

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

**LAW ENFORCEMENT RELATED INJURY – 024-07**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(x) Off( )</u></b>	<b><u>Uniform-Yes(x) No( )</u></b>
Northeast	03/08/2007		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer D	11 years, 5 months
Officer E	4 years, 9 months

**Reason for Police Contact**

Officers A and B responded to a “shots fired” radio call pursuit occurred following officers’ response to a “shots fired” radio call, where the subject fled from responding officers.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
Male, 16 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 suspect 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 Commission and made itself available for any inquiries by the Commission.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on February 26, 2008.

## **Incident Summary**

Officers A and B were assigned a “shots fired” radio call by Communications Division (CD). The location was relayed, along with a description of a subject carrying a backpack, and who was seen near a park, shooting unknown victims.

When Officers A and B arrived to the location, they observed civilians rendering aid to a victim on the ground behind the park fence. Two other officers, who had arrived earlier, were in the process of requesting a rescue ambulance for the victim and establishing a crime scene. Officers A and B were searching a steep hillside when a subject, who matched the description given in the broadcast, jumped out of the bushes with his hand on his waistband. Officer A drew his pistol and ordered the Subject to get his hands up, but the Subject turned around and ran downhill. As the Subject ran, he tripped face first and rolled down the hill onto a cement landing. Officer A told the Subject to stop as he and Officer B chased after him. Officer A holstered his weapon before running down the steep hillside. The Subject immediately got up and continued to place his hands on his waistband and continued to run downhill. Officer A broadcast a description of the Subject and the direction in which the Subject was fleeing.

Officers A and B then observed several officers, who were at the crime scene near the park, running toward them. When the Subject reached the bottom of the hillside, he ran down the street and into an apartment complex. Officer A broadcast that he was still in pursuit of the Subject and needed a perimeter. The Subject attempted to open the door to one apartment, which did not open, so he hopped a fence and ran toward the yard next door to climbed on top of a van to access the roof. Officers A and B remained on top of the hillside and directed responding officers to the Subject’s location. Officer A further broadcast that the Subject was on the roof and that his right hand was continually in his right front pocket.

Officer C joined the foot pursuit and requested a TASER. Officer C drew his pistol upon observing that the Subject’s right hand inside his pants. Officers D, E, F, and G also responded to the foot pursuit broadcast. Officers D and E retrieved a beanbag shotgun from their respective police vehicles and all four officers made their way toward the houses.

Meanwhile, the Subject jumped from one rooftop to another between several houses, in an attempt to escape. Officer D had positioned himself by a tree near the bottom of the hillside. Officer D and the Subject made eye contact with each other. Officer D told the Subject to take his hands out of his pocket and warned him that if he did not comply, the beanbag shotgun would be used. The Subject was unresponsive and appeared to taunt Officer D by moving his shoulder and arm forward, as if he were about to remove an object from his pants pocket. Officer D gave the Subject another verbal warning, but he still did not comply. Officer D aimed the beanbag shotgun at the Subject’s right wrist while his hand was in his pocket and discharged one super sock round. The Subject attempted to dodge the round, but he slipped and fell. Officer D fired a second round at the Subject’s right wrist. The Subject stood up after 15 to 20 seconds with his hand in his right pocket, and jumped onto the patio cover of the same house.

The Subject ran toward Officer E, who was at the bottom of the hillside. Officer E observed the Subject moving toward him and yelled for the Subject to put his hands up. The Subject did not comply, so Officer E fired one super sock round at the Subject's lower torso. The Subject then ran toward the roof of the main house and out of Officer E's view. Officer H said that when the Subject jumped from the shed to the patio cover, his left leg went through the patio cover. Officers informed Officer E that the Subject was running toward him. The Subject then appeared on the roof, stopped and assumed a "huddling" position with his left side facing Officer E, and with his hand concealed in his waistband. The Subject appeared to be cradling something. Officer E again yelled at the Subject to take his hand out of his pocket or else he would shoot, but the Subject did not comply. At that point, Officer E fired two consecutive super sock rounds aiming for the Subject's hip and hand areas. Officer E did not if either round struck the Subject. The Subject stood up and moved toward the back of the house. Officer E observed the Subject attempting to climb toward the apex of the roof. The Subject continued to curse at the officers, and Officer E fired two additional rounds.

Officer D requested for an officer to cover him as he went up the roof. Officer C responded, and both officers climbed on top of a van parked in the driveway to gain access to the roof. Officer C drew his pistol upon reaching the rooftop. Sergeant D observed the officers climbing the roof, and wanted to provide supervision, so he climbed up as well. Sergeant D and the officers utilized a brick chimney for cover. After realizing that the Subject was on the rooftop of the adjacent house, Officer C suggested that they jump to the next roof. Sergeant D assessed the distance between the rooftops and considered jumping over to be an unnecessary risk.

