

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

IN CUSTODY DEATH- 027-07

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
Hollenbeck	03/14/2007		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	12 years, 11 months
Officer B	11 years, 9 months

Reason for Police Contact

Officers A and B observed a vehicle parked at a red curb, and what appeared to be a hand-to-hand transaction between the vehicle occupants and a male standing outside. One of the male subjects was taken into custody and later pronounced dead at a hospital.

<u>Subject(s)</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 21 years.			

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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so 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 January 15, 2008.

Incident Summary

Officer A and Officer B were working a special detail and driving a black and white police vehicle. Although they were dressed in plainclothes, they were wearing Los Angeles Police Department (LAPD) raid jackets and had their badges clipped to the front of their belts.

The officers were driving down the street when Officer B observed a black Sports Utility Vehicle (SUV) parked in an intersection. The SUV was parked at a red curb, adjacent to a fire hydrant, in violation of the city municipal code. Officer B observed two males reclined back in their seats as if hiding from the officers. As Officer A backed the vehicle up, Officer A saw what appeared to be some type of hand-to-hand transaction between the occupants in the vehicle and a male standing outside the vehicle. Neither Officer A nor B could tell what, if anything, was exchanged between the subject standing outside the SUV or its occupants, but Officer B believed the officers may have been interrupting a hand-to-hand narcotics transaction. The driver of the SUV was later identified as Subject 2. The individual standing outside the SUV was later identified as Subject 1. The individual seated in the right front seat of the SUV was never positively identified.

As the officers exited their vehicle, Subject 1 started running down the street. Officer A noticed Subject 1 reach into his waistband constantly and believed the Subject had some type of handgun. Officer A holstered his pistol as he returned to the police vehicle. Officer A broadcast a request for additional units to assist with their pursuit of an individual armed with a handgun. Officer C and Officer D acknowledged the request for backup.

In an attempt to cut off Subject 1's route of escape, Officer A drove past Subject 1, and stopped the police vehicle. Officer A then exited his vehicle, unholstered his pistol, and took a position of cover behind the police vehicle's engine block. As Subject 1 approached, Officer A ordered him to stop and lay down on the sidewalk. Subject 1 complied with Officer A's commands. Officer B arrived at the termination point of the foot pursuit and unholstered his pistol. Officer B stood by Subject 1 while Officer A holstered his pistol and handcuffed Subject 1. Officer A conducted two searches of Subject 1 prior to putting him in the police vehicle. Subject 1 was in possession of a clear plastic baggie containing drugs and large amounts of U.S. currency found in the right front pocket of his trousers.

As Officers C and D arrived they observed Subject 2 hop a fence into the street directly in front of them. Officer D ordered Subject 2 to stop and place his hands behind his back. Subject 2 complied. Officer D conducted a pat down search of Subject 2, and he recovered marijuana and a marijuana pipe from Subject 2's pocket.

The officers were unable to verify Subject 2's probation status and decided to transport both suspects to the Area station. Subject 1 was searched by Officer A and placed inside a holding cell. The Watch Commander, Sergeant B, spoke with Subject 1 and determined he was aware of why he had been arrested.

Sergeant B and Officer B then counted Subject 1's money. The interview and money count took approximately five minutes. Subject 1 was left alone in the holding cell for approximately five minutes, and Subject 1 was handcuffed and still wearing his clothes.

Officer F was preparing reports at a desk, which was close to the holding cell and heard crying coming from somewhere. Officer F opened the door to Subject 1's holding cell and saw Subject 1, with his hands still handcuffed behind his back, lying face down and apparently having a seizure. Officer F yelled down to the detective room that Subject 1 was having a seizure. Officer F opened the door to the holding cell, and Officer B immediately removed Subject 1's handcuffs. Officer B saw some mucus with blood on the floor. Officer A requested a Rescue Ambulance (RA) for Subject 1. As Officer A waited for the RA, he rolled Subject 1 onto his right side in order to assist his breathing. The RA arrived and immediately provided medical assistance to Subject 1. Subject 1 was transported to a local hospital. Subject 1 did not regain consciousness, did not respond to medical intervention, and was pronounced dead at the hospital.

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 that Officer A and B's tactics warranted formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing to be in policy.

C. Use of Force

The BOPC found Officer A's use of force to be in policy.

D. Other

The BOPC found Sergeant A's and Officer A, B, C and D's application of legal mandates regarding search and seizure to warrant formal training.

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B, along with personnel from CCD, the California Department of Corrections and Rehabilitation and the Area Narcotics Enforcement Detail conducted a parole search at a particular address. During its execution, the subject was not present and remained outstanding; however, guns and ammunition were recovered. Officers A and B were conducting proactive enforcement as they searched for the outstanding subject when this incident unfolded.

