

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

**OFFICER INVOLVED SHOOTING – 043-10**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( ) Uniform-Yes(X) No ( )</u></b>	
Mission	05/27/10		

<b><u>Officers Involved</u></b>	<b><u>Length of Service</u></b>
Officer A	10 years, 6 months

**Reason for Police Contact**

Officers responded to a male mental radio call, which resulted in an officer involved shooting.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 21 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 Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on April 11, 2011.

**Incident Summary**

Witness A called 911 and reported that her son (Subject) wanted to commit suicide. Communications Division (CD) broadcast that a male with a mental illness was threatening to commit suicide with a handgun at a residence. CD also advised that there were no handguns inside the residence. Officer A and Officer B were on the freeway driving back to police station when they heard the broadcast and notified CD that they would respond to the location.

Officers A and B arrived at the location and Officer B notified CD of their Code Six status. Officer A parked their police vehicle on the west side of the street, south of the location. Officers A and B observed a male (later identified as Witness B, the Subject's, brother) standing on the sidewalk in front of the residence. Officers A and B exited their vehicle, and Witness B approached Officer A and verbally identified himself. Witness B told Officer A that the Subject had been released from the hospital approximately one hour earlier, where he had been placed on an involuntary 72-hour psychiatric hold, and that the Subject had stated that he wanted to kill himself with a gun. Witness B told the officers that there were no guns inside the house.

Witness B told Officer A that the Subject was in the living room with other family members and that he was calm. Witness B also stated that the Subject was fine with the police and that he did not have a problem with them.

Officers A and B entered the residence through the front door, accompanied by Witness B. Once inside, the officers saw three people sitting on a red couch in the living room (these individuals were later identified as the Subject' father, Witness B and Witness C, the Subject' older brother). Officer A began to speak with the Subject while the Subject was still sitting on the couch. According to Officer A, the Subject "seemed very calm. Officer A asked the Subject if he felt like hurting himself, and the Subject stated to Officer A, "No." When asked by Officer A why he (the. Subject) had been in the hospital, the Subject stated, "I slit my wrists," and showed the officers his wrists, which were bandaged. Officer A began to complete a Field Interview (FI) card on the Subject.

According to Officer A, the Subject "almost like sprang up off the couch," and turned his back toward Officer A, to face the fireplace, which was adjacent to the sofa, on the north wall of the living room. Officer A asked the Subject if he was feeling okay and if he wanted to go outside. The Subject did not answer and began to breathe hard. The Subject then leaned forward, grabbed the fireplace poker with his right hand and turned around and faced Officer A. As described by Officer A, the Subject "started scowling, almost grunting like breathing really hard and did not say a word, as he was holding the poker in his hand, pointing it down." Officer A instructed the Subject to "put it [the fireplace poker] down," and then he (Officer A) screamed out, "Partner, partner." The Subject started to walk toward Officer A, and according to Officer A, "I saw that he had armed himself so I knew that the situation had already escalated to where it was going to be deadly force. I felt that he was going to come at me and could physically do a lot of harm with that." Officer A then unholstered his pistol and pointed it at the Subject's upper torso. Officer A took several steps backwards toward the front door to create distance between himself and the Subject. The Subject walked to within five feet of Officer A and, believing the Subject was attempting to strike him with the fireplace poker, Officer A fired two rounds in a northwesterly direction at the Subject from a distance of approximately five feet, striking the Subject in the upper torso. The Subject fell backwards onto the floor, in a supine position, with the fireplace poker falling next to his right hand. After he fell on the ground the Subject was breathing, but was not moving.

According to Officer A, there was no one else in the living room area, and he could see Officer B off to the side and out of the line of fire. The investigation revealed that the fireplace poker was metal, two feet and three-quarters of an inch in length, weighed 1.717 pounds. The poker had a handle on one end and two pointed tips on the other.

According to Officer B, the Subject was calm. Officer A asked the Subject if it would be okay for him (Officer A) to speak with the Subject alone, while Officer B spoke with the rest of the family. Officer B then walked to the Subject's bedroom, which was a few feet west of the living room where Officer A was talking to the Subject. The investigation revealed that the residence is a single-story residence. A Subject's bedroom is just a few feet from the living room and separated from the living room by a hallway.

As Officer B was speaking with the family members in the bedroom, he (Officer B) suddenly heard Officer A say, "Partner, partner," and, "You got the TASER?" Officer B yelled to Officer A that he did have his TASER, and Officer B walked to the living room and started to unsnap his TASER. Officer B stopped at the doorway (doorframe) leading into the living room, when he saw Officer A standing at the front door pointing his pistol at the Subject, who was holding a fireplace poker in his hands above his head and standing approximately two to three feet in front of Officer A.

