

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

**OFFICER-INVOLVED SHOOTING - 043-05**

| <b><u>Division</u></b> | <b><u>Date</u></b> | <b><u>Duty-On(x) Off( )</u></b> | <b><u>Uniform-Yes(x) No( )</u></b> |
|------------------------|--------------------|---------------------------------|------------------------------------|
| Southwest              | 05/19/2005         |                                 |                                    |

| <b><u>Involved Officer(s)</u></b> | <b><u>Length of Service</u></b> |
|-----------------------------------|---------------------------------|
| Officer A                         | 17 years, 1 month               |
| Officer B                         | 13 years, 6 months              |

**Reason for Police Contact**

Officers observed Subject 1 riding a bicycle. Subject 1 committed traffic violations and the officers attempted to stop him. Subject 1 dropped his bicycle and ran from the officers. Officer B exited the police vehicle and pursued Subject 1 on foot as Officer A followed in the police vehicle. Subject 1 produced a pistol and pointed it at Officer B, prompting Officer B to draw his service pistol and fire two rounds at Subject 1.

| <b><u>Subject(s)</u></b>          | <b><u>Deceased (x)</u></b> | <b><u>Wounded ( )</u></b> | <b><u>Non-Hit ( )</u></b> |
|-----------------------------------|----------------------------|---------------------------|---------------------------|
| Subject 1: Male, 29 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, 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 June 13, 2006.

**Incident Summary**

On the afternoon of Tuesday, May 31, 2005, Officers A and B were assigned to a crime suppression detail in the Southwest Area. The officers were patrolling in an unmarked police vehicle. Officer A was driving the vehicle.

The officers saw a male (subsequently identified as Subject 1) riding a bicycle. According to Officer A, Subject 1 was riding against traffic, then “jay crossed” the street on his bicycle. According to Officer B, Subject 1 was riding against traffic and rode in a circular motion in the street several times, causing other vehicles to stop.

The officers decided to stop Subject 1 for the observed traffic violations<sup>1</sup> and followed him as he rode northbound onto a nearby street. As Subject 1 rode northbound on the west side of the street, the officers followed a short distance behind and attempted to stop him.

Officer B began to exit the police vehicle. As he did so, Subject 1 dropped his bicycle and ran northbound along the west sidewalk of the street. Officer B began to pursue Subject 1 on foot while Officer A followed close behind in the police vehicle. As his partner ran after Subject 1, Officer A broadcast a request for “back-up,” but provided an incorrect location.

As the officers continued to pursue him, Subject 1 ran into an intersection. According to Officer B, who estimated that he was 15 feet behind Subject 1 at this time, Subject 1 reached in his front waistband area with his right hand and produced a gun. Officer B drew his service pistol, shouted, “He has a gun!” to warn Officer A, and shouted, “Drop the gun, drop the gun” at Subject 1. Subject 1 held the gun in his right hand with his right arm extended to his right side, then slowed, “turned the gun counterclockwise in front of his body” with his elbow bent and pointed the gun at Officer B. Holding his pistol in a one-handed grip, Officer B fired a round at Subject 1. Officer B did not see any effect from this round and observed Subject 1 continue to point the gun at him and turn his torso counterclockwise. Officer B fired a second round and Subject 1 began to fall. As he was falling, Subject 1 threw his gun in a westerly direction.

**Note:** Officer B stated that he believed his partner, Officer A, was behind him during this stage of the incident. Accordingly, Officer B believed that Subject 1 was pointing his gun at both him and Officer A.

According to Officer A, as he continued to follow in the police vehicle he saw Subject 1 draw a pistol from his waistband, turn counterclockwise and point the pistol toward Officer B. At this time, Officer A was to the east of Subject 1, in the intersection, and Officer B was behind Subject 1, to Subject 1’s south. Officer B shouted, “This guy’s got a gun,” unholstered his pistol and fired two rounds at Subject 1 “before [Subject 1] came all the way around.” Subject 1 then threw his gun in a westerly direction.

**Note:** The gun thrown by Subject 1 was subsequently recovered and determined to be a loaded semi-automatic pistol.

Subject 1, struck by both of Officer B’s rounds, fell to the ground. Officer B began to give verbal commands to Subject 1 to show his hands as Officer A exited the police vehicle. Officer B then holstered his pistol and handcuffed Subject 1.

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<sup>1</sup> California Vehicle Code Sections 21202(a) (Failure to Stay to the Right) and 21658(a) (Changing Lanes when Unsafe).

**Note:** Officer A did not draw a weapon at any time during this incident.

Officer A broadcast a further request for backup, providing his correct location, and Officer B broadcast a “Code-Blue” and requested a Rescue Ambulance (RA).

A group of people approached the officers. According to Officer B, some members of the group made “derogatory” statements and statements to the effect of “Get him help,” and ran toward the officers in an “aggressive manner.” Officer B told the group to stay back from the scene, but they continued to move toward him. Believing that the group would attack him or “lynch”<sup>2</sup> Subject 1, Officer B drew his pistol and held it in a low-ready position. The group came within 10 to 15 feet of Officer B but did not advance any closer.

According to Officer A, a crowd numbering “at least 20 people” came into the street. Officer A repositioned the police vehicle to block westbound traffic. Officer A stated that members of the group “were trying to lynch” Subject 1.

According to Officer B, he re-holstered his pistol when the crowd “stopped” and when he saw an additional unit arriving at the scene. According to Officer A, he directed an officer from the first responding unit to guard the thrown gun.

Sergeant A arrived on the scene, obtained a Public Safety Statement and separated Officers A and B. Officer B then broadcast an additional request for an RA.

An RA responded to the scene. Subject 1 was transported to the hospital where he was provided with emergency medical treatment. Subject 1 succumbed to his injuries and was pronounced dead later that afternoon. A subsequent autopsy determined that Subject 1 had sustained two fatal gunshot wounds.

### **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.

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<sup>2</sup> California Penal Code Section 405a provides that “The taking by means of a riot of any person from the lawful custody of any peace officer is a lynching.”

## **A. Tactics**

The BOPC found that Officers A and B would benefit from additional tactical training.

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

The BOPC found Officer B's drawing and exhibition of a firearm to be in policy.

## **C. Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Officers A and B did not inform Communications Division ("CD") of their location upon their initial attempt to stop Subject 1. The BOPC would have preferred that they had done so. The BOPC further noted that the first of Officer A's broadcasts provided an incorrect location.

The BOPC noted that Officer A remained in the police vehicle while Officer B pursued on foot. The BOPC would have preferred that Officer A had exited the vehicle and remained with his partner during the foot pursuit of Subject 1.

The BOPC noted that Officer B broadcast a "Code-Blue" and would have preferred that he had used Department approved radio codes and terminology.

The BOPC determined that Officers A and B will benefit from additional training by their commanding officer. (Divisional training)

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

The BOPC noted that Officer B drew his service pistol when he saw Subject 1 reach into his front waistband and remove a pistol. The BOPC further noted that Officer B drew his service pistol on a second occasion when, after the OIS, an unruly crowd formed at the location and crowd members verbally threatened and advanced toward the officers.

The BOPC determined that, on both occasions, it was reasonable for Officer B to believe that the situation could escalate to the point where deadly force may be justified, and found Officer B's drawing and exhibition of a firearm to be in policy.

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

The BOPC noted that Subject 1 turned counterclockwise and pointed the pistol he held in his right hand at Officer B. Officer B, fearing he was going to be shot, fired one round at Subject 1. When Subject 1 appeared unaffected by the first round and continued to point the pistol at Officer B, Officer B fired a second round at Subject 1.

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