

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

IN-CUSTODY DEATH – 023-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Newton	03/14/11		

Officer(s) Involved in Use of Force	Length of Service
Officer A	5 years, 8 months
Officer B	4 years, 10 months
Officer C	6 years, 3 months
Officer D	6 years, 2 months
Officer E	3 years, 5 months
Officer F	3 years, 8 months

Reason for Police Contact

Officers responded to a radio call of a subject walking in the middle of the street. Officers detained the subject who resisted arrest, resulting in the use less-lethal and non-lethal force.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male Black, 36 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 Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, 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 February 7, 2012.

Incident Summary

Officers C and B responded to a radio call of a “violent male with a mental illness” running into the street. Upon their arrival, the officers did not locate the male. The officers notified Communications Division (CD) that they were unable to locate the male and cleared the call.

A few minutes later, CD broadcast a radio call of a Black male removing his clothing in lanes of traffic, and Officers C and B responded. Upon arrival, the officers observed a male (subsequently identified as the Subject), screaming, yelling and walking around traffic. The Subject was wearing boots, a pair of boxer shorts, and his penis was exposed.

The officers activated the overhead lights of their police vehicle to slow traffic down so the Subject would not get hit, as the Subject was walking erratically in and out of traffic. The officers positioned their vehicle across the northbound lanes of traffic, exited their vehicle and announced themselves as police officers. The Subject ignored the officers’ commands and continued walking in and out of traffic lanes.

The Subject approached a bus that was traveling northbound. As the bus slowed down, the Subject approached the front doors, which were closed, and began to bang on the doors in an apparent attempt to gain entry onto the bus. Officer C waved at the bus driver, motioning for the driver to drive away. Officer C feared that if the Subject were to gain entry, he would assault the passengers. The bus left the area without further incident.

The officers continued to tell the Subject to get on the sidewalk. The Subject got on the west sidewalk and walked northbound. The officers got back into their police vehicle, activated their emergency overhead lights and began to follow the Subject as they drove against oncoming traffic, going northbound. The Subject then walked into a construction site. Upon entering the construction site, the Subject walked around an unoccupied guard shack and began to crawl underneath a modular office.

As the officers were waiting for the additional units to respond, the Subject continued to crawl underneath the trailer.

Officers A, D, E and F arrived at the scene and met with Officers C and B.

According to Officer B, who was equipped with an X-26 TASER, several times throughout the incident as the Subject secreted himself underneath a trailer at the location, Officer B told the Subject that he could be “tased” if he did not comply with their commands. In addition, as the officers were positioned around the trailers, Officer A told the Subject that he needed to come out and that they were not there to hurt him.

The Subject quickly moved back and forth underneath the trailer. After doing this several times, the Subject suddenly ran out from underneath the south side of the

trailer, then turned and ran west on the north side of the trailer. The Subject turned and tried to run north between the trailer and a large metal storage container. The officers chased the Subject as he ran.

Simultaneously, Officer A positioned himself on the west side of the trailer, between it and a metal storage container. When Officer A saw the Subject running toward him, Officer A fired one round from a beanbag shotgun at the Subject. Officer A then fired a second and third beanbag round at the Subject. Following the discharge of the second and third beanbag shotgun rounds, the officers continued to chase the Subject as he ran through the dirt lot and he suddenly stopped next to a large hole that had been dug in the dirt.

According to Officer B, after the Subject fled from underneath the trailer, he chased the Subject as he ran westbound. Officer B discharged his TASER at the Subject, aiming at the front torso area. Officer B then activated the TASER a second time. After the second TASER activation, the Subject fell to the ground.

In an attempt to take the Subject into custody, Officers C, F and E simultaneously approached the Subject and utilized their bodyweight to keep him in a prone position to facilitate handcuffing. Officer C placed his left knee on the Subject's right upper back area, while at the same time trying to grab the Subject's arm, which was under his body. Officers F and D attempted to grab the Subject's left arm; however, they were having a difficult time doing so, as the Subject continued to struggle and at times the Subject would try to stand up.

Realizing that the officers were having a difficult time restraining the Subject, Officer B activated the TASER for the third time.

According to Officer B, after the third TASER activation he turned off the TASER and gave the TASER to Officer A. Officer B then assisted Officer C with securing the Subject's right arm behind his back. Due to the Subject's large stature, the officers had to use two sets of handcuffs to secure the Subject's wrists. Officer B placed his left knee on the Subject's right shoulder blade area. Officer F placed his left knee on the Subject's back, under his shoulder blade area, and was able to grab the Subject's left arm. With the assistance of Officer D, they were able to get the Subject's left arm behind his back and place the handcuffs on the Subject's wrists.

