

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

IN-CUSTODY DEATH – 056-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	7/9/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	6 years, 1 months
Officer B	4 years, 11 months
Officer C	27 years, 7 months
Officer D	26 years, 9 months
Officer E	14 years, 9 months

Reason for Police Contact

Officers responded to a call of a possible DUI driver walking in the roadway. Officers contacted the subject and a use of force occurred. The subject went into medical distress and was subsequently pronounced dead.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 45 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 subject 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.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on May 17, 2015.

Incident Summary

Witness A heard a person yell, "Help me, help me," and observed a white truck, with the driver's door open, stopped on the street. Witness A then observed a male (the Subject) wandering in the street and throwing items out of the truck while he screamed, "Help me, help me." The Subject "then wander[ed] back into the intersection again just kind of in circles, not really going anywhere, just wandering around," before walking back to the truck and entering. The Subject then conducted a right turn. Just as he completed the turn, the driver door opened and the Subject fell out, rolling onto the pavement. The truck continued to move forward, driving over the north curb and striking the chain link fence of an empty lot, where it came to rest.

The Subject stood up and began to walk in the traffic lanes before returning to the still-open driver door of his truck, where he appeared to be looking for something under his seat while still yelling, "Help me, help me." According to Witness A, another vehicle stopped to assist the Subject. Witness A then observed the Subject holding what he believed to be a gallon of water. The Subject continued to walk west, then took his shirt off and dropped it in the street. Witness A entered his place of business and instructed a coworker to telephone police. Meanwhile, the Subject began to walk on the sidewalk, away from the location.

Communications Division (CD) broadcast a traffic DUI (driving under the influence). Officers A and B, driving a marked black and white police unit, advised CD they would handle the radio call.

Meanwhile, City of Los Angeles Port Security Officer (PSO) A, who was unarmed, was in his work vehicle, a white 4-door, with "Port Police Security Operations" imprinted on both front doors and a yellow light bar affixed to the roof. PSO A was stopped on the roadway. While PSO A was seated, the Subject approached from the east, jumped over the hood of his vehicle and opened the right front passenger door, while yelling and screaming. The Subject then placed his left foot inside of PSO A's vehicle and was about to sit in the front passenger seat; however, PSO A used his right hand, placed it on the Subject's left shoulder and pushed the Subject out of the vehicle. According to PSO A, the Subject appeared, "like a madman, like, he was crazy or [...] on something." When PSO A reached for his radio, the Subject fled west.

PSO A notified his supervisors of the incident. Port Security Sergeant A began to respond to the location. City of Los Angeles Port Police Officers A and B began to respond to the location.

Once the Subject began to walk west, PSO A followed in his vehicle with his overhead amber lights activated. According to PSO A, the Subject would walk on the center divider, and pick up and throw unknown objects at passing vehicles. The Subject would then traverse across the westbound lanes of traffic toward the north curb. Port Security Sergeant A arrived and stopped his security vehicle alongside PSO A's vehicle. PSO A informed Port Security Sergeant A that the suspect was walking west. Port Security

Sergeant A observed the Subject traversing the roadway, from north to south and back, shouting and yelling. Both PSO A and Port Security Sergeant A continued to follow the Subject while awaiting the police response.

Meanwhile, Officers A and B broadcast they had arrived at the location of the original call. Upon exiting their vehicle, the officers were met by Witness A, who informed them of his observations and that the Subject had left the scene. Approximately 40 seconds later, a passerby contacted the officers and informed them that the Subject was walking west from their location. The officers entered their police vehicle to search for the Subject, conducted a U-turn and drove west.

While en route to assist, Port Police Officer A received additional information over his radio that the suspect was male, wearing black clothing and black shorts, and was a possible "5150" (mentally ill). Port Police Officer A was traveling east when he observed the Subject walking in the eastbound traffic lane and then proceeded to walk onto the center median. Port Police Officer A stopped his police vehicle, advised the Subject to continue to walk to the north side of the street and await his arrival. According to Port Police Officer A, the Subject responded, "I need help." Port Police Officer A then proceeded east to conduct a U-turn past the center median. Port Police Officer A stated that he did not exit his police vehicle when he spoke with the Subject.

While Officers A and B were traveling west, Officer A observed two Los Angeles Port Security vehicles (PSO A and Port Security Sergeant A) with their overhead yellow lights activated. Officers then observed the Subject wearing black shorts and no shirt, walking, with a staggered gait, north across the westbound lanes of traffic. Seeing officers approach, Port Security Sergeant A drove his vehicle past the Subject, parked along the north curb, and exited.

