

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

LAW ENFORCEMENT RELATED INJURY – 041-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
-----------------	-------------	----------------------------	-------------------------------

North Hollywood	5/9/15		
-----------------	--------	--	--

Officer(s) Involved in Use of Force	Length of Service
--	--------------------------

Officer L	7 years, 2 months
Officer BB	24 years, 7 months
Officer CC	7 years, 11 months

Reason for Police Contact

Officers attempted to arrest the Subject for an Assault with a Deadly weapon offense when he fled through neighboring yards. Officers believed that the Subject may be armed and a danger to the community if allowed to escape. Officers used less-lethal force in an effort to detain the Subject, resulting in a Law Enforcement Related Injury (LERI).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
-------------------	---------------------	--------------------	--------------------

Subject: Male, 22 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, 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 May 3, 2016.

Incident Summary

North Hollywood (NHWD) Patrol Division uniformed Police Officers A and B responded to a radio call of an "ADW Shooting" at a local business. The Subject was described as a male wearing a blue "LA" baseball cap, a blue plaid shirt and dark jeans.

Responding officers observed a male matching the Subject's description running close to the shooting location, then out of the officers' view. Responding units saturated the area where the Subject was last seen. Officers A and B obtained the name of the Subject from witnesses of the ADW. The officers initiated a crime broadcast over the police radio advising responding units of his physical description and that he was armed with a semiautomatic handgun.

Officers C, D, E, F, G, H, I, J, and K responded to the area and established containment around the Subject's known address. Officers L and M also arrived in the area and took a perimeter position, south of the target location. Los Angeles Police Department Air Support Division (ASD), personnel arrived overhead and assisted with securing the perimeter.

Sergeant A arrived and assumed supervisory oversight of containment of the Subject's residence and assigned uniformed personnel to positions in a one block perimeter around the Subject's residence. Sergeant A assigned Officers P, Q, R, S, and T as the contact team and Officers S and T as an arrest team.

Believing the Subject may have fled into his residence; occupants, including the father of the Subject (Witness A), were called out from the house, and were escorted to a Command Post (CP) that had been established nearby. Witness A advised officers that his son should be at home, but had not seen him and provided officers with written consent to search the residence.

Metropolitan Division K-9 Platoon was requested to respond to search for the Subject. Sergeant B responded along with Officers U, V, W, X, Y, Z and AA. Sergeant B was briefed on the situation by Sergeant C at the CP.

Officers U, W, X and Y formed a K-9 search team lead by Officer V who deployed his canine to systematically search the yards east and west of the target location with negative results. A K-9 announcement was made by Officer W, via a police vehicle public address system, in front of the Subject's residence, along with instructions for the Subject to surrender and exit the house with his hands raised. The announcement went unanswered.

Once K-9 Officers cleared the front and rear yards of the target location, Officer V provided a secondary K-9 announcement at a door along the west side of the residence, also with no response. The search team entered the house utilizing keys

provided by Witness A and conducted a search of the interior. Once the residence was cleared, K-9 officers began a search of an attic space that ran the length of the house.

Unable to locate the Subject with a pole camera through an attic hatch at the north end of the residence, Officers X, Z and AA entered the attic space. Officer X observed the Subject attempt to conceal himself behind insulation at the south end of the attic. Officer X ordered the Subject to surrender; however, the Subject failed to comply and quickly moved, into the attic, away from the officers and out of their view.

As the officers were searching the attic, Sergeant D and Officer BB arrived separately at the scene. They responded to the target location, met with Sergeant B and were directed to the rear of the location to assist Officer W who utilized a pole camera to view the attic through a hatch at the south end of the residence. Officer W observed the Subject and began to communicate with him. The Subject, however, refused to comply with instructions to exit the attic, stating to officers that he was not going to come down. The Subject attempted to close the attic hatch, and as officers reopened it, the Subject grabbed the lens of the camera, breaking it from the attached pole.

As K-9 officers maintained their positions attempting to negotiate with the Subject to surrender, Officers J and K, who had redeployed to the rear yard, immediately east of the target residence, observed a rooftop vent of the Subject's residence being moved up and down. Having been informed that the Subject had been observed in the attic, Officer J advised the airship of his observations.

