

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

IN CUSTODY DEATH – 011-05

Division	Date	Duty-On (x) Off ()	Uniform-Yes (x) No ()
Wilshire	02/04/2005		

Officer(s) Involved in Use of Force	Length of Service
Sergeant A	16 years, 6 months
Officer A	3 years, 7 months
Officer B	3 years, 7 months
Parole Agent A	

Reason for Police Contact

After learning that Subject 1 was on parole and possibly in violation of the conditions governing his release, Sergeant A, Parole Agent A, and Officers A and B went to his hotel room to conduct a compliance check. When Subject 1 fought with the officers, they placed him in a prone position and hobbled his legs so that he could be handcuffed. While in this position, Subject 1 lost consciousness and later died after he was transported to a nearby hospital.

Subject	Deceased (x)	Wounded ()	Non-Hit ()
Subject 1: 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 and addenda items); the Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on April 25, 2006. The BOPC unanimously made the following findings.

Incident Summary

On the evening of February 4, 2005, Sergeant A met with the manager of a local hotel and reviewed the registration cards for all registered guests. According to the hotel manager, this was a common practice by Sergeant A. After reviewing the hotel's guest

registry, Sergeant A wrote down several names, returned to the Station, and conducted an inquiry via the Department's computer database to determine if these individuals had a warrant for their arrest or were on active parole or probation.

From the database, Sergeant A learned that Subject 1 was on active parole for a narcotics related arrest. Sergeant A then notified Parole Agent A, and with his assistance, reviewed Subject 1's criminal history. After that review, Sergeant A and Parole Agent A determined that a compliance search was warranted. To aid in the execution of the compliance check, Sergeant A telephoned Officers A and B and advised them to meet him and Parole Agent A at a location near the hotel so they could be briefed on the compliance check.

During the briefing, Sergeant A showed Officers A and B a photograph of Subject 1 and discussed tactics required for the compliance check. The group of officers then met with the hotel manager who, according to Parole Agent A, indicated that Subject 1 was a drug user whom he no longer wanted residing at the hotel. The hotel manager also indicated that Subject 1 was residing in Room No. 6 and had just returned. The officers then walked to Room No. 6 and positioned themselves around the doorway while Parole Agent A knocked on the front door. Subject 1 eventually opened the door and allowed the officers inside of his room.

Parole Agent A informed Subject 1 that he was there to conduct a compliance check and ordered him to place his hands behind his back so that he could be handcuffed. Although Subject 1 initially complied and allowed his left hand to be handcuffed, he subsequently turned around, pulled his right hand away from Parole Agent A, and began to resist the handcuffing.

Wanting to gain control of Subject 1, Officers A and B intervened and attempted to subdue him. When they approached, Subject 1 swung his right hand toward Officer A. In response, Officer A struck Subject 1 in the face with a closed fist one time. Unaffected by the strike, Subject 1 continued to struggle with the officers. When Subject 1 again swung his right hand toward Officer A, Officer A struck him in the face a second time. The momentum of the struggle caused Subject 1, Parole Agent A, and Officers A and B to fall on a bed that was located at the south wall of the room. As the struggle continued, Officer A struck Subject 1 in the face a third time just as the bed rolled out from underneath them, causing all of them to fall to the floor.

While struggling with Subject 1 on the floor, Parole Agent A applied his body weight to Subject 1's upper left torso while Officer A applied his body weight to Subject 1's upper right torso. Subject 1 continued to struggle despite repeated warnings by the officers to stop resisting. While the struggle continued, Officer B struck Subject 1 in his rib area three to four times with his right closed fist.

Sergeant A, as supervisor, initially monitored the struggle. However, when he determined that his assistance was needed, Sergeant A retrieved his OC Spray. Sergeant A elected not to deploy the OC Spray because of the close contact between the officers and Subject 1 and the confined space of the room. Sergeant A then attempted to activate the emergency trigger on his Astro radio but he could not get it to

work. As the struggle continued, Parole Agent A directed the officers to place Subject 1 on the bed in the center of the room. When they did, Subject 1 was placed facedown on the mattress with a portion of his legs extending off the end of the bed. Officer A then grabbed Subject 1's legs and requested back up, while Parole Agent A rolled Subject 1's left arm across his back and Officer B attempted to handcuff his right arm. Realizing that his assistance was needed at this point, Sergeant A placed both of his knees across Subject 1's back and applied pressure while Subject 1 was face down on the mattress. Parole Agent A and Officer B then handcuffed both of Subject 1's wrists while Officer A hobbled Subject 1's legs.

Once Subject 1 was controlled, Sergeant A moved off of his back and monitored Subject 1 while Officer B searched the room for narcotics. Officer A left the room and advised Communications Division ("CD") that the situation was under control and the suspect was in custody. According to Sergeant A, although Subject 1 appeared unconscious, he believed that Subject 1 was feigning unconsciousness so that the officers would get off of him allowing him to resume fighting. However, after observing blood on Subject 1's teeth and noting that he was unresponsive to their commands, Officer B requested a Rescue Ambulance ("RA"). Parole Agent A and Sergeant A then rolled Subject 1 onto his back and attempted to seat him at the foot of the bed. When they did, Sergeant A noted Subject 1 was limp and unresponsive.

