

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

IN-CUSTODY DEATH – 070-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
-----------------	-------------	---------------------------	------------------------------

Rampart	8/19/15		
---------	---------	--	--

Officer(s) Involved in Use of Force	Length of Service
--	--------------------------

Officer B	10 years, 1 month
-----------	-------------------

Reason for Police Contact

Officers were in a park when they observed Subject 1 in possession of drug paraphernalia and Subject 2 ingesting narcotics. After being detained, Subject 2 began to have medical complications and subsequently died.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
----------------	---------------------	-------------------	-------------------

Subject 2, male, 52 years old.			
--------------------------------	--	--	--

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 August 2, 2016.

Incident Summary

Police Officers A and B were assigned to monitor quality of life issues at a park.

Officers A and B placed themselves at the park via their Mobile Digital Computer (MDC). Officers A and B entered the park, while seated in their marked police vehicle, and began to patrol the park. Officers A and B observed a female, Subject 1, and a male, Subject 2, seated on a mattress west of the park's restroom facility. Officers A and B observed a shopping cart next to Subject 1 and noticed that Subjects 1 and 2 appeared to be in a makeshift encampment.

Note: The police vehicle's Digital In-car Video System (DICVS) was activated.

Officer B maneuvered the police vehicle onto the grass and drove toward the restroom facility where Subjects 1 and 2 were seated. As the police vehicle approached the restroom facility, Officers A and B observed Subject 1 seated facing in a southwesterly direction and Subject 2 seated facing in a southern direction, in the opposite direction of the arriving officers. Officers A and B immediately noticed Subject 1 was holding a glass cylindrical pipe, commonly used to smoke methamphetamine, in her left hand and it was raised up to her mouth. Subject 1 also had a lighter in her right hand, which was underneath the glass pipe, ignited, and heating the pipe.

Officer B stopped the police vehicle near the restroom facility with the vehicle and forward-facing DICVS camera facing toward the street.

Note: Officers A and B had prior contacts with Subject 1 at the park. According to Officer A, he cited Subject 1 in the past for illegal lodging.

Officer A exited the police vehicle as Officer B placed the vehicle in park. Officer A approached Subject 1 from the rear and obtained a hold of Subject 1's right arm, which contained the lighter. In the interim, Officer B exited the driver's door, walked around the rear of his police vehicle, and walked toward Officer A and Subject 1. Officer A placed Subject 1's right arm behind her back, utilized his set of handcuffs, and cuffed Subject 1's right wrist. Officer A then directed Subject 1 to place the glass pipe on the ground. Subject 1 complied. Officer A then placed Subject 1's left arm behind her back and cuffed her left wrist securing both hands. Officer A then recovered the glass pipe. Subject 1 was arrested for possession of drug paraphernalia.

Note: Officer A did not identify himself or give any verbal commands prior to obtaining a hold of Subject 1's arm because he wanted the element of surprise and did not want Subject 1 to destroy the glass pipe.

The glass pipe contained a crystalline substance resembling methamphetamine. Officer A subsequently performed a chemical test of the crystalline substance and the test revealed the substance was

methamphetamine. Subject 1 was booked for possession of methamphetamine.

Simultaneously, as Officer A was handcuffing Subject 1, Officer B approached Subject 2, who was seated next to Subject 1, just south of a shopping cart. Subject 2 immediately reached toward the ground, picked up a plastic baggie with his right hand, and placed the baggie into his mouth.

Note: Officer B stated he believed the plastic baggie contained narcotics.

Believing Subject 2 was attempting to ingest and destroy narcotics, Officer B approached Subject 2 and ordered him to spit the plastic baggie out of his mouth. Subject 2 refused and began to chew on the plastic baggie. Officer B utilized his right thumb and index finger and pinched Subject 2's cheeks inward in an effort to have Subject 2 open his mouth and lips and to ascertain the contents of the plastic baggie. The DICVS captured Officer B saying, "Hold still." Subject 2 clenched his teeth together, placed his left hand over his mouth, and continued to chew on the plastic baggie. Seconds later, Officer B told Officer A, "He is trying to eat it."