As the officers approached the Subject, Officer B noted that he was sweating profusely. Due to the Subject's staggered gait and his profuse sweating, Officer B opined that the Subject was under the influence of methamphetamine and, while still in the police vehicle, unholstered his TASER and held it in his right hand.

The Subject was now on the north curb facing west and, according to Officer A, carrying an unknown item in his hands. The investigation determined the items the Subject was carrying were his shoes. Officer A stopped their police vehicle in a northwest direction, and Officer B broadcast their location and requested a back-up. In response to the back-up request, uniformed Police Officers C and D, and several other officers, began to respond to the location.

As Officer A exited his police vehicle, he noted that the Subject was sweating profusely. Officer A stated, "Hey, come here. Come here." The Subject turned around, looked in the officers' direction and stated, "Can I have some water?" According to Officer A, the Subject's eyes were dilated. Officer A gave the Subject verbal commands to put his hands on the hood of his police vehicle. The Subject dropped the shoes that were in his right hand, walked forward to the police vehicle and placed his hands on the hood.

Simultaneously, Officer B exited the police vehicle, walked slightly to the left and behind the Subject, with his TASER in a two-handed, low ready position. As Officer A approached the Subject, he took his handcuffs out to place them on the Subject, and moved closer to the Subject, who staggered to his left speaking somewhat incoherently before stating, "I'm going to pass out. I'm having a heart attack." Fearful that the Subject might fall, Officer A grabbed the Subject's right arm to prevent him from falling, and officers instructed the Subject to get on the ground. Officer A released the Subject's right arm while the Subject sat himself on the curb.

Once the Subject was on the curb, Officer A grabbed the Subject's left arm and placed it behind his back to begin handcuffing, as Officer B stated, "If you move you're going to get tased, ok?" Officers repeatedly commanded the Subject to stop moving, place his hands behind his back and to calm down. As Officer A struggled to get the Subject handcuffed, Officer B noted the Subject's large stature, placed his TASER in his right rear pants pocket and removed a pair of handcuffs with his right hand. Officer B then grabbed the Subject's right arm while the Subject stated, "I need to go to rehab." Officer A placed a handcuff on the Subject's left wrist while Officer B placed a handcuff on the Subject's right wrist, and the officers connected their two handcuffs together. Port Security Sergeant A arrived as Officers A and B were handcuffing the Subject. Officer B decided to wait to call a Rescue Ambulance stating, "My concern was to first get him into the back seat, and then if anything, request a rescue ambulance afterwards because of his condition." Officer B added, "the reason why is because we still haven't gotten him into the - - back of the vehicle and - -I didn't want to put - - have one hand in my Rover and the other hand on him so - -"

Meanwhile, Port Police Officer A had conducted a U-turn at an opening in the median and proceeded west. As he approached, he noted Officers A and B's police vehicle and observed them making contact with the Subject, who was now on the north sidewalk. Port Police Officer A parked his police vehicle to the right (east) of Officers A and B's police vehicle, exited and approached the officers just as they completed handcuffing the Subject. Port Police Officer A stood to the left of the Subject, who was seated.

Once handcuffed, officers assisted the Subject to his feet, and Officer B asked the Subject what he was on, to which the Subject replied, "My mom gave me an Ativan. It was supposed to be an Ativan, but it wasn't." The officers walked the Subject around the front of their police vehicle to the driver side, rear passenger door. According to Officer A, the Subject sat in the police vehicle and officers told him to place his legs inside. The Subject started to move around and stated, "I can't get in. I can't get in. I can't do this anymore. I can't do this." As officers attempted to place the Subject's legs inside their police vehicle, Port Police Officer A and Port Security Sergeant A remained on the sidewalk.

As officers were attempting to control the Subject, Port Police Officer B arrived and observed the Subject kicking his legs, refusing to allow officers to place him in their police vehicle and resisting officers.

According to Officer A, the Subject tried to slip out of the officers' grasp by pulling away and took three to four steps away from the police vehicle. According to Port Police Officer A, the Subject utilized his weight to push himself away from the police vehicle and turned to his left, resisting the officers' attempt to place him in the back seat of their vehicle. As Port Police Officer A and Port Security Sergeant A ran to assist Officers A and B, the Subject pulled away from Officer B, who held the Subject's left arm, and Officer A, who held the Subject's right arm. Port Police Officer A grabbed the Subject's right bicep area, and, using the Subject's momentum, the officers guided him to the ground. Port Security Sergeant A did not place hands on the Subject and only observed the officers' actions. On the digital in car video system (DICVS) audio, officers can be heard ordering the Subject to get on the ground. The Subject can be heard saying, "heart attack, heart attack."

