

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

IN-CUSTODY DEATH – 093-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Van Nuys	10/27/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Not applicable.	

Reason for Police Contact

Witnesses called 911 to report that Subject 1 was entering vehicles without permission. Officers responded to the scene.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 45 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 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 BOPC; 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 September 15, 2009.

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.

Incident Summary

Witness A was driving when she noticed that the other vehicles traveling in her direction were stopping as they approached an intersection. Witness A then observed a male pedestrian (subsequently identified as Subject 1) in the roadway.

Witness A stopped behind a silver vehicle and watched Subject 1 as he walked around the hood of the silver vehicle, then approached the passenger door, opened it, and entered the vehicle. Witness A observed the female driver of the silver vehicle push Subject 1 out of her vehicle. Witness A then continued driving and called 911.

Witness B was driving toward the intersection when she was forced to stop because Subject 1 was in the middle of the street. Witness B noticed that Subject 1 was wearing shorts, down around to his knees, and was crawling in the middle of the intersection.

Subject 1 suddenly stood up, pulled up his pants, and started walking around in the intersection. Witness B described Subject 1 as appearing "disoriented" and heard him say that he needed a car. Witness B drove around Subject 1 and also called 911.

Witness C stopped her vehicle at a red light at the intersection when she observed Subject 1 running in the street screaming and attempting to enter passing vehicles. Witness C thought the doors to her vehicle were locked; however, they were not and Subject 1 opened the front passenger door and entered.

Witness C told Subject 1 to leave; however, Subject 1, said, "It's coming, It's coming," and appeared to be very frightened. When the signal changed and she could not get Subject 1 out of her car, Witness C turned left, where she saw a hospital.

When Witness C stopped her vehicle, Subject 1 told her that electrical wires were coming through the window. Witness C then told Subject 1 to get out of her vehicle because she was going to call the police. Subject 1 told her to keep driving; however, Witness C refused to drive him any further. Witness C called 911 from her cellular telephone.

While Witness C waited for the 911 operator to answer, she told Subject 1 that he needed to go to a hospital and she was going to drive him to one. Subject 1 replied that he was getting out of the vehicle. Subject 1 then exited Witness C's vehicle and ran away.

Communications Division (CD) broadcast that a male with mental illness was running in and out of traffic at a specific intersection. CD broadcast the subject description as a male, 50 to 60 years old, bleeding from the mouth, wearing camouflage pants, and hitting passing vehicles. CD also broadcast that Subject 1 had forced entry into a silver vehicle and the driver was attempting to push him out of her vehicle. CD upgraded the call and Officers A and B responded to the location.

En route to the call, Officers A and B discussed tactics regarding the mentally ill, and/or persons under the influence of drugs, safety in the roadway, and use of force concepts. Officer B equipped himself with a TASER.

CD broadcast that Subject 1 had exited the silver vehicle and was last observed near a hospital.

Officers A and B notified CD that they had arrived in the area. Officer A observed a silver vehicle parked on the street. Someone sitting inside the vehicle pointed in the direction of the parking lot of the nearby hospital. Officer A looked in the direction of the hospital parking lot and observed a male talking on a cellular telephone who also pointed in the direction of the parking lot. The officers parked their police vehicle in the driveway of the parking lot but did not advise CD of their location.

As the officers exited their vehicle, they observed Subject 1 lying on his back in the parking lot. Officer A believed he was going to be the "contact" officer, while Officer B thought Officer A was going to be responsible for communicating with Subject 1 while he would provide the contact role.

As the officers approached, Officer B asked Subject 1 if he was okay. Subject 1 told them he had been electrocuted and was in pain. Subject 1 also said that there had been an earthquake and that he wanted to go to a safer place.

Officer A observed dried blood around Subject 1's mouth. Officer B told Subject 1 that the officers were there to help him. When Officer B asked Subject 1 to sit up, he rolled over onto his stomach.

Officer B noticed something out of the ordinary about Subject 1. So for Subject 1's safety, safety of the witness, and of the officers, Officers A and B decided that the best course of action would be to handcuff Subject 1.

As Officer A grabbed Subject 1's left wrist and Officer B grabbed Subject 1's right arm, the officers felt Subject 1's body lock, as he was a strong individual. Officer A requested a backup on his radio.

