

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

IN-CUSTODY DEATH – 052-05

| Division | Date | Duty-On (X) Off() | Uniform-Yes(X) No() |
|-----------------|-------------|--------------------------|----------------------------|
| Hollywood | 07/01/2005 | | |

| Involved Officer(s) | Length of Service |
|----------------------------|--------------------------|
| Officer A | 17 years, 5 months |
| Officer B | 1 year |

Reason for Police Contact

While on patrol, officers encountered a subject who appeared to be vandalizing a parked car with a bicycle lock. After a short pursuit, officers handcuffed the subject and used a hobble restraint device, leaving the subject prone. The subject later died.

| Subject | Deceased (X) | Wounded () | Non-Hit () |
|-----------------------------------|---------------------|-------------------|-------------------|
| Subject 1: Male, 46 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 06/06/06.

Incident Summary

Officers A and B were on patrol when they encountered Subject 1 standing near the curb next to a parked car. The officers noticed a bicycle in front of the vehicle and it appeared that there had been a traffic collision involving the bicycle and the vehicle.

The officers then observed Subject 1 strike a window of the vehicle at least two times with a bicycle lock. Officer A stopped the police vehicle and yelled at Subject 1 through his open window in order to gain Subject 1's attention. Officer A then made a U-turn and re-approached Subject 1.

Officer B notified Communications Division (CD) of their location and of the situation. Subject 1 picked up the bicycle and ran into the middle of the street, as if trying to get away. Officer A positioned his vehicle between lanes of traffic, activated his vehicle's overhead amber warning lights, and ordered Subject 1 to return to the sidewalk.

Subject 1 did not comply. Subject 1 then dropped his bicycle in the street's center divider and began running in the traffic lanes. As the officers moved towards Subject 1 in their vehicle, Subject 1 ran in an opposite direction. The officers stopped the police vehicle, exited, and attempted to converse with Subject 1. Officer A stated, "Let's talk about what's going on." Subject 1 did not respond and ran away.

Officer A re-entered the patrol car and directed Officer B to stay on foot and follow Subject 1. Subject 1 ran across lanes of traffic onto the opposite sidewalk. Officer A made a U-turn and drove past Subject 1, parking the patrol vehicle at an angle along the curb.

Officer A exited his vehicle, which caused Subject 1 to run back towards Officer B. During the time Subject 1 was fleeing the officers, Subject 1 was holding a bicycle lock. Officers A and B approached Subject 1, who was standing in the street holding the bicycle lock up at chest level. Officers A and B ordered Subject 1 to drop the bicycle lock. However, Subject 1 did not comply.

Officer A then drew his weapon and again ordered Subject 1 to drop the lock. Subject 1 complied and placed the bicycle lock on the ground. Officer A re-holstered his weapon and ordered Subject 1 to step away from the bicycle lock. Subject 1 moved back slightly. Officer A then ordered Subject 1 to get down on his knees, but Subject 1 did not comply.

Subject 1 began to look around once again, then ran back onto the sidewalk. Officer B followed behind him while Officer A ran around to the front of his police vehicle to cut Subject 1 off. As Subject 1 tried to run past Officer A, Officer A grabbed Subject 1's left arm, but was unable to maintain a hold. Subject 1 turned around and ran towards Officer B, then spun his body to his right before running into Officer B.

Officer B used a "bear-hug" technique to hold Subject 1. The momentum caused Officer B and Subject 1 to fall to the ground, with Subject 1 falling on top of Officer B. Officer B fell back into the grassy parkway between the sidewalk and the street. Subject 1 fell backwards onto Officer B's chest. Officer B rolled Subject 1 off his body and turned Subject 1 over into a prone position. Officer B took a position on top of Subject 1, straddling him with one leg on either side of Subject 1's body. Officer B then grabbed Subject 1's left arm and handcuffed it.

Meanwhile, Officer A arrived, positioned himself on Subject 1's right side, and assisted in handcuffing Subject 1 by gaining control of Subject 1's right hand, allowing Officer B to handcuff that hand.

While the officers were handcuffing Subject 1, Subject 1 was flailing his legs and kicking Officer B's back. Given Subject 1's actions, Officer A determined that the use of the hobble restraint device (HRD) would be appropriate and directed Officer B to apply the HRD to Subject 1. Officer B applied the HRD to Subject 1's ankles. Officer B then requested an additional unit and supervisor from CD.

