

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

LAW ENFORCEMENT RELATED INJURY – 046-07

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
Mission	05/09/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer E	3 years, 9 months
Officer G	7 years, 7 months

Reason for Police Contact

Officers responded to a radio call regarding a stolen taxicab. The officers located the cab and became involved in a vehicle pursuit of the stolen cab. The subject was arrested and a LERI incident occurred.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (x)</u>	<u>Non-Hit ()</u>
Subject: Male, 48 years 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 Los 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 April 4, 2008.

Incident Summary

A cab driver was dispatched to pick up the Subject from a bar. Once inside the cab, the Subject feigned sickness, which caused the cab driver to stop his vehicle and render assistance. Upon doing so, the Subject pushed the cab driver aside, entered the driver's side door of the taxi and drove away. The cab driver's dispatcher then notified 911 and reported that the cab had been stolen.

Officer A and Officer B responded to the location of the owners of the stolen cab, and advised responding units that the cab was equipped with a Global Positioning Satellite System (GPS). Based on information from the vehicle's GPS, the officers informed responding units that the stolen cab was in a certain location.

Sergeants A and B and Officers C, D, E, F, G, H, I, J, K, L, and M heard the broadcast and responded to search for the stolen cab. Officers C and D located the stolen cab, advised communication division, requested a backup unit, and air unit. The officers activated their emergency equipment and initiated a vehicle pursuit.

During the pursuit, the Subject crashed and then continued down the street. Additional units, an airship, and Sergeant A authorized the primary unit to execute the Police Intervention Technique (PIT). Officer C then executed the PIT maneuver on the street, causing the stolen vehicle to spin out to the west side of the street. Officer C pulled the police vehicle to the side of the roadway while additional police units initiated a felony stop of the Subject's vehicle. The officers exited their police vehicles, drew their pistols, and ordered the Subject to raise his hands and exit the vehicle, but the Subject did not comply.

The Subject reached down towards the floorboard, causing the officers to lose sight of his hands. Officer E opened the trunk of his police vehicle and retrieved a beanbag shotgun. The Subject again revved the engine, and then rammed Officer F's police vehicle with the cab. Officer E then fired three beanbag rounds toward the Subject. The first beanbag round entered the cab of the vehicle and the second beanbag round struck the passenger side front door, and the third beanbag round struck the passenger side rearview mirror. Unaffected by the beanbag rounds, the Subject fled the scene in the cab, which caused the officers to resume the vehicle pursuit. Officer E indicated that when he fired the beanbag rounds, he aimed for the Subject's front midsection.

The Subject drove onto the freeway and Sergeant A again authorized the use of the PIT maneuver. Officer F then executed the PIT maneuver, causing the Subject's vehicle to spin 180 degrees, and travel in the opposite direction on the freeway against traffic. The officers followed the Subject as he traveled in the wrong direction on the freeway. Due to public safety concerns, the officers positioned themselves on the shoulder of the freeway. When the Subject exited the freeway, the officers resumed the pursuit. The Subject's stolen cab slowed to a stop. The pursuing officers then executed a felony stop. Officers C, D, E, F, G, H, I, J, K, L, and M drew their service pistols, and ordered the Subject out of the cab. The Subject failed to comply, so Officer G advised the Subject that he would be bean bagged if he did not comply. The Subject did not comply and attempted to start the engine of the cab. Officer G fired two beanbag rounds at the Subject and indicated that when he fired the beanbag shotgun, he aimed for the Subject's center body mass.

The Subject then yelled and opened the driver's side door, and fell out of the cab, striking his head on the ground where he was arrested without further incident. A Rescue Ambulance (RA) arrived at scene transported the Subject to a hospital.

Upon further medical examination, it was determined that the Subject had sustained two lacerations to his head and that his injuries were the result of having been struck in the head by a beanbag round. The incident was then categorized as a categorical use of force (CUOF) incident.

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 Sergeant A and B and Officer C, D, E, F, G, H, I, J, K, L, and M's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer C, D, E, F, G, H, I, J, K, L, and M's drawing to be in policy.

C. Less-lethal Use of Force

The BOPC found Officer E and G's less-lethal use of force to be in policy but also to warrant divisional training.

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that following the PIT maneuvers and at the termination of the vehicle pursuit, several officers began to shout verbal commands at the Subject. Multiple officers providing commands can confuse a subject. It would have been more appropriate had a designated contact officer provided verbal instructions to the Subject.

The investigation revealed that Officers G and H were not equipped with their side-handled batons. Additionally, several officers at scene were equipped with TASERS, but chose to leave the TASERS in the vehicle.

All of the officers at scene should be reminded to equip themselves with the necessary resources to increase their force options.

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

B. Drawing/Exhibiting/Holstering

The BOPC noted that after completing the PIT maneuvers on the street and on the freeway, the officers deployed around the taxicab. Believing the situation could escalate to the level where deadly force would be necessary, the officers at the scene drew their pistols. The officers remained with their weapons drawn until the Subject fled the locations with the officers in vehicle pursuit.

When the vehicle pursuit came to an end, the officers approached the taxicab. Based on the Subject's willful disregard for the community, the officers at scene believed the situation could rise to the point where deadly force may become necessary and drew their pistols.

The BOPC determined that Officers C, D, E, F, G, H, I, J, K, L, and M had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

The BOPC found Officer C, D, E, F, G, H, I, J, K, L, and M's drawing to be in policy.

C. Less-lethal Use of Force

The BOPC noted that subsequent to the first PIT maneuver, Officer F requested the deployment of a beanbag shotgun. Officer E holstered his pistol and retrieved the beanbag shotgun and returned to his position of cover. Officer E observed the Subject fail to comply with the officers' verbal commands and heard the taxicab's engine revving. Fearing the officers were in immediate danger from The Subject, Officer E fired a projectile at the Subject, through the open passenger side window. The Subject appeared unaffected and continued to start the engine. Officer E fired two additional projectiles, one of which struck the passenger door and the other projectile struck the passenger side-view mirror.

At the termination of the pursuit, Officer G retrieved the beanbag shotgun and took a position of cover. The Subject refused to comply with the officers' verbal commands. Fearing the Subject was arming himself, Officer G fired a projectile, striking the Subject. The Subject appeared unaffected and continued his attempts to start the taxicab.

Although the BOPC determined that Officer E and G's use of less-lethal force was reasonable to overcome The Subject's overt acts of aggression, both officers indicated they targeted The Subject's upper torso. The appropriate target location for the beanbag shotgun is the abdomen, aiming at the navel or belt line.

The BOPC found that Officer E and G's use of less-lethal force was in policy but warranted divisional training.

D. Use of Force

The BOPC noted that after firing his first projectile, Officer G assessed the situation. Officer G determined the Subject was still a threat and fired a second projectile. The Subject was heard yelling, "Okay, I'll do whatever you want." The Subject then complied and was taken into custody outside of the taxicab.

The BOPC determined that the strike to The Subject's head was inadvertent. Officer G did not target or intend to strike the Subject on the head, and in fact it was The Subject's failure to comply with the verbal commands and sudden movement that caused the projectile to strike his head.

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