According to Officer B, "He's [The Subject'] got it [the fireplace poker] raised above his head like he's going to come with a downward motion and try to hit my partner in the head or hit my partner with it." Officer B continued, "And he's coming down with it like he's trying to like stick it." According to Officer B, he did not use his TASER because he saw Officer A with his gun drawn and decided to draw his own pistol; however, before he could unholster his pistol, the Subject raised the fireplace poker above his head and "lunged" forward toward Officer A. The Subject began to "swing" the fireplace poker at Officer A, and Officer B saw Officer A fire two rounds at the Subject. The Subject fell to the ground after he was shot by Officer A and was breathing, but not moving. The fireplace poker fell on the ground next to him.

Witness B was standing in the kitchen area (adjacent to the living room) when he heard Officer A say two or three times, "Put it down, put it down." Witness B then walked to the dining room and according to Witness B, he saw his brother, The Subject, holding a fireplace poker over his head and walking toward Officer A. As described by Witness B, "The officers [were] stepping back towards the door and that's when he [Officer A], you know, raised his gun and took a couple of shots and that's when my brother collapsed."

At the time of the shooting, the other family members were together in the Subject's bedroom; they heard two or three gunshots but did not see the shooting. In addition, the other family members were outside of the house and also heard two or three gunshots but did not see the shooting.

Immediately following the shooting, Officer A directed Officer B to request additional units and a Rescue Ambulance (RA) for the Subject. Officer B broadcast, "Officer

needs help,” and also requested an RA for the Subject. Officer A then holstered his pistol and continued to monitor the Subject. Once additional back-up officers arrived, Officer A walked outside and waited for a supervisor to arrive, while Officer B remained inside the residence with the back-up officers. Officer B, Officer A continued to cover the Subject with his weapon until back-up officers arrived. Officer B and Officer A did not search or handcuff the Subject.

According to Officer B, the Subject was not searched because although conscious, the Subject was not moving. According to Officer B, the Subject was not handcuffed due to bandages that he had around both of his wrists.

Lieutenant A was traveling in an unmarked police vehicle with Lieutenant B and Sergeant A, when they heard Officer B’s request for help and an RA for the Subject, and responded to the location. Upon their arrival, Lieutenant A assumed the role of Incident Commander, determined that Officers A and B were involved in an officer-involved shooting (OIS), and directed Sergeant A to obtain a Public Safety Statement (PSS) from each officer, which Sergeant A did. Sergeant A then separated Officers A and B and ordered them not to discuss the incident.

Los Angeles Fire Department (LAFD) personnel arrived at the scene and treated the Subject for gunshot wounds to his neck and upper torso. The Subject was transported by the LAFD to a medical center, where he was treated for his injuries and pronounced dead.

### **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 Officer A and B’s tactics to warrant a Tactical Debrief.

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

The BOPC found Officer A’s drawing and exhibiting to be in policy.

## C. Use of Force

The BOPC found Officer A's Use of Force to be in policy.

### Basis for Findings

#### Tactics

In the analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, Officers A and B responded to a "Male with Mental Illness" radio call. When the officers arrived they were met by the subject's brother. Officer A interviewed the brother and determined it was safe to enter the residence and make contact with the Subject. Although it would have been prudent if the officers had requested an additional unit prior to entering the residence, the BOPC concurred that Officer A reasonably believed that the Subject was calm and therefore the officers could safely approach and maintain a tactical advantage.

In conclusion, the officers' actions did not "*unjustifiably or substantially*" deviate from Department approved tactical training. As a general topic of discussion, the BOPC directed that this issue be addressed during the Tactical Debrief.

In this instance, Officers A and B entered the residence and observed the Subject seated at the north end of a couch with his hands in his lap and did not conduct a pat down search of the subject. Officer A stated, "*I believe his hands were in his lap and he's calm.*" When Officer B was asked regarding searching the Subject, Officer B responded,

*"Well, we had discussed in the car was basically just, you know, a little bit. I guess, a little bit tactics stuff. It was just - - just make sure I got the TASER. If something happens, you know, try - - try not to, you know, try to use the TASER if we can. But then we actually got to the scene, you know and spoke to the brother and then spoke to him, he was just sitting on the couch very calm, collect. Just, like I said, just talking normal."*

The first concern of law enforcement officers is safety for themselves, and the safety of others and conducting a pat down search for weapons alleviates the fear of violence to officers. However, in this instance the officers were dealing with a mentally ill person whose hands were in plain sight and who displayed a calm demeanor. Therefore it was reasonable for the officers not to conduct a pat down search of the Subject, which potentially could have escalated the situation.