Officer O, utilizing the airship's nightvision spotlight to illuminate the area, observed the rooftop vent moving and the Subject exiting the attic onto the roof. Officer O began to broadcast the Subject's actions as the Subject began to walk back and forth on the roof of his residence. Officers around the perimeter of the house continued to instruct the Subject to show his hands as he continued to walk back and forth, appearing agitated and to be looking for a place to jump down from the roof.

Sergeant D responded to the rear of the Subject's residence with Officer BB, who exited the house through a side door near the south attic hatch and joined other officers at the rear of the house. The Subject jumped to a rooftop, immediately east of his residence and began to walk from one side to another.

Simultaneously, Officer U retrieved his police canine from his police vehicle. Officer U, along with Officer W, walked east to a nearby street to manage the perimeter and be available in the event the Subject attempted to flee the immediate perimeter.

Officers CC and DD, while deployed on the perimeter, observed the Subject exit onto the roof of the target location. Officer CC retrieved a beanbag shotgun from the trunk of the officers' black and white police vehicle to provide a less-lethal force option in the event the Subject attempted to flee the perimeter. Approximately one to two minutes after returning to his previous position on the street, Officer CC moved into a nearby

rear yard where he joined Officers J and K, advising them he was equipped with a beanbag shotgun.

The Subject proceeded to jump, back to the roof of his residence, and again moved from the front of the house to the rear. The Subject crouched down at the south edge of the house stating he wanted to talk to his mother then exclaimed, "Shoot me. Shoot me. Just shoot me". Officer BB attempted to calm the Subject and encouraged him to come down from the roof.

The Subject backed away from the edge of the roof toward the front of the house, then took a running start and leapt from the roof of the main house, down to the roof of a shed directly southwest of the roof line. Believing the Subject was possibly armed and posed a significant risk to citizens if able to breach the perimeter, Officer BB fired his X26 TASER at the Subject, with no effect. The Subject proceeded to run over the shed to the roof of an unattached storage building at the southwest portion of the property out of Officer BB's view.

Once on the roof of the storage building, the Subject turned back to the east, ran back across the shed then jumped to a smaller shed positioned along the south wall of the property. The Subject climbed on top of a cinderblock wall that separated the rear yards of the primary residence and the two properties south, and began moving along a wall that separated the properties.

Officer L, positioned in the rear yard south of the primary residence with Officer M, commanded the Subject to stop. The Subject failed to comply and continued in the officers' direction. The Subject jumped onto the roof of a metal shed in the rear yard of a residence. Fearing the Subject could still be armed and posed a threat to him and his partner's safety, Officer L fired his TASER at the Subject's midsection with no effect. As the Subject landed on the metal shed, the pitched roof immediately began to collapse as the Subject turned and began to run.

Note: According to Officer L, as the Subject stepped onto the roof of the metal shed, it immediately collapsed, which he believed caused the TASER darts to miss the Subject.

Officer CC, from the yard close to of the Subject's position, disengaged the safety of his beanbag shotgun and fired one beanbag sock round aimed at the Subject's abdomen.

The Subject simultaneously fell head first onto the shed striking the left side of his face on a support beam that ran the length of the center of the rooftop. Officer M climbed onto the shed and placed the Subject into handcuffs as Officer BB, Sergeant D and Officer Y covered him.

Officer L requested the response of a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) after he observed the Subject had sustained a cut to his left eye.

Sergeant D, in addition to Officers Y and BB, took control of the Subject as Officer M climbed down from the shed. They lowered the Subject from the roof to Officer M and other officers who had responded to the rear yard after the Subject was taken into custody. The Subject was walked out to the sidewalk where they waited for the arrival of the RA.

Sergeant A was advised of the two TASER discharges and the firing of the beanbag shotgun. Officers L and BB reported that they did not believe they made contact with the Subject based on his actions following the TASER attempts. Officer CC did not know whether or not the beanbag struck the Subject.

Based on preliminary information at the scene and unable to determine if the Subject's injury was the result of a use of force or a fall, Sergeant A advised Officer CC to return to the station and complete a report documenting his discharge of the beanbag shotgun.

An RA arrived at the scene to treat the Subject, who was alert but refused to answer questions. The Subject was transported to a local hospital, accompanied by Officer L. The Subject was treated and admitted to the hospital for treatment of his injuries. Sergeant A responded to the hospital after conducting a preliminary investigation at the scene. Other than the injury to Subject's eye, Sergeant A did not observe additional injuries or signs of a TASER dart puncture to the Subject upon a head to toe visual inspection in the emergency room.

