

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

LAW ENFORCEMENT RELATED INJURY – 031- 05

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Harbor	04/04/2005		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	3 years, 2 months
Officer B	10 years, 3 months
Officer C	5 years, 4 months
Officer D	9 years, 10 months
Officer E	11 years, 4 months
Officer F	6 years, 3 months
Officer G	9 years, 4 months
Officer H	10 months

Reason for Police Contact

During a vehicle pursuit, Subject 1 attempted to run over police officers with his pick-up truck. When Subject 1 stopped his pick-up truck and approached the officers, Officer A retrieved a beanbag shotgun and warned Subject 1 that it would be used if he did not comply with their commands. When Subject 1 failed to comply with the officers' commands and continued to advance toward the officers, Officer E fired four rounds at the subject, striking him three times.

Subject

Subject 1: Male, 51 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 and involved officers, and other 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on March 21, 2006.

Incident Summary

On the morning of April 4, 2005, Witness 1 looked out from the window of her home and observed a male (Subject 1) attempt to break into her neighbor's home. When Subject 1 gained access to the residence, Witness 1 heard screams come from within the home and dialed 911. Communications Division ("CD") then generated a "hot prowler" radio call and broadcast. Officers A and B were close to the broadcast location and advised CD that they would handle the call. While en route to the call, CD advised the responding units that the suspect had left the location and was now driving a black Chevrolet pick-up truck. When the officers arrived at the broadcast location, they advised CD that they were following the suspect's pick-up truck. At that point, Subject 1 abruptly pulled his car to the side of the road, exited his truck and shouted, "Kill me. Do it right now!" When Subject 1 walked toward the officers, who had exited their cars, they unholstered their weapons and held them at a low ready position. Wanting to gain control of the situation, Officer B ordered Subject 1 to put his hands in the air and to comply with his commands. However, Subject 1 re-entered his pick-up truck, made a U-turn, and drove towards the officers. The officers reentered their vehicle. Officer A repositioned the police vehicle to avoid being hit by Subject 1's truck.

The officers then advised CD that they were in pursuit of Subject 1's vehicle and broadcast their direction of travel. Wanting to assist the pursuing officers, Officers C and D drove toward the pursuit. They observed Subject 1's truck heading at them. According to Officer D, he swerved to the right to avoid what he perceived to be an intentional effort by Subject 1 to cause a traffic collision. Officer D then turned the police car around and pursued Subject 1's vehicle while his partner advised CD that they too were in pursuit. Officers A and B were in the process of negotiating a U-turn when Officers D and C arrived at scene and assumed the responsibility as the primary car in the pursuit.

Moments later, Subject 1 again stopped his car, exited, and berated the officers. Officers A, B, C, and D exited their cars and drew their weapons, holding them at a low ready position. When Officers A and B ordered Subject 1 to comply with their commands, he refused, walking to within 10 to 15 feet of the officers. Subject 1 then returned to his pick-up truck, negotiated a U-turn, and drove directly toward Officer A, causing him to run to the rear of his police car to avoid being struck by Subject 1's pick-up truck. The officers then re-holstered their service pistols, entered their respective police cars, and continued to pursue Subject 1.

Throughout the pursuit, Subject 1 used local streets, essentially driving in a circle. On several occasions during the pursuit officers observed Subject 1 reach under his seat, causing them to believe that he was possibly arming himself. When Subject 1 returned to the original address of the call, Officers A, B, C, and D positioned themselves behind their respective vehicle doors and again drew their weapons. Officer B again ordered Subject 1 to comply; however, rather than complying with his commands, he walked toward the officers, yelling; "Kill me, shoot me, I don't care, do what you gotta do."

At that time, Officer E and F arrived at the scene. Believing that Subject 1's actions were aggressive and combative, Officer E retrieved a beanbag shotgun ("shotgun") from the trunk of his car, while Officer F armed himself with a TASER. As Officer E loaded

his shotgun, Subject 1 returned to his truck and drove it directly towards the officers at a high rate of speed. Officer A ran to the rear of his vehicle for cover and indicated that Subject 1 came within ten feet of running him over. Officers C and F also indicated that they ran for cover to avoid being hit by Subject 1's truck. According to Officer D, at this time Subject 1 picked up an object from the ground that appeared to be a flashlight prior to entering his truck and driving away. Officer F also saw Subject 1 pick up an object from the ground but described the item as a folded knife.