Officer B obtained control of Subject 2's right arm in order to detain him for a narcotics investigation. As Officer B obtained a grip of Subject 2's right arm, Subject 2 rolled onto the left side of his body and onto his stomach, causing Officer B to release his grip of Subject 2's right arm. Subject 2 was now prone, head facing north, feet facing south, with Officer B positioned on the left side of Subject 2's torso. Officer B then grabbed Subject 2's left arm and placed Subject 2's arm behind his back. Subject 2's right arm remained unsecured.

According to Officer A, he left Subject 1 seated and went to assist Officer B. Officer A stated he observed Subject 2 smashing and smearing an off-white substance resembling methamphetamine on the concrete and then placing the off white-substance into his mouth utilizing his right hand.

Note: According to Officer A, the distance between Subjects 1 and 2 was approximately two feet. Officer A stated he continued to monitor Subject 1 while assisting Officer B.

Officer B stated he did not see Subject 2 attempting to smear the off-white substance on the concrete.

The next day, Force Investigation Division (FID) personnel conducted an examination of the crime scene for evidence. FID recovered an off-white substance resembling methamphetamine. The off-white substance was photographed prior to it being recovered.

The substance tested positive for methamphetamine. According to the laboratory report, the total weight of the methamphetamine was 0.10 gross grams.

Officer A obtained control of Subject 2's right arm and placed his arm behind his back. Officer B cuffed Subject 2's left wrist, and then cuffed Subject 2's right wrist, securing both hands.

As Subject 2 lay on his stomach handcuffed, Officer B rolled Subject 2 onto the left side of his torso and into a seated upright position. Officer B is heard repeatedly telling Subject 2 to spit the plastic baggie out of his mouth. Subject 2 continued chewing on the plastic baggie and refused to spit it out.

Note: During a subsequent post-mortem examination of Subject 2's remains, Los Angeles County Department of Coroner (LACDC) medical examiner personnel recovered stomach contents. A Laboratory Analysis Summary Report documented the stomach contents as containing 799 mg of methamphetamine.

At the conclusion of Subject 2 being handcuffed, Officer A returned to Subject 1 and noticed Officer B attempting to have Subject 2 spit out the plastic baggie by giving him verbal commands. Officer A left Subject 1 and responded to the police vehicle to obtain gloves for Officer B and a bag to secure the glass cylindrical pipe. Officer A returned, secured the pipe as evidence, and took control of Subject 1.

Note: Subject 1 was in the same seated position and did not move at any time.

According to Officer B, he did not request a rescue ambulance (RA) because Subject 2 did not appear to be in medical distress.

According to Officer A, he did not consider requesting a RA because Subject 2 did not appear to be in medical distress, and Officer A had no knowledge with regard to what amount of narcotics Subject 2 had ingested.

Note: Department training for dealing with who ingest narcotics states that, "When an employee reasonably believes that a detainee or arrestee has ingested a narcotic (swallowed or chewed on the substance for any period of time, versus merely holding the substance in their mouth), which could present a health hazard, the employee shall summon a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) for assessment and treatment without unreasonable delay."

Officer A walked Subject 1 to the police vehicle and placed Subject 1's front torso to the rear and just outside of the right rear passenger door. Officer A then conducted a pat-down search of Subject 1 for any additional contraband. While this was occurring, Officer B was with Subject 2, who was still seated on the mattress, adjacent to the restroom facility. The microphones to the officers' vehicle's DICVS recorded Officer B saying, "Spit it out. What's your name?" Subject 2 responded by saying his name.

Officer B asked Subject 2 if he had any identification. Subject 2 affirmed he did have identification. Officer B then advised Subject 2, "Alright, in just a second I am going to stand you up. Are you going to cooperate with me?" Subject 2 stated he would cooperate and then asked Officer B if he was going to take him to jail. Officer B responded, "Yes, I'm going to take you to jail."

Simultaneously, as Officer A was at the police vehicle with Subject 1, the DICVS microphones recorded Subject 1 praying and then beginning to scream and yell profanities toward Officer A. Subject 1 is heard yelling for help and screaming, "Police brutality." As Subject 1 was against the police vehicle, Subject 1 turned her head to her left toward Officer A. Officer A believed Subject 1 was going to spit at him and used an open palm and pushed Subject 1's face away from him to prevent her from spitting in his direction. As Subject 1 continued to yell and scream, Officer A directed Subject 1 to sit in the right rear passenger seat. Subject 1 refused to enter the police vehicle and continued to yell and scream as Officer A continued to hold Subject 1 against the right rear passenger door area.