Officers C and D were in the area and responded to the backup request. However, they could not locate Officers A and B and requested additional information with respect to their precise location.

Both officers grabbed Subject 1's arms, placed them behind his back and then handcuffed Subject 1 without incident. Due to Subject 1's large size, the officers used two sets of handcuffs to connect his wrists together.

Officers A and B then reassured Subject 1 that they would get him help and told him to sit up, which he did. Subject 1 then stood up with the officers' assistance and the officers walked him toward their patrol vehicle. Subject 1 was able to walk without assistance to the police vehicle and stepped over the chain blocking the driveway.

Officers C and D arrived at the scene. Sergeant A also arrived at the scene.

The Los Angeles Fire Department (LAFD) received an alarm in response to the 911 calls to respond to a medical emergency at the location.

Officer A notified CD that Subject 1 was in custody.

Officer B opened the rear door of the vehicle intending to have Subject 1 sit down. Subject 1 jumped in the car face first, laying on his stomach, and started kicking.

Officer C observed Subject 1 in handcuffs lying sideways in the backseat of the police vehicle, kicking the side of the door. Officer C then saw Officers A and B attempt to close the rear door to their police vehicle. Officer D observed Officers A and B place Subject 1 into the rear seat. Subject 1 then lay down on his stomach and began kicking the seat.

At Officer A's prompting, Subject 1 backed out of the police car and he went down to his knees. Subject 1 then began to scream that he was scared and that something was after him. The officers decided to apply a Hobble Restraint Device (HRD) on Subject 1 because he was being uncooperative and continuing to kick.

Subject 1 was placed in a seated position by Officers A and B with his legs extended in front of him. Officers A and B then stood behind Subject 1's back and supported him. While Subject 1 was in the seated position, Officer C applied the HRD to his ankles.

The officers observed Subject 1 possibly having a seizure or convulsion. Officer D requested a Recue Ambulance (RA). LAFD personnel arrived on scene and began emergency medical treatment on Subject 1. At the request of LAFD personnel, the officers removed the handcuffs and HRD from Subject 1.

As the paramedics treated Subject 1, they informed the officers that he did not have a pulse and was not breathing. Sergeant A requested additional units at the scene. Subject 1 was transported by RA to a local hospital.

Sergeant B arrived at the scene and obtained a Public Safety Statement (PSS) from Officer A. Sergeant B also obtained a PSS from Sergeant A and Officers C and D.

Attempts to revive Subject 1 were unsuccessful, and he was 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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

- Does not apply.

C. Lethal Use of Force

- Does not apply.

Basis for Findings

A. Tactics

- In adjudicating this incident, the BOPC considered that:

Officers A and B broadcast their location when they arrived, but the actual location of the call was a different location. The officers' inaccurate location caused confusion with the responding units and delayed their response. Therefore, the officers are reminded to update their status with CD.

Officers A and B's statements indicate that there was confusion about their pre-designated roles. Multiple officers giving simultaneous commands can create confusion in the mind of the subject, resulting in non-compliance. Therefore, in order to maintain a tactical advantage and avoid confusion, Officers A and B should coordinate their roles to ensure that the integrity of the contact and cover concept is not compromised.

Subject 1 stopped screaming and started to have what appeared to be a seizure once the HRD was applied. Subsequently, Officer D contacted CD and requested the response of the Los Angeles Fire Department (LAFD).

In this situation, the BOPC determined that Subject 1's detention was consistent with Department standards. It was established that there was no use of force involved in the detention of Subject 1. Furthermore, the coroner's report noted the cause of death to be a result of cocaine intoxication. A thorough review of these facts indicates that there was no correlation between the actions of Department personnel and the death of Subject 1.

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. Each tactical

incident inherently results in considerations for improvement. In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively *“unjustifiably and substantially deviated from approved Department tactical training.”*

Therefore, a Tactical Debrief is the appropriate mechanism for the substantially involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

The BOPC found Officers A and B’s tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

Does not apply.

C. Use of Force

Although the officers overcame some passive resistance (muscle rigidity) and used firm grips to assist in the handcuffing and application of the HRD, there is no evidence these actions resulted in an injury. The BOPC determined that these actions do not constitute a reportable Non-Categorical Use of Force and do not warrant findings for use of force.