Upon questioning the Subject about the injury, he advised Sergeant A that he had been struck in the face with an unknown object causing him to fall. Force Investigation Division (FID) was notified and sent detectives to investigate.

Witnessing officers were contacted, separated, and monitored.

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 firearm 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 Sergeants B and D, along with Officers L, BB, and CC's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeant D, along with Officers L and BB's drawing and exhibiting of a firearm to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officer L, BB, and CC's use of less-lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Taser Deployment

Officers L and BB deployed the TASER while the Subject was in an elevated position. The BOPC acknowledged Officers L and BB's individual decisions to deploy the TASER while the Subject was in an elevated position and discussed the potential for injury should the Subject fall from these positions.

The BOPC took into account the officers' statements and reviewed the pictures of the Subject's elevated position from Officers L and BB's perspectives; paying particular attention to the danger posed by the surrounding area should the Subject fall.

Prior to deploying the TASER, Officer BB noted the roof of the shed was pitched toward the wall of an abutting storage building to the west, and Officer BB was positioned to the east. Officer BB believed that if he deployed the TASER while the Subject was on the shed, it would put him down in a safe spot. It is clear that Officer BB assessed the situation and weighed the potential for injury prior to deploying the TASER.

According to Officer L, he deployed the TASER as the Subject had a foot on the shed in the adjacent yard. The BOPC viewed Officer L's TASER deployment to be more reactionary, responding to the threat the Subject posed to his partner and himself. Based on the Subject's positioning, the BOPC determined that a fall would likely not result in serious bodily injury or death.

In looking closely at the circumstances surrounding this portion of the incident and potential for injury due to the TASER being discharged at the Subject while on an elevated platform, the BOPC determined the actions of Officers BB and L were reasonable and were not a substantial deviation without justification from approved Department tactical training in this specific circumstance.

2. Shooting a Beanbag Shotgun at a Fleeing Suspect

Officer CC fired a beanbag sock round at the Subject as he fled into the property south of his location. When Officer CC fired the sock round at the Subject, he only had a visual of Subject's thigh area and above. However, based upon his balanced gait, he believed the Subject was running on a stable and flat surface. With nothing codified in regards to an officer firing a Beanbag Shotgun at a Subject when he is in an elevated position, the BOPC discussed the potential for injury should the Subject fall.

After assessing the position of the Subject at the time Officer CC fired the Beanbag Shotgun and determining that an injury could occur, the BOPC determined that given the fact the Subject was possibly armed, and posed a viable threat to the community if allowed to move about the perimeter, the actions of Officer CC was not a substantial deviation from approved Department training. The BOPC also noted that the Beanbag Shotgun was a less-lethal force option that allowed Officer CC the ability to maintain a greater distance from a Subject believed to be possibly armed.

Based on the totality of the circumstances, the BOPC determined the actions of Officer CC were reasonable and did not comprise a substantial deviation without justification from approved Department tactical training in this specific circumstance.

- The BOPC additionally considered the following:
 1. Ballistic Helmets – The FID investigation revealed that many of the officers that were deployed around the Subject's residence did not don their ballistic helmets. Sergeants B and C are reminded to ensure personnel have their tactical equipment on their person while involved in a tactical situation involving an armed Subject whenever feasible.
 2. Use of Force Warning – The investigation revealed that Officers L, BB and CC, did not provide a Use of Force Warning prior to deploying their less-lethal force tools due to the rapidly unfolding situation and existing exigent circumstances. While the officers' rationale was appropriate during this incident, the officers are reminded that a Use of Force Warning shall be given when feasible.
 3. Simultaneous Commands – The investigation revealed that there were several officers giving simultaneous commands to the Subject during this incident. The officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.
 4. Beanbag Shotgun Manipulation – The investigation revealed that after Officers E and CC chambered a round in their Beanbag Shotguns, they did not load the magazine tube with a fifth round. The officers are reminded that it is

advantageous for the Beanbag Shotgun to be loaded to full capacity when approaching a tactical situation where the Beanbag Shotgun may be used.