Officer B issued a broadcast, requesting an additional unit that could respond to the bathrooms at the park. Officer B indicated he requested an additional unit to assist Officer A in placing Subject 1 inside the police vehicle. Officers C and D advised Communications Division (CD) they were responding.

After requesting an additional unit, Officer B had Subject 2 place his left foot under his right knee, pulled Subject 2 forward, and assisted Subject 2 onto his feet. Officer B then walked Subject 2 to the left rear trunk area of his police vehicle. Officer B was now across the trunk from Officer A.

Police Officers E and F also arrived at scene. Officer F exited the passenger door of his vehicle and jogged toward Officer B. As Officer F approached, Officer B directed Officer F to assist Officer A. Officer F responded to Officer A and then began to communicate with Subject 1. Officer F was eventually able to have Subject 1 enter the right rear passenger door without incident.

Officer B broadcast that the incident had been resolved.

Officers C and D arrived at scene. Officers C and D exited their police vehicle and proceeded to the left rear quarter panel of Officers A and B's police vehicle to assist Officer B.

The microphones recorded Officer B saying, "Spit it out. It's not going to make a difference. [Inaudible] man up [Inaudible]. It's not going to make no difference. It's a misdemeanor crime. It's a misdemeanor. Spit that [expletive] out...I ain't booking you." Subject 2 then proceeded to spit out tiny pieces of plastic onto the top portion of the trunk of the vehicle. As this was occurring, Subject 1 is heard in the background yelling as she sat in the right rear passenger seat of Officers A and B's police vehicle.

Officer G arrived at scene and walked toward the left rear trunk of a police vehicle. Officer G observed Officer D completing a field interview (FI) card and Subject 2 spitting on the ground and onto the trunk. Officer G noticed Officer A west of the restroom facility illuminating the ground with his flashlight and scanning the area. Officer G stated he noticed a lot of trash on the ground in the area that Officer A was illuminating. Officer G approached Officer A, at which time he advised Officer G he believed Subject 2 had swallowed narcotics.

Note: Officer G indicated he did not see any narcotics at any time during this incident. Officer G stated Subject 2 did not appear to be in medical distress at this time.

While at the left rear trunk area of a police vehicle, Officer B continued to verbalize to Subject 2 in an attempt to have him spit the plastic baggie out of his mouth. Subject 2 continued to spit small pieces of plastic onto the top of the trunk of the police vehicle but did not spit out any narcotics. The microphones captured Officer B saying, "He just spit out the plastic. He spit it all out."

Note: Officer A stated he observed Subject 2 spitting plastic particles onto the exterior of the trunk but did not see him spit out any narcotics.

Officer C stated when he arrived at scene, he observed Subject 2 spitting pieces of plastic onto the top of the trunk. Officer C stated he formed the opinion Subject 2 had swallowed narcotics. Officer C stated Subject 2 did not appear to be in medical distress at this time.

Officer D stated when he arrived at scene, he observed Subject 2 spitting saliva out of his mouth and then observed pieces of plastic on top of the trunk. Officer D stated Subject 2 did not appear to be in medical distress at this time.

The small pieces of plastic that were spit out of Subject 2's mouth onto Officers A and B's vehicle were not recovered. According to Officer B, when Officer C arrived he told Officer C that Subject 2 had eaten some bags which contained narcotics.

Officer B asked Officer C if they would transport Subject 2 to Rampart Station. Officer C agreed at which time Officer D placed his right hand on Subject 2's left arm and walked him to their police vehicle. The DICVS depicted Officer C opening the right rear passenger door of his vehicle as Officer D held Subject 2's left arm and escorted Subject 2 to the vehicle (Officers C and D's police vehicle). Officer G followed Officer D and Subject 2. Once Officer D and Subject 2 arrived at the right rear trunk area of the police vehicle, Officer D conducted a pat-down search of Subject 2.

Note: Officer B stated he did not want to transport Subjects 1 and 2 together due to Subject 1's aggressive behavior. Officers A and B wanted Subject 1 transported because she was under arrest for possession of a

controlled substance. According to Officer B, he wanted Subject 2 transported because he knew Subject 2 had ingested narcotics and had observed methamphetamine minced into the cement.

Officers A and B indicated Subject 2 did not resist at any time and no force was used on him throughout this incident.