While the Subject was lying on his stomach, Officer A placed his right knee on the back of the Subject's upper right leg, placed both his hands on the Subject's lower legs and calf area, and used his body weight to keep the Subject from kicking his legs. Simultaneously, Officer B remained on the Subject's left side, controlling the Subject's left arm and shoulder area by utilizing his body weight. According to Officer B, he stated to the Subject, "Calm down. Calm down. The more you - - the more you move the more energy you're going to exude." Port Police Officer A momentarily placed his right knee on the Subject's right shoulder blade, but felt that he did not have any control. Port Police Officer A then attempted to control the Subject's right arm by placing his left hand on the Subject's right elbow and his right hand on the Subject's right arm, near his shoulder. According to Officer B, the Subject was moving his body left and right and flailing his legs up and down. Port Police Officer B approached the Subject and placed his right knee, and both hands, on the Subject's left calf to prevent the Subject from kicking his legs.

In response to the previous radio call broadcast by Los Angeles Port Police Communications Division, City of Los Angeles Port Police Officer C responded. As Port Police Officer C drove, he observed the Subject standing at the left rear passenger door of an LAPD vehicle. Port Police Officer C negotiated a U-turn and parked his police vehicle alongside other police vehicles. He now observed the Subject to be face down on the ground, handcuffed, moving his body right to left and kicking his legs up, so he ran to assist officers. Port Police Officer C placed his right leg on the inside area of the Subject's right calf and used both his hands on the outside portion of the Subject's calf to hold the Subject's left leg. According to Port Police Officer C, it appeared that the Subject was trying to get up and leave because the Subject was pulling his legs in and trying to pull them under while simultaneously kicking. Port Police Officer C also stated that he heard the Subject state, "You're killing me."

Officers C and D arrived at the location. Officer C observed officers engaged with the Subject. According to Officer C, the Subject was kicking his legs and struggling with officers. Officer C walked up, stood to the left side of the Subject and requested a Hobble Restraint Device (HRD). At this same time, the Subject kicked his left leg, causing Port Police Officer C to use his right hand to grab the Subject's left ankle to

control it. At approximately this same time, Officers E arrived and proceeded to where the officers and the Subject were located.

Upon hearing Officer C's request, Port Police Officer B released the Subject's left leg, stood up, and walked to his vehicle to retrieve his HRD. However, Port Police Sergeant B, had just arrived at the location and also heard Officer C's request for a HRD. Port Police Sergeant B provided Port Police Officer B with his HRD, who in turn gave it to Officer C.

Upon receiving the HRD, Officer C placed his left knee on the Subject's left thigh to prevent him from kicking his leg up. Officer D noted that the Subject was moving his legs and placed his right foot on the Subject's left leg, between his ankle and calf area. According to Officer D, he applied just enough pressure with his right foot to keep the Subject's leg stable and keep most of his own weight on his own left foot. According to Officer A, once the HRD had been requested, he removed his right knee from the Subject's right thigh and placed it on the ground while placing his left knee on the Subject's right thigh. Officer A also noted that the Subject's arms were moving and grabbed the Subject's left wrist with his left hand, while grabbing the Subject's left hand with his right hand, to prevent it from moving.

According to Port Police Officer C, an LAPD officer told him that he needed one leg to place the HRD. Port Police Officer C released pressure on the Subject's left leg, and Officer C placed the HRD around the Subject's left leg. Port Police Officer C then applied pressure back on to the Subject's left leg while releasing pressure on the Subject's right leg. Officer E noted the Subject's legs moving and, from the Subject's right side, grabbed the Subject's right calf and ankle area and moved it closer to the Subject's left leg for the application of the HRD. Officer C then placed the HRD around the Subject's right leg, moved the HRD up the Subject's legs, past his knees, and tightened the HRD while Port Police Officer C applied pressure back on to the Subject's right leg. Officer B kept his left knee on the Subject's left shoulder to prevent him from moving around. Once the HRD was tightened, Officer D removed his right foot from the Subject's left leg.

Once Officer C tightened the HRD, he handed the cord to Officer E, who wrapped the cord around the Subject's legs, tucked in the end portion and released his hold. Officer B removed his knee from the Subject's left shoulder and stood up. Officers then placed the Subject on to his left side. Sergeant A broadcast a request for a Rescue Ambulance. According to Officer A, when the Subject was placed on to his left side, he noted that the Subject's face was slightly discolored.