5. Beanbag Shotgun Target Areas – According to Officer CC, he aimed the Beanbag Shotgun at the Subject’s abdominal/torso region when he discharged the beanbag sock round. However, the sock round struck the Subject in the eye.
6. Required Equipment – Officer CC did not have a Hobble Restraint Device on his person during the incident. Officer CC is reminded to have all required equipment on his person while performing field patrol duties.
7. Utilization of Cover – The investigation revealed that as Officer M monitored the Subject pacing on the residential rooftops and running along the sheds, he did so while standing on a chair in the backyard of a residence without the benefit of any cover. Officer M is reminded of the importance of utilizing cover when involved in a tactical situation involving a potentially armed suspect. The Commanding Officer, North Hollywood Area, met with and counseled Officer M regarding the above issue.
8. Preservation of Scene – Based on his observations of the Subject at the scene and the officers’ preliminary statements, Sergeant A believed the Subject’s injury was sustained as a result of his fall. Based on his belief, Sergeant A determined a Non-Categorical Use of Force had occurred and began to conduct a use of force investigation. With Officers L, BB and CC unsure if their less-lethal force tools made contact with the Subject it would have been prudent for Sergeant A to maintain a crime scene until an assessment of the Subject’s injuries could be completed by hospital personnel in order to preserve evidence and maintaining the integrity of the investigation. Sergeant A was counseled regarding the above issue by his Commanding Officer.

These topics will 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 identified 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 individual actions that took place during this incident.

In conclusion, the BOPC found Sergeants B and D, along with Officers L, BB and CC’s tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Officer BB entered the residence and relieved a patrol officer under the south entrance to the attic. Officer BB drew his service pistol and provided cover to another officer that had been dedicated to monitoring the Subject's actions with the pole camera.

When the Subject escaped through a vent in the attic and appeared on the roof, it was undetermined whether he was still armed with a handgun. Sergeant D and Officer L went outside to set up containment, observed the Subject on the roof and drew their service pistols.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Sergeant D, along with Officers L and BB, while faced with a similar circumstance would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Sergeant D, along with Officers L and BB's drawing and exhibiting to be in policy.

C. Less-Lethal Use of Force

- In this case, the Subject had been identified as an ADW suspect who fired a handgun during the commission of the crime. When the officers located the Subject hiding in the attic of his residence, he refused to come out and submit to arrest. The Subject then forced open a vent to gain access to the roof. Although he displayed his hands to the officers and raised his shirt to expose his waistband area, the Subject had not been searched and was still believed to be possibly armed with a handgun. As a result, the Subject created a circumstance wherein conventional tactics would have been ineffective, and it would be unsafe to approach within contact range of the Subject.

Note: According to the investigation, there was no evidence the TASER probes penetrated the Subject's skin. Additionally, investigators were unable to definitively determine if any of the TASER probes actually made contact with the Subject. The BOPC evaluated the less-lethal use of force applications of both Officers L and BB, as indicated below.

- **Officer BB** – One TASER activation in probe mode.

The Subject jumped down from the roof of the main house to the roof of a storage shed. Believing that the Subject was possibly armed, and posed a threat to the community if allowed to escape, Officer BB deployed the TASER at the Subject. The Subject appeared unaffected as he ran over the roof of the shed, continuing

across the roof of an abutting storage building and out of Officer BB's line of sight.

- **Officer L** – One TASER activation in probe mode.

Officers L and M observed the Subject traversing the cinderblock wall. Believing the Subject was possibly armed and posed a threat to the community if allowed to escape, as well as in fear for his safety and the safety of Officer M, Officer L deployed the TASER at the Subject as he stepped onto the roof of a shed located in an adjacent rear yard.

Note: A review of the TASER data report for Officer L's TASER reflects that his TASER had been activated through two cycles at the time of the incident.

- **Officer CC** – One sock round, Beanbag Shotgun.

According to Officer CC, he heard the TASER being deployed two times and observed the Subject moving in a manner with no indication, body language wise, that it had an effect on him, causing him to believe both TASER activations were ineffective. Believing that the Subject was possibly armed and posed a threat to his fellow officers on the outer perimeter if allowed to escape, Officer CC fired one beanbag sock round at the Subject's abdomen area.

Department policy states that the decision to use force must be judged through the perspective of a reasonable officer under the similar circumstances. The BOPC determined that an officer with similar training and experience as Officers L, BB and CC would reasonably believe the applications of less-lethal force to prevent the Subject from escaping was reasonable and would have acted in a similar manner.

Therefore, the BOPC found Officers L, BB and CC's less-lethal use of force to be objectively reasonable and in policy.