

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

**LAW ENFORCEMENT- RELATED INJURY – 028-07**

<b>Division</b>	<b>Date</b>	<b>Time</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Southwest	03/15/2007			

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	13 years, 1 month
Officer B	11 years, 1 month
Officer C	8 years, 8 months
Officer D	7 years, 6 months
Officer E	11 months
Officer F	1 year, 6 months
Officer G	1 year, 4 months
Officer H	7 months

**Reason for Police Contact**

Officers conducted a traffic stop and then became involved in a vehicle pursuit. During the arrest of the driver, a law enforcement related injuring incident occurred.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit ()</b>
Subject: Male, 42 years of age.			

**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 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, and for ease of reference, the masculine pronouns (he, his, and him) are used in the report to refer to male or female employees.

The following incident was adjudicated by the BOPC on 2/12/08.

## **Incident Summary**

Officer C and Officer F were deployed in a marked police vehicle, and observed a vehicle driving without a front license plate. The officers decided to conduct a traffic stop. The driver (Subject) negotiated a right turn and immediately pulled over to the curb. Officer C stopped approximately one to two car lengths behind, and activated the police vehicle's forward facing red lights to conduct the traffic stop. The Subject exited his vehicle and began to walk across the street. Officers C and F exited their police vehicle and remained behind their doors for cover. Officer C yelled and told the Subject that he wanted to ask the Subject about the missing front license plate. Officer C asked the Subject to step over to the sidewalk, but the Subject instead walked toward his vehicle, and opened the driver's side door, sat inside his vehicle, and locked all the doors.

Officer C observed the Subject reach toward the door panel of his vehicle and remove a multi-colored newspaper, which he began to unwrap. The Subject took an off-white solid resembling rock cocaine from the newspaper and began eating it. Officer C ordered the Subject to open the door and to get out of the car; but the Subject did not respond.

Officer F who was standing near the Subject's front passenger window, observed the Subject reaching into his front left pocket. Believing the Subject was possibly arming himself, Officer F drew his pistol. Officer F then saw The Subject produce a piece of multi-colored newspaper, unwrap it in plain view, place a "rock" in his mouth and begin chewing on it. The Subject said he intended to get rid of as much cocaine as he could because he did not want to go back to jail. Officer C requested a back-up unit and observed the Subject moving between the center console, door panel, and at one point reaching behind his seat. Believing the Subject was possibly arming himself, Officer C drew his pistol and continued to order the Subject to open the door.

When a back-up unit arrived on scene, the Subject started his vehicle and proceeded to drive down the street. Officers C and F holstered their pistols and initiated a vehicle pursuit of the Subject's vehicle. During the pursuit, Officer F requested an airship and broadcast their direction of travel. Additional units responded and joined the pursuit, which ended when the Subject pulled into a driveway and remained seated inside his vehicle. The driveway was later determined to be the Subject's own residence. Officer C stopped his police vehicle in a 45-degree angle by the driveway. Officers C and F exited their police vehicle, drew their pistols, and took positions of cover. Officer B and Officer H stopped their police vehicle behind the primary unit at the termination of the pursuit, exited their vehicle, and drew their pistols. Officer D and Officer E also arrived at the scene and drew their pistols. Sergeants A and B also responded to the scene.

Officer A was at the police station with his partner booking a juvenile subject when he received the back-up request. Officer A asked his partner to remain with the juvenile subject while he responded to the back-up request by himself.

Officer A arrived at the scene. Officer A retrieved a TASER from the center console of his vehicle and a beanbag shotgun from the trunk. Officer A walked over and positioned himself behind a parked vehicle. The Subject remained inside his vehicle and shortly thereafter, the Subject exited his vehicle and proceeded to walk across the front lawn and then toward some stairs that led up to the front security door.

Officer C ordered him to stop and place his hands up, but the Subject ignored the commands and proceeded to the residence. Officers B, C, and F holstered their pistols, and began to approach the residence. Fearing that the Subject might possibly take an individual who was inside the residence as a hostage or possibly arm himself with a weapon, Officer A aimed for the Subject's left thigh and fired a super sock round from a distance of 31 feet. The round struck the Subject's lower back area; but it appeared to be ineffective and the Subject continued up the steps. Officer A then fired a second round striking the Subject's lower back again. The Subject paused to look at Officer A, which gave Officer B the opportunity to approach the Subject from behind and grab him. Officer B's momentum caused them both to move toward the front security door, and Officer B was able to bring the Subject, face first onto the front wooden deck porch. Officer C immediately grabbed the Subject's right arm and placed his left knee on the small of the Subject's back to prevent him from getting up. Officer F used both of his arms to grab the Subject's legs. Officers H, D, and E approached the front porch and assisted with handcuffing the Subject. The Subject resisted the officers and began kicking his legs. Officer A, with the aid of the other officers applied the Hobble Restraint Device around the Subject's ankles.

After the Subject was handcuffed, Officer D looked at the Subject's face and could see crumbs of what appeared to be rock cocaine all around the Subject's lips and upper mouth. The officers began to verbalize with the Subject to spit out the narcotics or he could possibly die, but the Subject ignored the officers. Concerned for the Subject's safety, Officer D placed his hand over the Subject's head and pinched his nostrils for approximately 10 to 15 seconds. The Subject began spitting out some of the narcotics. Officer E used a Field Interview card to scrape the crumbs off the Subject's mouth and the pieces landed on the top step were placed in a plastic bag that was held by Officer I.

A rescue ambulance (RA) was requested and the Subject was transported by the RA to a hospital, and treated for cocaine ingestion. The Subject was released from the hospital and was later booked at the jail.

### **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 Officer A, B, C, D, E, F, G, H, and I's and Sergeant A and B's tactics to warrant divisional training.