Port Police Officer A noted that the Subject was not breathing and communicated his observations to the other officers. According to Port Police Officer C, an unknown officer stated, "I don't think he's breathing anymore. Check his pulse." Officer C utilized his left hand and placed it on the left side of the Subject's neck to check for a pulse, which he was not able to locate. Sergeant A advised the officers to place the Subject in a seated position. Officers A and C, along with Port Police Officer A, immediately

placed the Subject into a seated position and, once again, Officer C checked him for a pulse, which he was still unable to locate. Once the Subject had been seated, Port Police Officer C released control of the Subject's legs and stood up.

Officer B updated CD on the Subject's condition and broadcast, "Can you get the RA rolling Code 3. The suspect is turning blue."

Officers placed the Subject on his back, onto the ground. Officer C knelt on the left side of the Subject, placed his hands on the Subject's chest and began performing Cardio Pulmonary Resuscitation (CPR), while Officer A knelt to the right side of the Subject.

According to Sergeant A, the HRD was removed from the Subject when CPR was initiated; however, the investigation was unable to determine who removed the HRD.

Officer F arrived at the location and observed that the Subject was in custody, lying on his side. According to Officer F, he heard an unknown officer state, "He's turning blue," and then requested a mask. Officer F ran back to his police vehicle and retrieved a breathing mask from the trunk. He returned with the mask, tilted the Subject's head back, and placed it over the Subject's mouth and nose. According to Officer F, he supplied one to two breaths for approximately every 30 chest compressions performed by Officer C, and continued to monitor the Subject's airway. After continuing CPR for a period of time, Officer C felt the Subject's heart begin to beat and stopped chest compressions, but kept his hands atop the Subject's chest. Officer C can be heard on the DICVS, state, "I got a heartbeat." A very short period of time later, Officer C noted that the Subject's heart had stopped again and began chest compressions. Officers C and F performed CPR until the arrival of Los Angeles City Fire Department personnel.

A Los Angeles City Fire Department (LAFD) RA, staffed by Firefighter/Paramedics, along with an LAFD Engine, arrived. Upon the arrival of LAFD personnel, Officer A removed the handcuffs from the Subject and LAFD personnel began emergency medical treatment. Los Angeles City Fire Department personnel then transported the Subject to the hospital.

Upon arrival at the hospital, the Subject was treated by the attending physician. The Subject failed to respond to medical intervention and was pronounced as deceased.

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 most cases, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). In this incident, none of the involved officers drew their duty weapons. Therefore, there were no findings for Drawing/Exhibiting of a firearm. 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 Officers A and B's tactics to warrant Administrative Disapproval. The BOPC found Officers C, D, and E's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC found Officers A, B, C, D, and E's use of non-lethal force to be in policy.

Note: Although Los Angeles Port Police Officers A, B, and C utilized non-lethal force during this incident, they do not receive formal findings because they are not Los Angeles Police Department employees.

Basis for Findings

A. Tactics

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

1. Updating Status

Officers A and B did not update their status when they began to conduct an area search for the Subject.

The purpose of going Code Six and updating their location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Officer safety is of paramount concern and officers should always strive to maintain the tactical advantage during field duties.

In this case, the officers responded to the location of the initial radio call and then received information from a citizen who told them that the suspect was walking westbound from the original location. Upon receiving the information, the officers returned to their vehicle and began searching for the suspect, but did not advise CD of their updated status.

Officers A and B are reminded of the Department's requirement to constantly update their status whenever tactically feasible when conducting a field investigation.

2. Emergency Medical Transportation

Officers A and B did not request a Rescue Ambulance for the Subject in a timely manner after they observed the Subject sweating profusely, acting irrationally and believing that he was under the influence of drugs.

In this case, Officers A and B contacted the Subject and immediately observed that he was sweating profusely, his eyes were dilated, and he was walking with a staggered gait. During the course of the detention, the Subject spoke incoherently and made several remarks indicating that he was in a state of possible distress. Although the officers indicated that they did not hear what the Subject was saying, both officers believed that the Subject was under the influence of methamphetamine and described his behavior as someone consistent with having an adverse reaction to the drug.

According to his statement, Officer B recognized the need to summon a Rescue Ambulance for the Subject immediately after handcuffing, but his first concern was to get the Subject in the back seat of their vehicle, and he planned to call a rescue ambulance afterwards because of the Subject's condition.

