

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

**OFFICER-INVOLVED SHOOTING – 007- 05**

<b>Division</b>	<b>Date</b>	<b>Duty-On (x) Off ( )</b>	<b>Uniform-Yes (x) No ( )</b>
Hollywood	01/27/2005		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	6 years, 10 months
Officer B	9 years, 6 months

**Reason for Police Contact**

Officers initiated contact with a suspect who had fled to Mexico to avoid prosecution and who was wanted on an outstanding felony warrant for his arrest. The involved officers understood that the suspect was a known gang member suspected in several narcotics-related homicides.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 26 years of age.			
Subject 2: Female, age unknown.			

**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 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 January 10, 2006.

**Incident Summary**

On Thursday afternoon, January 27, 2005, Hollywood Officers A and B were returning to the Hollywood Police Station after weapons qualification at the Elysian Park Police Academy. Officers A and B were assigned to the Gang Enforcement Detail ("GED"). The officers knew of a felony arrest warrant for Subject 1, a gang member who had fled to Mexico to avoid prosecution. The officers had the description of Subject 1's vehicle,

a silver Ford Escort with California license plates, and understood that Subject 1's name had surfaced as a possible suspect in several narcotics-related homicides. Subject 1 was suspected of utilizing violence to further gang objectives.

The officers knew that Subject 1 had a child with Subject 2 and had obtained information from other GED officers that Subject 1 might visit Subject 2 at a residence in Los Angeles. Subject 2 was the mother of Subject 1's seven-month old son. The officers drove by the residence and observed a Ford Escort matching the description of the one driven by Subject 1. From a distance, the officers also observed a person resembling Subject 1 place a child seat in the car. Officer B contacted Communications Division ("CD") and requested information regarding the Ford Escort. Before that information could be obtained, Subject 1 drove southbound on Normandie Avenue toward Fountain Avenue. The officers were not sure if the driver of the Ford Escort was, in fact, Subject 1 and followed the car until they could confirm the identity of the driver. While following the car, Officer A notified another officer by personal cell phone that they might have located Subject 1's car.

As they followed the car, the officers saw that the driver failed to stop at the limit line for the signal light at Fountain Avenue; a violation of the California Vehicle Code section supporting a traffic stop. Officer A turned on the police unit's lights and siren while Officer B used the public address system to direct the driver onto Kingsley Drive. When Officer A stopped the police unit behind the Ford Escort, he and his partner positioned themselves behind the police unit doors. Officer A observed the reflection of the driver in the side view mirror, but could not confirm the identity of the driver as Subject 1. Officer A ordered the driver to turn off the car, but the driver did not comply. Officer A repeated his commands in the Spanish language. The driver did not respond.

The driver turned over his left shoulder, faced Officer A, and then sped southbound on Kingsley Drive toward Santa Monica Boulevard. Officer A, at that point, had confirmed the identity of the driver to be Subject 1. Officer A slowed the police unit choosing to follow the Ford Escort at a distance of six to eight car lengths. When Subject 1 attempted to turn right at the T-intersection of Santa Monica Boulevard and Kingsley Boulevard, Subject 1 collided with another vehicle.

Officer A stopped the police unit behind Subject 1's car. Subject 1 then exited his car with an angry look on his face, approached the officers, and reached for his waistband with his right hand. When the officers observed Subject 1 struggle to withdraw a metallic object from his waistband that appeared to be caught on his clothing, they believed that he was in the process of arming himself. Officer B yelled that Subject 1 was going to shoot. Officer A, who was still seated in the driver's seat of the police unit, drew his service weapon and fired two rounds through the windshield at Subject 1. Simultaneously, Officer B, who was behind the police unit passenger door, fired seven rounds at Subject 1. Officer B continued firing until Subject 1 collapsed backwards and the metal object fell from his right hand to the pavement.

Officer B contacted CD and informed them that shots had been fired and requested a back up and two supervisors to respond. When additional police units arrived at the scene, Officer B directed Subject 2 to exit the vehicle. Subject 2 then exited the vehicle

with a baby in her arms. When Officers D and F arrived, Officer D positioned himself behind Officer A, at the open driver's door of the police car. Officer A advised Officer D to watch the suspect's hands as he had reached for something earlier. Officer D could see a metallic object, later identified as a folded knife, lying on the pavement near Subject 1. Once additional officers arrived at the location, an arrest team was formed. Officers C, D, E, and F approached Subject 1's car and cleared it for other occupants. When the officers approached Subject 1, Officer C holstered his weapon, used his foot to push aside a black folded knife from Subject 1's reach and took Subject 1 into custody without further incident.

After Subject 1 was taken into custody, several officers overheard him say that he wanted the officers to kill him because he would rather die than go to jail. When an ambulance arrived at the location, Subject 1 was transported to a local hospital where he was treated for multiple gunshot wounds. While en route to the hospital, an officer who accompanied Subject 1 to the hospital overheard him say that he had ingested an illegal narcotic. Laboratory results confirmed the presence of methamphetamine in Subject 1's blood.

### **Los Angeles Board of Police Commissioner's 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 that Officers A and B would benefit from additional tactical training.

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

The BOPC found Officers A, B, C, D, E, and F's drawing/exhibition/holstering of a firearm to be in policy, requiring no action.

#### **C. Use of Force**

The BOPC found Officer A and B's use of force to be in policy, requiring no action.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that the officers did not request back up and an air unit (helicopter) upon initiating the vehicle pursuit. It was also noted that Officer A contacted an officer on his personal cell phone regarding locating Subject 1's vehicle. The BOPC would have preferred that Officer A had broadcast the information to CD, which would have alerted other units in the area. Additionally, Officer A and B did not immediately de-cock their weapons after the officer involved shooting ("OIS").

The BOPC expressed concern regarding Officer A and B's decision to initiate a traffic stop when a felony stop was the appropriate course of action under the circumstances. Given that Subject 1 had a felony arrest warrant outstanding and was a suspect in several narcotics-related homicides, the BOPC believed the officers should have continued following Subject 1 until back up and an air unit arrived to conduct a felony stop. The felony stop would have provided for the presence of more officers including an air unit, which would have increased officer safety and potentially deterred Subject 1 from any aggressive or combative conduct.

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

The BOPC determined that all personnel had sufficient information to believe the situation might escalate to the point where deadly force may become necessary and found the actions of the officers' drawing/exhibiting and holstering of their weapons in policy, requiring that no action be taken against them.

### **C. Use of Force**

The BOPC determined that Officers A and B reasonably believed that the suspect presented an immediate threat of serious bodily injury or death and found their use of force in policy, requiring that no action be taken against them.

Subject 1 exited the driver's seat and advanced toward the officers' police unit, while reaching toward his waist area with his right hand struggling to withdraw a metallic object that appeared caught on his clothing. Officer A heard his partner state that Subject 1 was going to shoot. Believing Subject 1 was arming himself with a handgun, Officer A, who was seated behind the steering wheel of his police unit, drew his service pistol and in immediate defense of his life and the life of his partner fired two rounds through the windshield at Subject 1. Meanwhile, Officer B was behind his open passenger door drawing his service pistol. Officer B also saw Subject 1 exit his vehicle and advance toward the police unit reaching toward his waist area with his right hand and tugging at a metallic object. Fearing that Subject 1 was arming himself, Officer B shouted a warning to his partner, and in immediate defense of his and his partner's life, began to fire at Subject 1 as he advanced. Subject 1 appeared unaffected by the gunfire and remained on his feet. Officer B fired seven rounds, until he saw Subject 1 collapse backwards and an object fall from Subject 1's right hand to the pavement.