

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

**IN-CUSTODY DEATH – 087-07**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Southeast	08/26/07		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	12 years, 4 months
Officer C	2 years, 10 months

**Reason for Police Contact**

Officers responded to an “officer needs help” radio call requested by the Los Angeles County police.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 41 years old.			

**Board of Police Commissioners’ Review**

This is a brief summary designed only to enumerate the 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 August 8, 2008.

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**

August 26, 2007, Communications Division (CD) received a telephone call from Los Angeles County Police Dispatcher requesting the assistance of the LAPD. The dispatcher informed CD that an off-duty LA County officer, Witness A, had contacted and informed her that there was a male at a church who was causing a disturbance and

was fighting with somebody. The dispatcher indicated the last thing Witness A said was, "We need somebody now."

According to Witness B, from her residence she observed a male, subsequently identified as Subject 1, smoking crack cocaine and acting like a "hyper addict." Subject 1 was jumping and dancing. Subject 1 then approached a group playing basketball across the street from her residence. Subject 1 attempted to play with the group; however, when they refused to let him play, Subject 1 took the basketball away. When a male from the group grabbed the basketball from Subject 1, Subject 1 punched the male in the face which prompted a group of six to seven males to fight with Subject 1. During the altercation, Subject 1 fell and struck his head on a vehicle. The altercation then moved from the front of her residence toward the intersection by the church. Subject 1 also began to fight with people from the church. Witness B then observed a male kick Subject 1 in the chest, which caused him to fly backward and hit his head on the concrete. Witness B indicated that a female from the church approached and tried to calm Subject 1 down.

According to Witness A, he was attending a church service when one of the church deacons informed him that there was a fight outside. Witness A stepped outside and observed Subject 1 in the street, blocking traffic. Witness A observed a group of people trying to get Subject 1 off the street and onto the sidewalk; however, he was refusing to cooperate. Subject 1 appeared to be under the influence of narcotics or alcohol and was cursing at people. Witness A walked over to the street to redirect traffic so that Subject 1 would not be struck by passing vehicles. A crowd of onlookers was forming and Witness A felt the need to call for additional assistance. Witness A then observed what he described as a group of "gang bangers" approach Subject 1 and begin to beat him up. Witness A contacted 911; however, after receiving a busy signal, he contacted the LA County dispatcher.

CD broadcast, "All units, officer needs help, [location]. LA County police requesting [LAPD]" and provided Subject 1's description.

Officers A and B responded to the scene. Officer B stopped the police vehicle in the southbound left turn lane, north of incident location. Officers A and B did not advise CD that they would be responding to the scene.

As Officers A and B were pulling up to the intersection, other units were arriving at the scene. From his front passenger seat, Officer A observed a large group of people on the east side of the street, spilling out from the sidewalk onto the street. From a distance of approximately 20 to 25 feet, Officer A observed what he described as a "big cluster ball of several individuals" fighting and saw Subject 1 fall to the ground, face down.

Upon the officers' arrival, the males who were involved in the fight began to disperse. Officer A observed two to three individuals who were involved in the fight run toward a parked vehicle. Officer A exited his vehicle, drew his pistol, and began searching the

crowd for the officer who was the subject of the “officer needs help” broadcast. Officer A directed other responding officers to detain the individuals who had run to the parked vehicle. Officer A then approached Subject 1 and holstered his pistol upon reaching him.

Meanwhile, from his driver’s side seat, Officer B armed himself with a shotgun, exited the vehicle, and ordered four to five male juveniles who were standing near Subject 1 to step on the sidewalk and face the fence. The males complied and, after assessing the situation, Officer B secured the shotgun and approached the individuals on foot along with several other officers.

Officers C and D arrived at the scene. Officer C observed a crowd of 75 to 100 people on all four corners of the intersection by the church.

Officer D exited the vehicle, observed an officer detaining a male who was being loud, and went over to assist that officer. Officer C observed Officer A crouched next to Subject 1. Officer C believed that Officer A was either trying to ask Subject 1 questions or was trying to take him into custody. Officer C walked over to Officer A’s location to assist him.

