject continued to advance toward Officer C while swinging the sticks. With Officer C's ability to redeploy hindered by a row of parked vehicles behind him, Officer B fired two rounds at the Subject.

The Subject was struck and in response his shoulders slouched forward and he placed the ends of the sticks on the ground to support his body. The Subject then picked the sticks up off the ground and continued to move forward toward Officer C. Consequently, Officer B fired his third and final round at the Subject.

Although Officer B described two distinct sequences of fire, wherein the third round occurred after the Subject slouched, the other officers at scene described the gunshots as transpiring in rapid succession. Additionally, no officers at scene reported being aware that Officer B had fired his service pistol, with the exception of Officer E, until the culmination of the OIS.

The BOPC conducted an assessment of Officer B's decision to utilize lethal force. In making the assessment, the BOPC noted that all of the officers communicated effectively and developed a tactical plan which included the less-lethal and lethal force options while also designating an arrest team.

Prior to discharging his service pistol, Officer B was aware that Officer C utilized the TASER to incapacitate the Subject and cease his aggressive behavior. Additionally, Officer B observed that the Subject continued to advance toward Officer C while raising the sticks and advancing toward him. Finally, Officer B knew that he [Officer C] was running out of room due to a parked vehicle. Simultaneously, Officer B heard a gunshot emanate and was unable to determine if Officer A had deployed his beanbag shotgun or if Officer G had utilized lethal force. Nonetheless, the Subject continued to advance toward Officer C while holding the sticks in a threatening manner. In assessing Officer B's third round, the BOPC noted that Officer E was the only officer that was aware that a handgun had been fired. As such, it can reasonably be assumed that Officer B fired his three rounds in rapid succession and that his rounds were almost simultaneous to Officer A's discharge of the beanbag shotgun rounds.

Given the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that the Subject's actions posed an imminent threat of serious bodily injury or death and that the lethal use of force would be reasonable.

In conclusion, the BOPC found Officer B's lethal use of force to be in policy.