Officer J assembled an arrest team, and used a ladder to climb on the roof. Detective A followed Officers E and J up the ladder. Officer F also located a ladder and proceeded to go up on the roof. The officers saw each other on the rooftop and moved toward the center of the roof to avoid crossfire. Officer J stood up and pointed his pistol at the Subject and ordered him to raise his hands, which were concealed. Officer E pointed his beanbag shotgun at the Subject and ordered him to give up and show his hands, but the Subject did not comply. Officer E fired a super sock round, aiming for the Subject's left hip. The Subject then told the officers that he was giving up and got into a prone position on the roof. Officer J moved toward the Subject and grabbed his hands. The Subject was handcuffed without incident.

The officers moved the Subject toward the middle of the roof and conducted a search for weapons, but found no weapon. The officers then escorted the Subject to where they had positioned the ladder and lowered the Subject down to the ground. Officer G took custody of the Subject, and Prior to placing him in his police vehicle, conducted a search and recovered narcotics from the Subject's right front pocket. The Subject was examined by Los Angeles Fire Department personnel, who noted that the Subject had a hematoma to his right eye but no other injuries.

Sergeant E arrived at the scene after the Subject had already been taken into custody and was informed that the beanbag shotgun was deployed and began to initiate a Non-Categorical Use of Force Investigation.

While Sergeant E was interviewing Officer H regarding his involvement in the incident, Sergeant F informed Sergeant E that Officer D had just informed him that one of the beanbag rounds struck the subject in the eye. Sergeant E interviewed Officer D who indicated that he observed a super sock round hit the Subject on the left part of his face, near his eye, and the incident was determined to be categorical use of force.

### **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 Sergeants B and D, Detective A, and Officers A, B, C, D, E, F, H, J, and K's tactics to warrant formal training.

#### **B. Drawing/Exhibiting/Holstering**

The BOPC found Sergeant B, Detective A, and Officers, A, C, H, and J's drawing to be in policy.

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

The BOPC found Officer D's categorical use of force involving an inadvertent head strike to be in policy.

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

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

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that the size of the containment area was large; however, with the amount of personnel at scene, including three supervisors, the BOPC was concerned with the command and control of the situation.

As the perimeter was established around three residences to contain the Subject, officers were not appropriately deployed. All sides of the perimeter may have been surrounded; however they were not properly covered. Coverage is achieved when officers are placed in positions to see the subject if he were to attempt to escape the bounds of the perimeter. With the air unit overhead, it would have been prudent for the Tactical Flight Observer (TFO), Officer K, to survey the area and re-deploy officers to positions that would afford them an appropriate amount of cover. Instead, Officer K advised the ground personnel that the perimeter was sealed and suggested that they gain access to the roof. Officer K, who had an optimal view of the situation, should have foreseen that this tactic would create a major cross fire issue.

Subsequently, as the Subject ran from one rooftop to another out of the officers' line of sight, personnel redeployed in an attempt to regain a visual of the Subject. Once a perimeter is established, officers should remain disciplined and not move independently, as the integrity of the perimeter can be compromised.

Ideally, as in any volatile situation, officers should form a Combative Suspect Control Team (CSCT) and quickly devise a tactical plan. Officers D and E individually assumed the roles of the Contact/Communications Officer and Beanbag Projectile Shotgun Officer and assumed there was a Cover Officer equipped with lethal force in the event the situation arose to the level where deadly force would have been justified. It would have been prudent for a supervisor to assume the role of Team Leader and have organized an all inclusive CSCT, thereby enabling Officers D and E to focus on their specific roles.

Sergeants B and D, Detective A, and other officers should have recognized that the circumstances were consistent with criteria for a barricaded subject. The officers should have contained the location and notified Metropolitan Division for advice. This would have allowed SWAT the opportunity to determine if it was appropriate for them to respond and assume tactical oversight of the incident.

With no attempts made by Sergeants B and D and Detective A to control the situation, the officers remained in "apprehension" versus "containment" mode throughout the incident. This is readily apparent as Officer H and unidentified additional officers unsuccessfully attempted to grab the Subject's leg as it fell through a patio cover.

Had the Subject been armed and chose to engage Officers E, F, and J and Detective A on the roof, they would have been at a tactical disadvantage as there was no available cover, their shooting platform was on an incline, and a cross fire situation may have developed. In addition, Officers C and D and Sergeant D's only source of cover was a chimney.

The BOPC was concerned that the officers deployed on the roof knowing a potentially armed attempt murder subject was present. As the incident unfolded, there was no additional information obtained to discount the Subject as the outstanding subject or that he was unarmed.

As Sergeant D and Detective A took an active role and accompanied the officers onto the roof, their objectivity diminished and they did not have the foresight to identify this tactic as problematic.

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

## **B. Drawing/Exhibiting/Holstering**

The BOPC noted that when the Subject jumped out from the bushes, Officer A saw that he matched the description of the subject. Fearing an armed confrontation, Officer A drew his service pistol and monitored the Subject as he lost his footing and fell down the steep hillside. Officer A holstered his service pistol as he ran after the Subject. Upon reaching the bottom of the hillside, Officer A drew his service pistol to facilitate a safe redeployment to a position of cover.

