

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

LAW ENFORCEMENT RELATED INJURY – 049-07

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(X) No()</u>
Hollenbeck	05/25/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	10 years, 3 months
Officer C	1 year, 6 months
Officer D	7 years, 1 month
Officer G	10 years, 8 months
Officer H	1 year, 5 months
Officer I	4 years, 10 months
Officer K	16 years, 6 months
Officer L	4 years, 10 months

Reason for Police Contact

Communications Division received a call that a battery had just occurred. The call was assigned to Officers A and B. Subject 1 drove by the residence as officers were completing a crime report, and a pursuit was initiated.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 30 years.			

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 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 04/22/08.

Incident Summary

Victim A and her boyfriend, Subject 1, were involved in a verbal dispute at their home. When Subject 1 pushed Victim A, her mother, Witness A, called Communications Division (CD) and advised the dispatcher that a battery had just occurred. CD then assigned the call to Officers A and B to respond. The officers arrived at Victim A's home and learned that Subject 1 had threatened to harm Victim A and had taken her

car and their eight-year-old daughter without her permission. While the officers were completing a criminal threats and stolen vehicle report, Subject 1 drove past Victim A's residence. The officers followed Subject 1, advised CD that they were following a Grand Theft Auto (GTA) suspect, and requested an airship and back up.

Sergeant A and Officers C, D, E, F, G, H, I, J, K, and L also heard the broadcast and responded to provide assistance.

While following Subject 1, Officers A and B observed Subject 1's eight-year-old daughter seated in his vehicle. The officers decided that if Subject 1 failed to yield, they would terminate the pursuit and allow the air unit to track him. Once an airship was overhead and additional units were in place, Officer B activated his overhead lights to initiate a traffic stop. When Subject 1 failed to yield and accelerated at a high rate of speed, the officers terminated the pursuit and advised the air unit to track the pursuit.

Subject 1 dropped off his daughter at a residence and sped away. Noting that Subject 1's daughter was no longer in the vehicle, Officers A and B resumed the pursuit with supporting units in tow. On two occasions the pursuit entered the freeway where the California Highway Patrol assumed the primary position. Subject 1 exited the freeway and circled the streets surrounding Victim A's residence, prompting officers to establish a loose perimeter in that area and deploy spike strips. Subject 1 drove over the spike strips, which effectively deflated three of his tires and decreased the speed of his vehicle. Officer H positioned his police vehicle to block the path of Subject 1's vehicle to prevent Subject from escaping on the other side of the road.

Officer H and his partner, Officer F, then exited their police vehicle, drew their service pistols, and sought cover behind several parked cars. The pursuing officers then executed a felony stop, where Officers C, K, and L drew their service pistols, and ordered Subject 1 out of his vehicle. When Subject 1 failed to comply, Sergeant A advised Officer J to retrieve a beanbag shotgun and shoot out the window of Subject 1's car.

Although Officer A advised Subject 1 that a beanbag shotgun would be deployed if he failed to comply, Subject 1 berated the officers and did not comply with their commands. Officer J then yelled, "beanbag ready" while Officer I drew his service pistol and provided cover. Officer J then fired one round at Subject 1's vehicle. The round struck the front driver's side window of Subject 1's vehicle, causing it to shatter. When Subject 1 remained in the vehicle, Sergeant A directed Officer G to deploy the TASER. Covered by several officers, Officer G approached Subject 1's vehicle from the driver's side and advised Subject 1 that a TASER would be deployed if he did not comply with their commands and exit the vehicle. When Subject 1 failed to comply, Officer G discharged the TASER at Subject 1 through the shattered window, striking him in the chest with no apparent effect. Officer A, who was also armed with a TASER, then approached Subject 1 and discharged the TASER, striking Subject 1 in the chest and immobilizing him. When Subject 1 opened the driver's side door of his vehicle, Officer A deactivated the TASER and Officer I reached inside and pulled Subject 1 from his vehicle. As a result of Officer I's attempt to remove Subject 1 from the vehicle and Subject 1's struggle to break free from his grasp, Officer I lost his footing. Officers C, D, H, I, K, and L then used a team take down to subdue Subject 1 and prevent him from

standing. In doing so, Officer I used his body weight and placed his knee on Subject 1's back while Officer K placed both of his knees on Subject 1's lower back and applied firm grips to his left arm. Officer D applied firm grips to Subject 1's right arm. Officers C, H, and L applied bodyweight and wrapped their arms around Subject 1.

Once on the ground, Subject 1 continued to resist arrest. Noting that the subduing officers needed assistance, Officer G applied a TASER to Subject 1's buttocks for a two to three second "burst." Subject 1 was then handcuffed, hobbled, and assisted to his feet.

Noting that blood was present on Subject 1's forehead, Sergeant A directed Officers F and H to transport him to the station.

A Rescue Ambulance (RA) unit was requested and was to meet Officers F and H when they arrived at the station with Subject 1. Subject 1 repeatedly banged his head against the passenger side rear window while en route to the station. When the officers arrived at the station, they observed Sergeant B in the parking lot. Noting that Subject 1 was bleeding from his face, Sergeant B directed the officers to transport him to Jail Division for medical treatment and followed them in his police vehicle.