Officer A informed Officer C that Subject 1 had not been searched and took a hold of Subject 1’s right arm. Subject 1 tensed his arm; however, Officer A was able to place it behind his back. Officer C removed a pair of handcuffs, took Subject 1’s left arm, brought it behind his back, and applied the handcuffs. Officer C tapped Subject 1’s shoulder and asked him, “Hey, what’s going on? Get up. Tell me what’s going on.” Officer C observed Subject 1’s eyes were open and his mouth was moving; however, he did not get up.

**Note:** According to Officer A, due to the nature of the call and because he observed Subject 1 as a participant in the fight, he believed Subject 1 was a suspect, pending further investigation.

Officer A left Subject 1 with Officer C so as to gather information about the incident. Officer A spoke with witnesses and was informed that Subject 1 was acting “high” in the middle of the street. Subject 1 had been yelling aggressively and would take a swing at people as they passed by him. At some point, Subject 1 had fallen to the ground, and a female, subsequently identified as Witness C, had gone over to help him. Subject 1 grabbed her arm and would not let go. The witnesses informed Officer A that this had started the confrontation between the males and Subject 1.

Two onlookers at the scene had video cameras that captured a portion of the fight and the actions of some officers who responded to the scene. The video footage captured Subject 1 lying in a prone position on the street for over three minutes with his hands handcuffed behind his back. The video footage depicted Officer C placing a knee on Subject 1’s back for a period of approximately 40 seconds. Within this 40-second time frame, Officer C removed Subject 1’s wallet and dropped it on the ground. After a

minute and a half, Officer C turned Subject 1 over onto his left side then released his right shoulder, which caused Subject 1 to fall a short distance to the ground, unassisted.

During Officer C's re-interview with Force Investigation Division (FID), he was shown the video footage and was asked questions related to his actions at the scene. According to Officer C, he observed that Subject 1 was conscious because his eyes were open and he was moving around. Officer C believed Subject 1 was possibly trying to trick the officers and was "playing possum." Officer C believed he told Officer A that Subject 1 was "faking it." Officer C placed his knee on Subject 1's back as a preventive tactic to keep Subject 1 from being able to get up.

Officer C indicated that he turned Subject 1 over to his side in an attempt to roll him over and sit him up; however, due to Subject 1's weight and size, Officer C was unable to do so.

Officer A broadcast a request for CD to contact the person reporting so they could identify the off-duty LA County officer. Shortly thereafter, Officer A returned to Subject 1's location to ask him about the incident. Officer A could not understand Subject 1's response because he was mumbling. As he conversed with Subject 1, Officer A observed a laceration on Subject 1's lower lip. Officer A requested a rescue ambulance (RA) for a "male, conscious and breathing [with] lacerations to the face."

Officer C asked Subject 1 to sit up several times; however, Subject 1 did not respond. With the assistance of another officer, Officer C placed Subject 1 in a seated position by the curb, with his left ankle crossing over his right ankle. Officer C observed that Subject 1 had abrasions on both knees. Officer C placed his right hand on Subject 1's back to prevent him from falling over. Officer C then reached over, retrieved Subject 1's wallet from the ground to obtain identification, and found a California Department of Corrections Parole card in Subject 1's name.

Sergeant A was the first supervisor to arrive at the scene. Sergeant A observed a large number of officers and onlookers at the scene and saw Subject 1 in handcuffs. According to Sergeant A, Subject 1 was looking around and "appeared to be under the influence of something." Sergeant A observed abrasions on Subject 1's knees and began inquiring with the officers at the scene to determine whether a use of force involving LAPD personnel had occurred. Sergeant A spoke with a witness who informed him that Subject 1 had been beaten up earlier, prior to the officers' arrival.

A Los Angeles Fire Department (LAFD) fire engine arrived at the scene. LAFD personnel assessed Subject 1's condition and found him to be in full cardiac arrest. At the request of LAFD personnel, Officer D removed Subject 1's handcuffs and LAFD personnel began emergency medical treatment in the form of cardio pulmonary resuscitation (CPR).