Officer B drew his pistol and ran after Subject 1, covering the SUV as he ran past it. Simultaneously, Officer A re-entered the police vehicle, drove by the SUV, and followed Officer B. Officers are taught to discuss tactical issues when working together and pre-plan responses. When faced with a fleeing subject, officers are trained to not separate from one another so as to be able to render immediate aid to their partner if necessary. When partners act independent from one another, officer safety is jeopardized. In addition, running with a pistol drawn can increase an officer's chance of having an unintentional discharge.

The BOPC noted that Officers A and B perceived the occupants of the SUV as potential threats and made some effort to address this as they passed the vehicle. However, by passing the unclear SUV, both officers exposed themselves to potential danger from behind as the foot pursuit progressed. It would have been prudent for Officers A and B to assess the danger the SUV potentially presented, given the fact that Officer B believed that the passenger resembled the parolee that they were looking for. It would have been prudent for Officers A and B to maintain their positions of cover, broadcast Subject 1's description, suspected crime and direction of travel, request additional resources and establish a perimeter to contain Subject 1.

When Subject 1 dropped a cellular telephone and slowed his gait, Officer A accelerated past his partner and Subject 1, stopped the police vehicle, exited, drew his pistol, and took a position of cover behind the engine block. This is a highly discouraged tactic because it inherently places the officers at a significant disadvantage by increasing the likelihood of a "cross-fire."

Officer A was handcuffed without further incident. Once handcuffed, Officer A assisted Subject 1 to a standing position and escorted him to their police vehicle. Prior to placing Subject 1 in their police vehicle, Officer A conducted a pat down search for contraband and weapons, recovering marijuana from Subject 1. Officers A and B transported Subject 1 to the station after completing their follow-up investigation. Subject 1 was escorted into the station, and prior to placing him into a holding cell, Officer B conducted an additional pat down search for contraband and weapons; however, nothing was recovered. Sergeant B ensured Subject 1 was not in need of medical attention, knew why he was in custody and had no questions or concerns. A money count was conducted by Sergeant B and Officer B, with Subject 1 affirming the total.

Upon completion, Officer B closed the door of the holding cell and left to retrieve a property bag. Subject 1 momentarily remained handcuffed in the locked holding cell, as all of his property had yet to be removed.

Officer F observed Subject 1 lying on the floor in a supine position, apparently seizing and immediately notified additional personnel that Subject 1 was in need of medical attention. The investigation revealed that the Area personnel that had contact with Subject 1 while at the station acted appropriately and followed related Department policies and procedures. The BOPC determined that no actions, or inactions, by those personnel contributed to Subject 1's death; therefore, no findings are recommended for them with respect to this incident.

The BOPC found that Officer A and B's tactics warranted formal training.

B. Drawing/Exhibiting/Holstering

Officer B exited the police vehicle and observed Subject 1 look in his direction. Subject 1 turned away from the officers and reached toward his front waistband as he ran. Based on his training and experience, Officer B believed Subject 1's actions were consistent with that of an armed suspect and drew his pistol. During the subsequent foot pursuit, Officer B holstered his service pistol.

Simultaneously, Officer A exited the police vehicle and observed Officer B initiate a foot pursuit of a possible armed suspect. Believing the occupants of the vehicle may also be armed, Officer A drew his pistol and covered the potential threat. Once Officer B ran past the SUV, Officer A holstered his pistol and re-entered the police vehicle.

At the termination of the foot pursuit, Officer A drew his pistol and ordered Subject 1 into a prone position. Officer B, fearing a possible armed confrontation, once again drew his pistol. The BOPC determined that on both occasions, it was reasonable for Officers A and B to believe that the situation could escalate to the point where deadly force may be justified.

The BOPC found Officer A and B's drawing to be in policy.

C. Additional Comments

The evidence indicates that concerted efforts were made to monitor Subject 1 from his initial detention until he was placed in the holding cell. While being monitored, Subject 1 did not display any symptoms of cocaine intoxication. In the small window of time, Subject 1 was left handcuffed and unmonitored in the holding cell, still fully clothed, wearing high top tennis shoes, and not yet strip searched (common police practice for a narcotic suspect in police custody) Subject 1 had a seizure. It is commonly known that narcotic suspects oftentimes secrete contraband in areas not commonly searched by police officers during a "pat down" search.

The preponderance of the evidence in this case (timing of seizure, visible presence of cocaine in mucus, opportunity to retain contraband due to incomplete search) indicates that Subject 1 was in possession of cocaine when placed into the holding cell, and that he ingested that cocaine during the period when he was left unsupervised.

Based on the above, it is apparent that the decision to leave Subject 1 unsupervised in a cell while incompletely searched provided Subject 1 with the opportunity to ingest a fatal dose of cocaine. Given that Subject 1 was in custody for 11359 Health & Safety Code (H&S), Marijuana Possession for Sales, proper monitoring of Subject 1 until such time that he could be thoroughly searched could have prevented the circumstances under which this in-custody death occurred.

Prior to this incident, there was no policy requirement that narcotic arrestees be monitored until such time as they are thoroughly searched. This matter was discussed with the Commanding Officer (CO) of the Use of Force Review Division, who will address the issue.