According to Officer D, he positioned himself on the left side of the Subject, and assisted in handcuffing the Subject.

Officer A placed his foot on top of the Subject's right leg so that the Subject would not be able to continue trying to kick the officers.

Officer E assisted in restraining the Subject, by placing his right knee below the Subject's lower left leg, applying body weight to keep the Subject from struggling.

Sergeant A arrived on scene and observed two officers holding the Subject's left and right arms, while two other officers were holding the Subject's legs. The Subject was already handcuffed and appeared to be agitated. Based on the Subject's behavior and what he had been told by the officers regarding the use of force needed to subdue the Subject, Sergeant A believed the Subject was under the influence of PCP and asked for a Hobble Restraint Device (HRD). After the HRD was applied, Sergeant A directed the officers to lay the Subject on his side.

Sergeant A told the Subject, "Calm down. You're okay." The Subject made inaudible tones, shook his head and moved around. The Subject was breathing, and Sergeant A believed that Officer A had already requested a rescue ambulance.

A Los Angeles Fire Department (LAFD) ambulance arrived on scene. After checking the Subject, LAFD personnel determined that the Subject was not breathing and was non-responsive. The paramedics began Cardiopulmonary Resuscitation (CPR) and transported the Subject to a local hospital. The Subject was treated at the hospital and was later 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 revolver 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, B, C, D, E and F's actions to warrant a tactical debrief.

B. Non-Lethal Use of Force

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

C. Less Lethal Use of Force

The BOPC found Officers A and B's use of less-lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Tactical Communication – Back-Up vs. Additional Unit

In this instance, based on their observations and the Subject's unresponsiveness to their commands, the officers requested an additional unit to respond to the scene. There are certain instances where immediate assistance is required and it would be beneficial for the officers to request an emergency response from additional personnel. Here, although he was showing signs of a potential mental illness or narcotic intoxication, at this point of the incident, the Subject was only non-responsive and hadn't exhibited any signs of aggressiveness toward the officers.

In conclusion, the BOPC determined that the officers' decision to request an additional unit rather than a back-up did not represent a substantial deviation from approved Department tactical training. However, based on their description of the Subject and their feeling that it was unsafe to approach him, a back-up request would have been appropriate as well.

2. Driving wrong way against oncoming traffic

In this instance, the Subject continued to ignore the officers' commands as he walked north on the west sidewalk. Officers B and C elected to follow the Subject while driving northbound in the southbound lanes, while illuminating their police vehicles overhead emergency lights in order to warn oncoming traffic.

In police work there are times when officers may find it necessary or tactically advantageous to circumvent the rules of the road. What the Department demands, however, is that, when these situations arise, the officers act with reasonable justification and with due regard for public safety.

Although there are inherent risks associated with driving against the flow of traffic, the BOPC took into consideration the Subject's prior actions and the danger the Subject represented both to himself and motorists. With that said, the BOPC determined that although driving the wrong way against the flow of traffic deviated from approved Department tactical training, the deviation was not substantial.

3. Stepping on Suspect's Limbs

In evaluating the use of this tactic, the BOPC took into consideration that the officers had already utilized various force types in an attempt to take the Subject into custody and that Officer A was in possession of the beanbag shotgun, which limited

his ability to physically put hands on the Subject. Based on the totality of the circumstances, the BOPC determined that although Officer A deviated from approved Department tactical training by stepping on the Subjects leg in an effort to control him, his actions were justifiable.

In conclusion, the BOPC found Officers A, B, C, D, E and F's actions to warrant a tactical debrief.

B. Non-Lethal Use of Force

Though given many opportunities to comply with the lawful commands that were issued to him, the Subject chose to disobey those commands and aggressively resisted every attempt to be taken into custody. Based on the totality of the circumstances, an officer with similar training and experience would believe that the use on non-lethal force would be reasonable to overcome the level of resistance presented by the Subject and effect an arrest. Therefore, the BOPC determined the officers' use of non-lethal force was objectively reasonable and within Department guidelines.

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

C. Less-Lethal Use of Force

In this instance, the Subject had failed to respond to verbal commands and took a fighting stance. Based on the size of the Subject, his aggressive demeanor, coupled with the belief the Subject was possibly under the influence of some kind of narcotic, another officer with similar training and experience would reasonably believe that the Subject represented a credible threat and that the use of the beanbag shotgun and TASER would be reasonable to stop the Subject's actions and effect an arrest.

In conclusion, the BOPC found Officers A and B's use of less-lethal force to be in policy.