Officer A told Subject 1 to calm down and asked Subject 1 for his identification. Officer A pushed Subject 1 up on his side from the face down position to pat him down for weapons.

Following the pat down, Officer A placed Subject 1 back down on the ground face down. Subject 1 calmed down, and Officer A noticed there might be something wrong with him. Officer A checked Subject 1's pulse and asked him, "Hey, man, you all right?" Subject 1 then let out a breath of air.

Officers C and D, plainclothes officers, responded to the additional unit request. Officers C and D exited their vehicle and approached Subject 1. Officer D heard Subject 1's shallow breathing. Officer A told Officer C that Subject 1 might be holding his breath.

Officer C then noticed that Subject 1 was not responsive. Officer C rolled Subject 1 onto his side and Officer B called for a rescue ambulance (RA). Officer C's hand had gotten wet from touching Subject 1. Officer C then told Officer B to take over his position. Officer C then walked back to his parked van to put on his raid jacket, leaving Officer B alone with Subject 1.

Sergeant A arrived at the scene. It appeared to Sergeant A that Subject 1 was unconscious. Sergeant A spoke with Officer A, who recounted the events that transpired. Meanwhile, the RA arrived.

The arriving paramedics assessed that Subject 1 was in respiratory arrest and transported him to the hospital where he died six days later.

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 Officer A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

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

C. Non-Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B stopped their police vehicle and attempted to contact Subject 1 while still seated in their police vehicle. The BOPC would have preferred the officers had exited their vehicle and taken a position of advantage prior to engaging Subject 1. The BOPC also noted that when Subject 1 ran from the officers, Officer A pursued Subject 1 in the police vehicle while Officer B pursued on foot. The BOPC would have preferred that the officers did not split up.

The BOPC determined that Officers A and B should have notified CD that they were in foot pursuit, requested a back-up unit, and broadcast all pertinent information to alert responding units.

The BOPC noted that Officer A's decision to drive beyond the fleeing suspect created a crossfire situation. The BOPC also noted that Officers A and B gave commands to Subject 1 simultaneously, possibly causing confusion.

Finally, the BOPC noted that Subject 1 remained in a prone position for approximately 2 ½ minutes until the arrival of Officers C and D. Officer C noticed Subject 1's skin glistening with sweat and rolled Subject 1 onto his side. Subject 1 was conscious but non-responsive. Officer C advised Officer B to request a RA. When Sergeant A arrived, he observed Subject 1 restrained by handcuffs and the HRD, lying on his side in the parkway. The BOPC determined that Subject 1 was either in a prone position or on his side for approximately 8 minutes. The BOPC noted that placing a subject in this position while restrained with a HRD was contrary to the standard established by Department training. All officers are expected to perform in accordance with the standards established by the training they are provided.

Note: At the time of this incident, Department training required that a subject secured with a HRD and handcuffs be immediately placed into an upright, seated position.

The BOPC found Officer A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted that it was reasonable for Officer A to believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified. Subject 1 was non-compliant, led officers in a foot pursuit, and held a metal bicycle lock at chest level. Notably, Officer A immediately re-holstered his weapon as soon as Subject 1 put the bicycle lock on the ground.

The BOPC determined that Officer A had sufficient information to believe the incident might escalate to the point where lethal force may be justified. The BOPC found Officer A's drawing to be in policy.

C. Non-Lethal Use of Force

The BOPC noted that Officer B used a "bear hug" to grab Subject 1. As a result of the momentum of the contact, Officer B and Subject 1 fell. Officer B rolled Subject 1 to a prone position and assumed a straddling position with one knee on each side of Subject 1's torso. Subject 1 continued to struggle as Officer A gained control of Subject 1's right arm and Officer B controlled the left arm. Together, the officers handcuffed Subject 1.

Subject 1 continued to struggle by kicking against Officer B's back. Officer A knelt with one leg on the back of Subject 1's right shoulder to keep him pinned to the ground while Officer B shifted his position slightly and used bodyweight for control. Because Subject 1 continued to flail his legs, Officer B applied the HRD to Subject 1's ankles. The BOPC determined that the non-lethal use of force by Officers A and B was reasonable to control Subject 1.

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