The front camera of the DICVS to Officers A and B's police vehicle was deactivated since Subjects 1 and 2 were both in custody. The back-seat camera to Officers A and B's police vehicle was still activated since Subject 1 was in custody and seated in the rear seat.

In the interim, as Subject 2 was at the right rear trunk area of Officers C and D's police vehicle, Officer C observed Subject 2 spitting small plastic particles onto the top exterior portion of their trunk. Officer C inquired and asked Subject 2 if he was okay, at which time Officers C and D noticed Subject 2 was having a difficult time breathing and he was sweating. Officers C and D asked Subject 2 if he was having problems breathing and Subject 2 acknowledged by responding, "Yes." Officer C then told Officer D to request a RA.

Note: Officer D stated he did not see Subject 2 spitting the plastic particles out of his mouth but did see small pieces of plastic on top of the trunk of their vehicle. The small pieces of plastic that were spit out of Subject 2's mouth onto the police vehicle were not recovered.

Officer C stated he asked Subject 2 if he was okay and Subject 2 repeated, "Shallow breathing."

Officer G stated he did not see Subject 2 sweating. Officer G indicated he observed Subject 2 spitting onto the trunk but did not observe any plastic particles. Officer G also stated he observed Subject 2's hands twitching as he was handcuffed.

Officer D broadcast a request for an RA.

Note: From the time Officers A and B took the suspect into custody, the approximate total time that had elapsed before an RA was requested was 14 minutes. Officer G stated he told Officer C to summon a RA.

According to Officers A and B, Officer C advised them a RA was requested due to Subject 2 having a difficult time breathing. Officer B responded to Officers C and D's police vehicle and observed Subject 2 was unsteady on his feet and then suddenly collapsed straight down onto the right side of his torso, onto the curb. Officers B and D then pulled Subject 2 onto the sidewalk away from the curb.

Note: Officer D stated he observed Subject 2 having a difficult time keeping his balance and was unsteady on his feet. Officer D stated he and Officer C then assisted Subject 2 and sat him onto his buttocks.

Officer G stated the first time he noticed Subject 2 was in medical distress was when he fell down.

Subject 2 was placed in a seated position, at which time Officer C told Officer B to remove the handcuffs from Subject 2's wrists. Officer B removed the handcuffs and placed Subject 2 on his back on the sidewalk. As Subject 2 lay on the sidewalk, he began to grunt, say incoherent words, and began to shake as if he was having a seizure/convulsions. Officer B then placed Subject 2 on the left side of his torso.

Note: Officer B stated Subject 2 did not lose consciousness at any time. Officer D stated he doesn't recall seeing Subject 2 on his side.

The Los Angeles Fire Department (LAFD) received the alarm to respond to the location.

The RA arrived at scene. Fire Department personnel asked if Subject 2 was in custody, and Officer B stated he was not in custody. Officer G stated the paramedics did not need an officer to ride with them to the hospital since Subject 2 was not in custody. Subject 2 was transported to a local hospital.

Note: Officer B stated he initially handcuffed Subject 2 because he believed Subject 2 was attempting to ingest and destroy narcotics. A supervisor was not requested at any time during this incident. According to Officer B, there was a shortage of supervisors on the night of this incident.

Officer D stated when Fire Department personnel arrived, he was asked what occurred and told fire personnel he believed Subject 2 had ingested narcotics. Officer D stated Officer A was standing next to him and advised fire personnel to speak with him since he had more knowledge on what had transpired. Officer D stated fire personnel spoke with Officer A but did not hear what their conversation was about.

Officer C stated he believed that Officer A told Fire Department personnel Subject 2 was not in custody.

Officer A stated he did not recall having any conversations with fire personnel.

Officer B stated he advised fire personnel that Subject 2 was not in custody. Officer B stated Subject 2 was not in custody because Subject 2 had eaten the evidence, and due to the misdemeanor offense it was not feasible for police personnel to monitor Subject 2 in the hospital for an extended period of time. When Officers A and B arrived at Rampart

Station, Officer B advised Sergeant A of the narcotics investigation which resulted in Subject 2 being transported to the hospital. According to Sergeant A, he did not recall being told that Subject 2 had ingested narcotics.

Officer G stated he responded to the hospital to obtain a patient number and to verify Subject 2's medical condition. Officer G responded to the hospital but did not follow the RA.