Sergeant A was informed that Subject 1 was in full cardiac arrest. In response, Sergeant A contacted the area Watch Commander to advise him of the situation and

requested additional supervisors to assist with monitoring officers, in the event of an in-custody death.

An RA arrived at scene and assumed CPR responsibilities. The RA then transported Subject 1 to the hospital. Officers E and F followed the RA in their police vehicle.

Continued efforts by Emergency Room personnel to revive Subject 1 were unsuccessful and Subject 1 was pronounced dead by medical personnel in the evening.

**Note:** The Department of Coroner's Autopsy and Toxicology Report determined that Subject 1's death occurred as a result of multiple drug intoxication resulting in an altercation with the public and restraint by officers. The manner of death was described as "undetermined."

Femoral blood specimen obtained from Subject 1 revealed the presence of phencyclidine (PCP) and alcohol. Additionally, the blood specimen obtained from Subject 1's heart revealed the presence of PCP, cocaine, marijuana, and alcohol.

### **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's tactics to be appropriate and require no further action. The BOPC found Officer C's tactics to warrant divisional training.

#### **B. Drawing/Exhibiting/Holstering**

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

#### **C. Non-lethal Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that the investigation revealed that several officers responded to the "Help Call" but were not significantly involved with Subject 1 and will not receive findings.

Officers A and B were assigned to 77th Street Area but responded to Southeast Area upon hearing the radio call of "Officer Needs Help." Although it does not rise to the level of training, the officers should have updated their status with CD while en-route to the incident. Upon their arrival, Officer A assumed command of the incident, requested an ambulance for Subject 1, and coordinated the response of the additional units until he was relieved by the first arriving supervisor.

The BOPC found Officers A's tactics to be appropriate and require no further action.

Simultaneously, Officers C and D arrived on scene and began to detain possible suspects. Officer C approached Officer A and assisted in handcuffing Subject 1. Officer C conducted a search of Subject 1's outer clothing and removed a wallet from his right rear pants pocket. Upon obtaining Subject 1's identification card, Officer C tossed the wallet on the ground. Officer C should have safeguarded Subject 1's property by placing the wallet back into Subject 1's pants pocket. Additionally, the investigation determined Officer C attempted to place Subject 1 in an upright seated position but was unable to accomplish the task due to Subject 1's size. Officer C then allowed Subject 1 to roll back onto his stomach. Officer C should have asked for assistance from the other officers at scene rather than attempting the task on his own.

The BOPC found Officer C's tactics to warrant divisional training.

### **B. Drawing/Exhibiting/Holstering**

The BOPC noted that as the officers arrived, Officers A and B observed several males fighting in the street and a large crowd of onlookers observing the incident. Fearing an officer was seriously injured or dead and that the incident could rise to a deadly force situation, Officer A drew his service pistol. Once the perceived threat was over, Officer A holstered his service pistol.

The investigation revealed several officers, including Officer B, drew their service pistols and/or Department shotguns; however, because they were not significantly involved with Subject 1, the BOPC did not issue a finding for drawing or exhibiting.

The BOPC determined that Officer A had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

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

### **C. Non-lethal Use of Force**

The BOPC noted that Officer A approached Subject 1, who was lying on the street. Not knowing what role Subject 1 had played in the disruption, Officer A informed Officer C that Subject 1 had not been searched and proceeded to handcuff him. Officer C placed his knees on the left side of Subject 1's back and applied a handcuff onto Subject 1's left wrist. Officer A then grabbed Subject 1's right arm and held it until Officer C completed handcuffing the left wrist, noting that Subject 1 began tensing his arm.

Officer C applied his bodyweight a second time and completed a search of Subject 1's outer clothing. Officer C then lifted Subject 1 onto the left side to search under his body, ensuring Subject 1 was not concealing a weapon. Subject 1 was subsequently placed in an upright seated position until the arrival of LAFD personnel.

The BOPC determined that Officers A and C's use of force was reasonable to control the suspect. The BOPC found Officers A and C's non-lethal use of force to be in policy.