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

The BOPC found Officer B, C, D, E, F, and H's drawing to be in policy.

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

The BOPC found Officer B, C, D, E, F, G, and H's non-lethal use of force to be in policy.

#### **D. Less-lethal Use of Force**

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

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that it was only after repeated orders from the officers for the Subject to exit the vehicle that Officer C broadcast the officers' location and requested back-up. Based on Officer C and F's observations of the Subject's demeanor initially, it would have been prudent to request a back-up when the Subject re-entered his vehicle and locked the doors. A timely broadcast of the rapidly unfolding events is crucial for obtaining the necessary resources to effectively manage the tactical incident.

The BOPC noted that the incident unfolded rapidly; however, with the amount of personnel at scene, including two supervisors, the BOPC was concerned with the command and control of the situation. Once officers are in position, they should initiate the appropriate force option in response to the subject's actions. Officers should form a Combative Suspect Control Team and quickly devise a tactical plan.

In accordance with this concept, Officer C immediately assumed the role of the Contact/Communications Officer, Officer F the Cover Officer and Officer A the Beanbag Projectile Shotgun Officer. In order for Officers C, F, and A to focus on their specific roles, a senior officer or supervisor should have assumed the role of Team Leader and organized an Arrest Team. With no attempts made by Sergeants A and B to control the deployment and movement of the officers, Officer B ran toward the Subject simultaneous to Officer A firing a super sock round.

In addition, several officers proceeded to issue verbal commands to the Subject. Officers are trained that when multiple officers give commands, it may create confusion. They are taught to utilize the concept of contact and cover in which one officer gives the verbal commands while the other covers. Once again, had Sergeants A or B attempted to manage the situation, verbal commands could have been kept to a minimum.

The BOPC noted that Officer A responded from the station to the pursuit termination location without his partner. Although generally discouraged, in this instance he and his partner had a juvenile in-custody, which necessitated that his partner remain at the station to monitor the juvenile detainee. However, the BOPC would have preferred that Officer A respond as a third officer in another unit, rather than responding alone in his police vehicle. This would put him in the presence of additional personnel and maximize his ability to appropriately deploy for any eventuality at-scene.

The BOPC found Officer A, B, C, D, E, F, G, H, and I's and Sergeant A and B's tactics to warrant divisional training.

## **B. Drawing/Exhibition/Holstering**

The BOPC noted that after the Subject locked himself inside his vehicle, he began moving his hands between the driver's side door compartment, the center console and behind his seat. Believing the Subject was possibly arming himself, Officers C and F drew their pistols. The Subject ignored Officer C's commands to exit the vehicle. Instead he started the vehicle and drove away from the location. Officers C and F holstered their pistols, re-entered their police vehicle, and a pursuit ensued.

At the termination of the pursuit, the Subject parked his vehicle in the driveway of a residence, turned the vehicle engine off, and remained in the vehicle. Fearing the Subject, whom they knew was a narcotics suspect was possibly arming himself, Officers B, C, D, E, F, and H drew their pistols.

The BOPC determined that Officers B, C, D, E, F, and H had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary. The BOPC found Officer B, C, D, E, F, and H's drawing to be in policy.

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

The BOPC noted that after the super sock rounds failed to stop the Subject from advancing toward the front door of the residence, Officer B forced The Subject down to the porch, with Officer B landing on top of him. To prevent the Subject from standing up, Officer C used his body weight and placed his left knee on the small of the Subject's back, utilized a firm grip to the Subject's right arm, and with the assistance of Officer E, they forced his right arm to the small of his back. In an attempt to continue to restrain the Subject, Officer F wrapped both arms around the Subject's legs and placed his bodyweight on them. An HRD was applied to the Subject's ankles.

The Subject ignored the officers' commands to spit out his narcotics. Officer C applied pressure to the Subject's right cheek to turn his head to the right and Officer D utilized his index finger and thumb to pinch the Subject's nostrils for approximately 10-15 seconds.

Officer C and D's applications of physical force were their individual attempts to prevent the Subject from destroying evidence and safeguard his health. Under the Fourth Amendment, searches and seizures initiated by police officers must be reasonable in manner and scope. Generally, an officer may use reasonable force to prevent a subject from destroying evidence. Force is considered unreasonable if it "shocks the conscience of the court." Based on the training and experience of the officers and their motivation to prevent the potential loss of life, the force utilized by Officers C and D was determined to be reasonable.

The BOPC determined that Officers B, C, D, E, F, G, and H's use of force was reasonable to control the suspect. The BOPC found Officers B, C, D, E, F, G, and H's non-lethal use of force to be in policy.

#### **D. Less-lethal Use of Force**

Unbeknownst to the officers until after the Subject was taken into custody, The Subject was parked in the driveway of his residence. Fearing that the Subject was either about to enter the residence and take a hostage, or enter the location to arm himself with a weapon, Officer A fired one super sock round at the Subject. The Subject appeared unaffected as he continued to ascend the steps leading to the porch. To stop the Subject from advancing, Officer A fired one more super sock round at the Subject, striking him in the left lower back.

The BOPC determined Officer A's less lethal use of force was reasonable to stop tThe Subject's actions; however, the BOPC noted the Subject was struck in the lower back by a super sock round. Officer A clearly articulated his knowledge of Department policy in regard to proper aiming of the Beanbag Projectile Shotgun. Officer A's intended target before firing both sock rounds was the Subject's left thigh. After taking into account the distance at which the Beanbag Projectile Shotgun was deployed, the size of the selected target and the fact the Subject was ascending a flight of stairs, it is not unreasonable that the super sock round inadvertently struck the Subject in the left lower back. The BOPC found Officer A's less lethal use of force to be in policy.