When Officer A returned to the room, he also noted that Subject 1 was unconscious and not breathing. He then advised CD of his observations and upgraded the request for an RA. While waiting for the RA, Parole Agent A and Sergeant A moved Subject 1 from the bed so that they could administer Cardio Pulmonary Resuscitation ("CPR"). When the RA unit arrived at scene, the paramedics took over resuscitation efforts and determined that Subject 1 was in cardiac arrest with no pulse. Subject 1 was then transported to California Hospital where 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 the following areas: Tactics of the involved officer(s); Drawing/ Exhibiting/ Holstering of a weapon by any involved officer(s); the Use of Force by any involved officer(s), and any additional pertinent issues. 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 that Sergeant A and Officers A and B's tactics warrant formal training.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-lethal Use of Force

The BOPC found Sergeant A's non-lethal use of force to be in policy, but warranting formal training.

Basis for Findings

A. Tactics

The BOPC noted that Sergeant A determined that two officers would be sufficient to conduct a "Parole Compliance Check" on Subject 1. Sergeant A made this decision based on Subject 1's arrest and conviction history. Based on the circumstances known to Sergeant A, this appeared to be a reasonable decision. However, the BOPC noted that conducting operations with personnel from another agency is often difficult because of differing and unknown policies, training, tactics, and standards of that other agency. The BOPC determined it would have been advisable for the Department to take the tactical lead in this situation and once the scene was controlled, then allow the parole agent to conduct his investigation.

The BOPC also noted inconsistencies in certain statements. Parole Agent A indicated that he did not identify himself as a parole agent because he feared that Subject 1, a known narcotics user and seller, would attempt to destroy evidence. Yet, Sergeant A and Officers A and B indicated that the parole agent in fact identified himself as such. Five witnesses indicated that someone said "room service" when they heard knocking on Subject 1's door. The BOPC noted that these inconsistencies in the officers' and witnesses' statements were added to an existing personnel complaint as an allegation of false statements. The personnel complaint originally initiated in this incident addressed an allegation of improper remarks made by the officers and the observation of an unknown officer kicking Subject 1 in the back of his head.

The BOPC would have preferred that Officer A and B had entered the room first with Sergeant A maintaining supervisory control. The BOPC determined that this would have allowed the officers to confront Subject 1 as a team, increasing the ability to handcuff Subject 1 and clear the room prior to Parole Agent A initiating contact with him. The BOPC further noted that during the initial stages of the use of force, Sergeant A could not get his help button on his Astro radio to work. The BOPC preferred that when Sergeant A realized that CD had not acknowledged the request, he immediately broadcast an officer needs help radio call. The BOPC also noted the Sergeant A and Officer A were not equipped with their batons or Hobble Restraint Devices ("HRD"). The BOPC further noted that the officers struck Subject 1 in the face with closed fist

strikes. The BOPC noted that Department practice relative to such strikes encourages use of open palm strikes.

Based on the foregoing, the BOPC determined that Sergeant A and Officers A and B would benefit from additional training. The training should emphasize tactical pre-planning, use of force options and procedures, communications, and the requirement that all officers have their required equipment available while working a uniformed assignment. Due to the manner in which the officers tactically conducted themselves, the BOPC determined that they would benefit from formal training at Training Division.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-lethal Use of Force

The BOPC expressed concern over the actions of Sergeant A during the application of the non-lethal use of force and subsequent conduct. The BOPC noted that Sergeant A was concerned that Subject 1 was feigning unconsciousness, but it was unclear if Sergeant A remained on Subject 1's back during this time period. Further, the BOPC noted that it was not clear how long Subject 1 remained in the prone position on the mattress without being turned over and sat up as required by Department policy. The BOPC determined that at that time, Subject 1 had been subdued and was no longer combative with the officers and, therefore, should have been immediately sat up.

The BOPC expressed concern with Sergeant A's response in dealing with Subject 1's medical condition. Sergeant A did not immediately provide Subject 1 with medical attention by requesting an RA when it was observed that Subject 1 was bleeding from the mouth. The BOPC noted that Sergeant A focused upon his supervisory responsibilities. The BOPC determined that those supervisory responsibilities did not supercede the responsibility of calling an RA for someone in need of medical attention.

Based upon the foregoing, the BOPC determined that Sergeant A would benefit from formal training related to the application of the HRD and the actions required subsequent to the application of that device. Further, the BOPC determined that formal training should be provided to ensure that, as a supervisor on scene, Sergeant A understands not only the administrative duties attendant to the position of Sergeant, but also considers what is required to ensure that all individuals at a scene the Sergeant supervises receive the medical attention they need.