Upon arriving at Jail Division, Subject 1 complained of injuries to his ribs and was seen by a nurse. The nurse then directed the officers to transport him to a hospital for an examination of his ribs.

After being seen by the nurse, Subject 1 was booked, fingerprinted, and photographed at Scientific Investigation Division (SID). Once Subject 1's injuries were documented, he was taken to a hospital, where he was subsequently admitted.

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's tactics to warrant formal training.

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

B. Drawing/Exhibiting/Holstering

The BOPC found Officers C, F, H, I, K and L's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC found Officers C, D, H, I, K and L's non-lethal use of force to be in policy.

D. Less-lethal Use of Force

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

E. Other (Tactical Discharge)

The BOPC found Officer J's tactical discharge of the Bean Bag Projectile Shotgun to warrant divisional training.

Basis for Findings

A. Tactics

The BOPC was concerned with the command and control demonstrated by Sergeant A during the incident. As in any volatile situation, the subject should be contained as rapidly and safely as possible. Sergeant A should have taken immediate control of the situation and designated an officer to establish contact with the subject. This prevents confusion on the part of a subject, which can occur when several officers are giving verbal commands simultaneously. Additionally, clear instructions were not provided to Officer J regarding the target location for the Bean Bag Projectile Shotgun, resulting in Officer J targeting the front driver's side window. Finally, a Combative Suspect Control Team should have been formed with all of the roles clearly assigned to the officers, avoiding confusion.

Several areas for tactical improvements were also noted, after Subject 1 drove the vehicle over the spike strip and three tires were deflated, he continued to drive. It would have been safer for officers to respond to the general area of the pursuit and to avoid placing themselves in the subject's path. Additionally, the officers opted to block Subject 1's vehicle with their police vehicles in order to prevent him from escaping, a practice which is generally discouraged.

The BOPC found Sergeant A's tactics to warrant formal training.

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

B. Drawing/Exhibiting/Holstering

At the termination of the pursuit, Subject 1 stopped his vehicle in front of a residence and remained in the vehicle with the engine running. Fearing that Subject 1, a GTA and Domestic Violence subject, was possibly arming himself, Officers C, F, H, K, and L drew

their service pistols.

As Officer J stepped into the roadway to deploy the Beanbag Projectile Shotgun, Officer I drew his service pistol and provided cover.

The BOPC determined that Officers C, F, H, I, K and L had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary.

The BOPC found Officers C, F, H, I, K and L's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC noted that after Officer A deployed the TASER, Subject 1 was temporarily immobilized. The front driver's side door was opened, allowing Officer I to reach into the vehicle, grab Subject 1's left wrist and shoulder and pull him out of the vehicle. Simultaneously, additional officers took control of Subject 1 and forced him to the ground. To prevent Subject 1 from standing up, Officer I used his bodyweight and placed a knee and both hands on Subject 1's left shoulder area, Officer K placed both knees on Subject 1's lower back, applied firm grips to Subject 1's left arm and forced it to the small of his back. Officer D applied firm grips to Subject 1's right arm, forced it to the small of his back and he was subsequently handcuffed. In an attempt to overcome his resistance, Officer H placed both of his knees on the back of Subject 1's legs, Officer L held down Subject 1's right leg by the knee and ankle and Officer C wrapped an arm around Subject 1's left leg. Subject 1 continued to kick and Officers C and L applied a hobble restraint on Subject 1's ankles.

The BOPC determined that Officers C, D, H, I, K and L's use of force was reasonable to control Subject 1.

The BOPC found Officers C, D, H, I, K and L's non-lethal use of force to be in policy.

D. Less-lethal Use of Force

The BOPC noted that after the sock round shattered the driver's side window, Subject 1 continued to ignore the officers' commands to exit the vehicle. Officers A, G, H and L approached the vehicle, and Officer G deployed the TASER at Subject 1 through the shattered window. Subject 1 appeared unaffected, and Officer A deployed a second TASER at Subject 1 through the shattered window.

Subject 1 was removed from the vehicle with non-lethal force. Unable to overcome Subject 1's resistance with the combined efforts of six officers, Officer G applied the TASER to Subject 1's buttocks, and Subject 1 was subsequently handcuffed.

The BOPC determined that Officers A and G's less-lethal use of force was reasonable to stop Subject 1's actions.

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

E. Other (Tactical Discharge)

The BOPC noted that when Subject 1 remained seated in the driver's seat refusing to exit, Sergeant A directed Officer J to deploy the Beanbag Projectile Shotgun and fire one sock round at Subject 1's vehicle window. Officer J was not given clear direction regarding which window to target, and he deduced the front driver's side window was the intended target.

Due to the fact that secondary projectiles may have been generated, Officer J should not have shot out the front, driver's side window with Subject 1 seated behind it. In addition, once a sock round strikes a window, its subsequent trajectory cannot be foreseen. With the potential for a sock round to cause fatal or serious injuries if fired at the head, neck, spine or chest, a tactical discharge to a vehicle window with someone seated behind it creates a circumstance where serious injury or death may occur.

The BOPC found Officer J's tactical discharge of the Bean Bag Projectile Shotgun to warrant divisional training.