

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

**OFFICER-INVOLVED SHOOTING - 010 - 05**

<b>Division</b>	<b>Date</b>	<b>Duty-On (x) Off ( )</b>	<b>Uniform-Yes (x) No ( )</b>
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Rampart	02/04/2005		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	5 years
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Officer B	7 years
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**Reason for Police Contact**

Officers responded to a radio call involving a man who had threatened to kill his former employer. The comments of the radio call indicated that the suspect was armed with a gun and that he had pointed the gun in all directions. Communications Division also advised the officers that the incident was a possible attempted suicide.

**Subject**

Subject 1: Male, age unknown.

Subject 2: Male, 27 years of age (wounded).

**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 Board of Police Commissioners ("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 January 31, 2006. The BOPC unanimously made the following findings.

## **Incident Summary**

On Friday, February 4, 2005, Subject 1 was painting an apartment building. Subject 2 confronted Subject 1 about his being fired by Subject 1 earlier in that day. Upset and apparently intoxicated, Subject 2 pulled a handgun from his waistband and pointed it at Subject 1. Subject 1 continued to paint. Subject 2 then walked toward a Toyota pickup truck parked on the street and remained there until the police arrived.

Communications Division ("CD") generated a radio call of an "ADW, suspect there now" and directed Rampart police units to the location of the incident. CD further advised that the suspect was a male Hispanic between the ages of 20-25 and that he was armed with a handgun.

Officers A and B, Rampart Patrol Division, were assigned the call and proceeded to the broadcast location with their overhead lights and sirens activated. While enroute to the call, CD further advised Rampart police units that the incident was a possible attempted suicide and that the suspect was holding a gun in his right hand. CD further indicated that the suspect was sitting on the sidewalk between a Mercury Cougar and a Toyota pickup truck with the gun to his head. Upon hearing this information, Officer A requested an air unit and a back-up unit but was informed that no air units were available. CD again updated the call to advise responding police units that Subject 2 was holding the gun in his right hand and that he was now pointing it in all directions.

As the officers drove toward the location searching for Subject 2, they were "flagged" down by a citizen working on his car. Officer B, in Spanish, asked the citizen where Subject 2 was, and the citizen pointed up the street. Meantime, Officer A looked up the street and observed a male, later identified as Subject 2, approximately 100 feet north of the officers' location.

As Officer B drove toward Subject 2, Officer A noted Subject 2 matched the description of the subject identified by CD. When Subject 2 was observed, he was hunched over the rear bed of a Toyota pick-up truck and his hands were hidden from view.

When the officers stopped their police car, they exited, drew their weapons, and took a position of cover behind their respective vehicle doors. Officer B assumed a seated barricaded position behind his vehicle door, while Officer A stood behind the vehicle door with his gun positioned between the door jam and the frame of the police car. Upon seeing a weapon in Subject 2's hand, Officer B ordered him in English at least three times to drop the gun. Subject 2 did not comply. Meanwhile, Officer A scanned the area because he did not believe the suspect matched the description by CD and because he was concerned of a possible ambush.

Subject 2 turned toward the officers and pointed his gun in Officer A's direction, causing Officer B to fire one round at Subject 2 in defense of his partner's life. When Subject 2 pointed his gun at Officer B, Officer B fired a second round. Apparently unaffected by the gunfire, Subject 2 again pointed his gun in Officer B's direction, causing Officer B to fire his weapon a third time. After the third round was fired, Subject 2 fell to the ground.

Officer A broadcast a help call due to the shots that had been fired and the suspect being down. The officers then de-cocked and holstered their weapons and moved Subject 2 from the street to the sidewalk. Officer B then handcuffed Subject 2 while his partner requested a Rescue Ambulance ("RA") via radio.

Paramedics treated Subject 2 for three gunshot wounds and Subject 2 was transported to a local Hospital where he was admitted and provided with further medical treatment. Subject 2 survived his gunshot wounds. Subject 2's weapon was subsequently determined to be a pellet gun with the appearance of a real firearm.

### **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 formal tactical training provided by Training Division.

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

The BOPC found Officers A and B's drawing/exhibition/holstering of a firearm to be in policy.

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

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

### **Basis for Findings**

#### **A. Tactics**

The BOPC found that the officers did not communicate with each other regarding the conversation Officer B had in the Spanish language. Also the BOPC was concerned that the officers did not attempt to speak to Subject 2 in Spanish. The BOPC further noted that when the officers approached Subject 2, they did not discuss their contact and cover roles or communicate adequately with each other. Additionally, the BOPC was concerned that the officers holstered their pistols and handcuffed Subject 2

together and did not maintain positions of cover and await the arrival of additional units. The BOPC also expressed concern that Officer B did not remain focused on the immediate threat presented by Subject 2. The BOPC determined that Officers A and B would benefit from additional formal tactical training provided by Training Division.

### **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.

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

The BOPC found that despite Officer B's commands to drop his weapon, Subject 2 did not comply and Subject 2 turned and pointed his weapon toward Officer B. Officer A fired one round at Subject 2 in fear for his partner's life. Subject 2 then pointed his weapon toward Officer A, causing him to fire a second round in fear of his own life. Subject appeared unaffected by the first two rounds and when Subject 2 turned back towards Officer B and pointed his weapon at him, Officer B fired a third round at Subject 2. The BOPC determined that Officer A reasonably believed that the suspect presented an immediate threat of serious bodily injury or death to both officers and found Officer B's use of force in policy.