The officers' decision to delay the RA request until the Subject was secured in the back seat of their police vehicle, after already recognizing that he needed medical attention because of his condition, was not reasonable.

Based on the totality of circumstances, the BOPC determined that Officers A and B's failure to request an RA in a timely manner was a substantial deviation, without justification, from approved Department policy.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

In conclusion, the BOPC found Officers A and B's tactics to warrant Administrative Disapproval, and Officers C, D, and E's tactics to warrant a Tactical Debrief.

- The BOPC additionally considered the following:

1. Pedestrian Contacts

According to Officer A, he ordered the Subject to place his hands on the hood of their police vehicle so the video camera could capture anything that happened. Officer A is reminded that the metal hood of a police vehicle can be hot and may result in a negative response from an otherwise compliant suspect.

2. Rear Camera Activation

Officers A and B did not activate the rear camera of their DICVS prior to placing the Subject in the back seat of their police vehicle. In an effort to improve future tactical performance, the officers should review Operations-South Bureau, Order No. 1, Deployment and Use of the Digital In-Car Video System (DICVS), dated January 29, 2012.

3. Agitated Delirium

Throughout this incident, the Subject's behavior was consistent with a person suffering from a state of Agitated Delirium. In an effort to improve future tactical performance, the officers should review Los Angeles Police Department Use of Force Tactics Directive No. 13.1, Agitated Delirium, dated December 2013.

4. Required Equipment (Hobble Restraint Device)

The investigation revealed that Officers A, B, C, D and E did not have their HRD's on their person at the time of the incident. Officers A, B, C, D and E are reminded to have all required equipment on their person while performing field patrol duties.

5. Stepping on Suspect's Limbs

The investigation revealed that Officer D placed his right foot on the Subject's left leg between the ankle and calf area to keep the Subject's leg stable while the HRD was applied. Officer D is reminded that stepping on a suspect's limbs can cause an officer to become off balance and may reflect unfavorably to the general public when doing so.

These topics were to be discussed during the Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer A** – Takedown, Firm Grip and Body Weight
- **Officer B** – Takedown, Firm Grip and Body Weight
- **Officer C** – Body Weight and HRD application
- **Officer D** – Body Weight
- **Officer E** – Firm Grip and Body Weight

Officer A utilized a takedown, firm grip, and body weight in order to handcuff and control the Subject. Officer A recalled, "And then he started to -- to slip out of our -- our grasp...And at that time he kept pulling away from us. And with his momentum we guided him to the ground. At that point I had my -- I put body weight on his right thigh area. He was -- he was lying flat on his stomach and I was -- I was holding onto his legs. I transitioned from his -- from my right knee on his right thigh to my left

knee on his right thigh, and I started to hold on to the suspect's left wrist in a C-grip fashion with both of my hands on his wrist."

Officer B utilized a takedown, firm grip, and body weight to handcuff and control the Subject. Officer B recalled, "...as we're trying to place him into the seat he wouldn't comply. At that point he pulls away from us as if he was trying to run away. And we grab him. And we grab him he kind of -- his body weight pretty much goes to the ground. And at that point he's flailing -- flailing around. A lot of body movements. And I'm putting body pressure on his left side. So I was controlling the left side of his shoulder area."

Officer C utilized body weight to prevent the Subject from kicking him while he placed the HRD around the Subject's legs. Officer C recalled, "I used my left leg and I just -- I just applied pressure to his thigh so he wouldn't kick me or, you know, raise his leg and kick me. And I believed my partner held down his foot. Somehow we -- we -- we gained -- we gained control of his legs fast enough for me to slip the hobble on. And as I did, I raised it up past his knees. And then that's when I tightened it."

Officer D applied body weight on the Subject's left leg to keep the Subject's leg stable while the HRD was applied. Officer D recalled, "So to keep his leg from kicking my officer in the face, I placed my foot on the suspect's calf to keep his leg stable while he lipped the cord around his leg and tightened the cord."

Officer E utilized a firm grip and body weight to control the Subject's right leg so the HRD could be applied. Officer E recalled, "As they're -- as they're attempting to put the -- apply the hobble one of his legs is still flailing around so I grab hold of his right leg just like with a two-hand like C-clamp type hold in an attempt to control the leg and bring him together so we can apply the hobble."

After a review of the incident and the non-lethal force used by these officers, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, and E would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape and effect an arrest.

Therefore, the BOPC found Officers A, B, C, D, and E's non-lethal use of force to be objectively reasonable and in policy.