In conclusion, although it would have been prudent if the officers would have searched the immediate area for possible weapons, there was no indication that the Subject was armed. The BOPC concurred with the officers' decision not to conduct a pat down search of the subject. The BOPC found the officers' actions did not "*unjustifiably or*

*substantially*” deviate from Department approved tactical training. As a general topic of discussion, the BOPC directed that that this issue be addressed during the Tactical Debrief.

In this instance, as Officer A was talking with the Subject in the living room area, while Officer B was interviewing family members in an adjacent bedroom. The investigation revealed that although Officer B was not in line of sight with his partner, he was clearly in a position to render aid and did so when Officer A requested his assistance. However, when dealing with an unpredictable subject, it is a best practice for officers to remain together and utilize the contact and cover concept to maintain the tactical advantage. Additionally, time was on the officers’ side and the information from the family members could have been obtained after the assessment of the Subject was completed.

In conclusion, although there were areas where improvement could be made, the BOPC found the officers’ actions did not *“unjustifiably or substantially”* deviate from Department approved tactical training.

After the OIS, Officer B, a probationary officer, broadcast an officer needs help call and requested an RA. Shortly thereafter, Officer A broadcast a Code Four along with a request for a supervisor and an additional unit. The investigation revealed the aforementioned broadcasts did not include that shots had been fired. During highly stressful situations, such as an OIS, officers often do not broadcast the pertinent information needed to fully inform the responding personnel.

In conclusion, although it would have been prudent if the officers’ broadcast would have included that shots had been fired, the officers’ broadcasts were sufficient and did not affect the outcome of the incident. The BOPC found the officers’ actions did not *“unjustifiably or substantially”* deviate from Department approved tactical training.

The BOPC found that the tactics utilized by Officers A and B, did not *“unjustifiably or substantially deviate from approved Department tactical training.”* The BOPC recommended a finding of Tactical Debrief.

### **Drawing/Exhibiting**

In this instance, Officers A and B responded to a “Male with Mental Illness” radio call at a residence. The officers entered the residence and made contact with the Subject who was seated on the living room couch. Officer A believed the situation had escalated to the point where deadly force might become necessary and drew his service pistol. It was reasonable for Officer A to believe the situation had escalated to the level where the use of Lethal Force may be justified. In conclusion, the BOPC found Officer A’s Drawing/Exhibiting to be In Policy.

## Use of Force

In this instance, in an attempt to create distance from the armed subject, Officer A backed up into the front doorway of the residence. Officer A ordered the suspect to drop the fireplace poker by stating, *"The Subject put it down."* The Subject ignored Officer A's commands and continued to advance toward Officer A. Officer A then alerted his partner by screaming, *"Partner!"* Simultaneous to Officer A's observations and actions, Officer B was standing in the adjacent hallway when he heard Officer A yell, *"Partner!"* Officer B took one step backward into the living room doorway, turned to his right, and unholstered his TASER. Officer B observed Officer A in the front doorway of the residence pointing his service pistol toward the Subject. Officer B observed the Subject facing Officer A, holding a metal fireplace poker in his right hand, with it raised over his head. Believing the situation had escalated to the point where deadly force would be necessary, Officer B holstered his TASER and was in the process of drawing his service pistol when the Subject continued to move toward Officer A. According to Officer A,

Officer A fired two rounds from his service pistol from a distance of approximately five feet. The Subject fell onto his back and the fireplace poker fell from his right hand.

Witness B Subject was standing at the doorway between the kitchen and the dining living room area. A family member stated he heard Officer A asking his brother questions and heard him responding calmly. He then heard a noise that he believed was his brother rising from the couch. A family member stepped through the kitchen doorway and walked into the dining room area, where he observed his brother and Officer A standing. A family member heard Officer A state, *"Put it down. Put it down."* A family member then observed Officer A step back toward the front door. He observed his brother's body move forward toward Officer A while raising the fireplace poker in his right hand. Officer A raised his service pistol and fired two gunshots. No other family members witnessed the OIS.

During Witness B's' interview, when he was asked, *"When your - - when your brother the subject had the poker where you said that at his shoulder level and was going towards the officer. Did he take steps towards the officer?"* Witness B answered, *"As far as steps, I'm not sure but I remember his body going forward so he was probably. I'm not sure if he was stepping just a step forward but his - - his - - his body was going forward."*

Officer A fired his service pistol to protect himself from the "imminent threat of death or serious bodily injury." The decision to use Lethal Force was "objectively reasonable" in that an officer with similar training and experience would have reasonably perceived the suspect's actions may result in serious bodily injury or death.

In conclusion, the BOPC found Officer A's use of Lethal Force to be in policy.