Sergeant B, Detective A and Officers C, H and J heard Officer A's broadcasts and responded to the termination of the foot pursuit. Based on the unfolding broadcasts, the aforementioned personnel believed they would be encountering a potentially armed attempted murder subject.

As Sergeant B descended the hillside, he observed the Subject walking toward the roof with his hands in his waistband. Fearing for his life and the lives of the officers on the hillside, Sergeant B drew his service pistol. When the Subject jumped to an adjacent roof and was out of Sergeant B's view, he holstered his service pistol and continued to descend the hillside. When the Subject reappeared, Sergeant B again drew his service pistol.

Officer J, while descending the hillside, heard several shots fired. Believing that the situation had escalated to the point where deadly force may become necessary, Officer J drew his service pistol.

Believing the Subject was armed with a handgun, Officer C drew a service pistol. Officer C holstered the service pistol. In an effort to provide cover for Officer D, who was equipped with a Beanbag Projectile Shotgun, Officer C again drew a service pistol.

As the Subject looked in his direction with his right hand concealed in his waistband, Detective A drew his service pistol. When the Subject walked out of his view, Detective A holstered his service pistol and redeployed to the porch area of another residence. When the Subject reappeared, Detective A again drew his service pistol. Detective A subsequently holstered his service pistol as he accompanied Officers E and J onto the rooftop. In an effort to provide cover for the officers, once on the rooftop, Detective A drew his service pistol.

Officer A exited his police vehicle at the top of the hill and drew his service pistol in anticipation of confronting an armed subject. Upon observing the Subject on a roof at the bottom of the hill, Officer H holstered his service pistol and ran down the hillside.

Officer H placed himself on one side of the perimeter and once again drew his service pistol. When a multitude of officers with their service pistols drawn positioned themselves in close proximity to Officer H, he holstered his service pistol. Officer H drew his service pistol a third time when he redeployed to the other side of the perimeter.

The BOPC determined that Sergeant B, Detective A, and Officers A, C, H, and J had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary.

The BOPC found Sergeant B, Detective A, and Officers A, C, H, and J's drawing to be in policy.

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

The BOPC noted that as Officer D descended the hillside, he observed the Subject running from one rooftop to another with his right hand in his pocket. Based on his training and experience, Officer D believed the Subject's actions were consistent with an armed subject and ordered The Subject to remove his hand from his pocket. The Subject ignored the officer's commands and repeatedly moved his right arm and right shoulder in a manner consistent with arming himself with a handgun. To stop the Subject's actions, Officer D aimed his Beanbag Projectile Shotgun at the Subject's right wrist and fired one super sock round. Simultaneously, The Subject lost his footing, and as he fell, the super sock round struck the Subject in the head.

In accordance with Department training, Officer D appropriately targeted the Subject's wrist to prevent the situation from escalating to lethal force. The Subject's unforeseen fall resulted in the super sock round inadvertently striking the Subject in the head. The BOPC determined that the head strike was a result of an appropriate application of less-lethal force and was inadvertent.

The BOPC found Officer D's categorical-inadvertent head strike to be in policy.

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

The BOPC noted that the Subject appeared unaffected as his right hand remained in his pocket. To gain compliance from the Subject, Officer D fired a second super sock round at the Subject. The BOPC determined that Officer D's less lethal use of force was reasonable to stop The Subject.

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

The BOPC noted that Officer E heard the foot pursuit broadcasts and surmised he was responding to assist with the apprehension of an attempt murder subject. Based on his training and experience, Officer E believed the Subject's actions to be consistent with an armed subject. After Officer D's two super sock rounds failed to have any effect, the Subject ran along the roofline in Officer E's direction, while continuing to place his hand

in his waistband. Officer E ordered The Subject to stop and remove his hand from his pocket; however, The Subject ignored his commands and continued to advance. To stop the Subject's actions, Officer E fired one super sock round at the Subject.

Sergeant B directed Officer E to deploy behind a fence on the sidewalk. The Subject walked toward Officer E and stopped. Officer E was unable to see The Subject's hands, as the Subject leaned his torso forward and appeared to be cradling something in his waistband. Officer E ordered the Subject to place his hands in the air; however, The Subject ignored his commands. Officer E fired two super sock rounds at the Subject.

Officers advised Officer E that the Subject was crouched down on the north side of the same residence, concealing his hand in his waistband. Officer E repositioned himself and commands were again issued to the Subject to place his hands in view and come down from the roof. When the Subject refused to comply with the officers' commands, Officer E fired two additional rounds at the Subject.

As the Subject remained on the roof, Officers E, J, and Detective A climbed up to the roof. Officer J ordered the Subject to bring his hands into view. The Subject maintained his back toward the officers, leaned his torso forward and concealed his hands in his waistband. To gain compliance from the Subject, Officer E fired his sixth and final super sock round at the Subject. Officer E observed the super sock round strike the Subject on his left hip, after which he submitted to arrest. The Subject's actions warranted the use of the Beanbag Projectile Shotgun, and the point of aim for each super sock round was consistent with Department policy. The BOPC determined that Officer E's less-lethal use of force was reasonable to stop the Subject's actions.

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