When Subject 1 again stopped his truck in the street, he again exited his pick-up and berated the officers. Believing Subject 1 to be an aggressive and combative suspect, Officer E warned Subject 1 that if he did not comply with their commands a beanbag shotgun would be used. Subject 1 did not comply. As a result, Officer E raised his beanbag shotgun and fired one round in Subject 1's direction. Officer E assessed Subject 1's demeanor but was unable to determine if the round struck him. Subject 1 continued to be aggressive and combative and Officer E fired a second round that struck Subject 1 in his upper torso. Subject 1 then yelled, "shoot me," while refusing to comply with the officers' commands. Officer E then fired a third round, but was unable to determine if that round struck Subject 1. The distance between Officer E and Subject 1 when the rounds were fired was approximately 49 feet.

According to Officer E, Subject 1 reached under the seat, causing Officer E to believe that he was attempting to arm himself and fired a fourth round. Officer E also indicated that Subject 1 was leaning out of the driver side window of his truck with his upper torso facing the officers when the rounds were discharged.

Apparently unaffected by the rounds, Subject 1 again drove away. The officers returned to their police cars and continued to pursue Subject 1. Officers G and H joined the pursuit as the "secondary" unit and advised CD that the subject "appeared to be reaching for a handgun under the seat." After evading the police for several minutes, Subject 1 stopped his truck in the driveway of the original call location. Concerned for their safety, Officers A, B, C, D, E, F, G, and H unholstered their service weapons, holding them in the low ready position. The officers then ordered Subject 1 into a prone position. Subject 1 complied with their commands and the officers took him into custody without further incident.

A Rescue Ambulance (RA) arrived at scene and treated Subject 1 for a complex laceration to his lower lip, a fracture to his left hand, and a contusion to his left rib and anterior flank. The RA unit then transported Subject 1 to a local hospital where he was admitted and provided with further medical treatment

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 the following areas: Tactics of the involved officer(s); Drawing/ Exhibiting/ Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. 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 Officers A, B, C, D, E, F, G and H's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

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

C. Use of Less-Lethal Force

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

Basis for Findings

A. Tactics

The BOPC noted that the subject indicated his intent to provoke the officers into killing him. The subject repeatedly and deliberately drove at the officers to cause a "suicide by cop" scenario. However, the officers' tactics prevented a deadly force situation. The BOPC noted the officers' actions were highly commendable in avoiding the use of deadly force against someone intent on dying at the hands of the police. The BOPC specifically noted that the officers formulated a plan, communicated well, and worked as a team. Although Subject 1's actions were erratic and dangerous, all of the involved officers showed great restraint in dealing with the suspect.

The BOPC found Officers A, B, C, D, E, F, G and H's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A, B, C, D, E, F, G and H were confronted with a subject who drove his vehicle directly at them on several occasions. Subject 1 displayed an aggressive demeanor and yelled at the officers to shoot him as he drove recklessly in the community. The BOPC determined that these officers reasonably believed that the subject's actions may have escalated to the point where deadly force may have been justified.

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

C. Use of Less-Lethal Force

The BOPC noted that several officers ordered Subject 1 to surrender and to lie on the ground. Subject 1 refused to comply, continued to be aggressive, and yelled at the officers to shoot and to kill him. Subject 1 also drove in an unsafe manner and placed

several officers at risk of serious bodily injury or death. Once Subject 1 stopped his vehicle and exposed his upper body, Officer E fired four beanbag rounds from a distance of approximately 49 feet in an effort to stop Subject 1's aggressive actions. One of those beanbag rounds may have inadvertently struck Subject 1 on his lower lip or chin. Although the BOPC considered that the distance from which the beanbag rounds were fired in this instance may have been beyond its intended range, this deviation was reasonable given the "standoff" situation. The BOPC also noted that the "standoff" distance of Subject 1 from Officer E when Officer E fired the beanbag rounds did not seriously hinder the accuracy of the beanbag shotgun. Therefore, the BOPC determined that Officer E's decision to utilize the beanbag shotgun was reasonable to stop Subject 1's dangerous actions. The BOPC determined that Officer E's less-lethal use of force was reasonable to stop Subject 1's aggressive actions and enabled officers to take him into custody,

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