According to Firefighter/Paramedic A, when Subject 2 was transported to the hospital, Subject 2 was conscious but altered. As fire personnel were arriving at the hospital, Subject 2's breathing significantly decreased, and Subject 2 went into cardiac arrest.

Advanced cardiac life support protocols were initiated by a doctor. Medical personnel subsequently pronounced death. Officer G stated once he was advised Subject 2 was pronounced dead, he utilized his cell phone and called Officer A, notifying him of Subject 2's death.

The back-seat camera to the officer vehicle depicted Officers A and B transporting Subject 1 to Rampart Station. Officers A and B arrived at the station, and Subject 1 was signed-in on the adult detention log and interviewed regarding the standard intake questions. Subject 1 did not have any questions or concerns.

Sergeant A and Watch Commander Lieutenant A were in the Rampart Patrol Watch Commanders Office when Sergeant A was notified of the in-custody death by Officer A. Sergeant A stated he separated Officers A and B, ordered them not to discuss this matter, and began to monitor them.

Force Investigation Division investigators reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators.

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). 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 an Administrative Disapproval.

B. Drawing/Exhibiting of a Firearm

Does not apply.

C. Non-Lethal Use of Force

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

Basis for Findings

A. Tactics

1. Contact and Cover

Officer A did not wait for his partner to exit the police vehicle before making contact with Subject 1.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officer A exited the vehicle and made contact with Subject 1 before Officer B could get out and around their vehicle. Although Subject 1 was compliant upon initial contact and Officer A's intent was to sneak up behind Subject 1 so he would not destroy the narcotic evidence, the BOPC believed that Officer A acted prematurely when he elected to take Subject 1 into custody without the benefit of a cover officer.

In this circumstance, it would have been more tactically advantageous for Officer A to wait for his partner before making contact with Subject 1.

2. Emergency Medical Treatment / Narcotics Ingestion Protocol

Officers A and B did not follow the Department's Narcotics Ingestion Protocol or request a Rescue Ambulance for Subject 2 in a timely manner after they observed Subject 2 ingest narcotics.

In this case, Officers A and B observed Subject 2 ingest what they both believed to be narcotics. Once Subject 2 was handcuffed, Subject 2 continued chewing and spitting pieces of plastic out of his mouth. Although Subject 2 did not initially display or verbalize any signs of medical distress, the officers had a reasonable belief that Subject 2 had ingested narcotics and therefore should have summoned an RA immediately.

The officers' decision to delay the RA request after already recognizing that he was going to need medical attention because of his ingestion of the narcotics

was not reasonable. Officers A and B also failed to notify a supervisor of the circumstances as soon as practical and did not respond to the hospital as required by Department policy under these circumstances.

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

- The BOPC additionally considered the following:

1. Evidence Collection

The investigation revealed that Officers A and B did not collect the pieces of plastic baggie that Subject 2 had spit out of his mouth because they believed that the pieces of plastic had no evidentiary value. The officers are reminded of the Department's policy to properly secure evidence and that no potential evidence should be overlooked or compromised during any investigation.

2. Required Equipment (Hobble Restraint Device)

The investigation revealed that Officers A and B did not have their Hobble Restraint Device (HRD) at the time of the incident. Officers A and B are reminded to have all required equipment on their person while performing field patrol duties.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found that Officers A and B's failure to request the response of emergency medical personnel in a timely manner was a substantial deviation, without justification from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made individually and collectively, and a Tactical Debrief is the appropriate forum for the involved personnel to discuss the incident and individual actions that took place.

The BOPC found Officers A and B's tactics to warrant an Administrative Disapproval.

B. Drawing/Exhibiting

Does not apply.

C. Non-lethal Use of Force

- **Officer B - Firm Grip**

Officer B placed a firm grip on Subject 2's cheeks with his right thumb and right index finger, and pinched Subject 2's cheeks together in an attempt to see what Subject 2 had in his mouth. Officer B recalled telling Subject B to "spit it out, spit it out."

After a review of the incident and the non-lethal force used by Officer B, the BOPC determined that an officer with similar training and experience as Officer B would believe this same application of force would be reasonable to overcome Subject 2's resistance.

Therefore, the BOPC found Officer B's non-lethal use of force to be objectively reasonable and in policy.