

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

IN CUSTODY DEATH 088-07

Division	Date	Duty-On (X) Off()	Uniform- Yes(X) No()
Rampart	09/05/2007		

Officer(s) Involved in Use of Force	Length of Service
Officer C	8 years, 10 months
Officer D	6 years, 9 months
Officer B	7 months

Reason for Police Contact

Officers overheard a call that was broadcast to 911 and followed Los Angeles Fire Department (LAFD) personnel to the location. Officers restrained a male who assaulted a firefighter. The male later died.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject 1: Male, 44 years			

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 08/12/08.

Incident Summary

Subjects 1 and 2 checked into a motel. Once inside, Subject 1 began ingesting cocaine. Thereafter, he locked himself into the bathroom. When he emerged from the bathroom, Subject 1 was stumbling, falling into the walls, swinging his arms wildly at imaginary attackers and screaming. Subject 2, who was alone in the room with Subject 1, was unable to quiet him or keep him under control. Due to the noise, the motel manager told Subjects 1 and 2 that they would have to leave the motel. While Subject 2 packed her belongings, Subject 1 went outside.

Once Subject 2 had collected her belongings, she exited the motel room and found Subject 1 sitting at the bottom of the staircase. Due to Subject 1's unsteadiness and confused state of mind, Subject 2 believed Subject 1 had fallen down the stairs. Subject 1 was unable to walk on his own and was assisted to his car by Subject 2.

Subject 2 helped Subject 1 into the back seat of the car and drove away from the motel parking lot. Subject 2 drove aimlessly around the surrounding streets. Subject 1, agitated and violent, began kicking Subject 2 from the back seat. Subject 2 was frightened and lost when she pulled to the curb and stopped the car. She got out, climbed onto the hood of the car and cried. Subject 1 also got out. Subject 1 told Subject 2 to leave because he was afraid he might hurt her. Subject 2 suggested taking Subject 1 to a hospital but he refused. Subject 1 began to punch parked cars and swing his arms wildly at Subject 2. Subject 2 attempted to get Subject 1 back into the car but he pushed her away.

Subject 2 asked Subject 1 if he had his wallet and phone, left him on the sidewalk and drove away in his car.

Subject 1 was on a corner, rolling on the side walk and screaming for help. Witness A, from inside his apartment, was able to see and hear Subject 1. Believing Subject 1 may have been the victim of an assault and in need of medical help, Witness A called 911. The Fire Department dispatched a Rescue Ambulance (RA) while the Police Department dispatched Officers A and B.

The RA was first to arrive on scene. The firefighters found Subject 1 face down in the street three or four feet from the sidewalk. The firefighters got Subject 1 to move onto the sidewalk, where they started a patient assessment. Subject 1 could recite his name but was unaware of the time of day or day of week. Per protocol, the firefighters upgraded the call to an advanced life support rescue and a second RA was dispatched to the scene.

In the meantime, Officers C and D were inside the fire station talking with firefighters following a pedestrian stop that had taken place in front of the station. Over the station's loud speaker system, the officers heard the call of a man down. Officers C and D decided to follow the responding RA to the call and see if they could provide assistance. Officer C broadcast the situation.

As the units arrived, Subject 1 was lying face down in the gutter near the sidewalk with firefighters in front of him. Unexpectedly, Subject 1 flailed and grabbed one firefighter by both of his ankles. This action restrained the firefighter and pulled him off balance, which caused the firefighter to fall to the ground. Officer D approached Subject 1 with the intent of taking him into custody. Officer D put both of his knees on Subject 1's back and tried to pry Subject 1's hands from the firefighter's ankles. After getting one of Subject 1's arms and trapping it between his knees, Officer D announced that he was a police officer and that Subject 1 should give him his free hand.

Note: According to Witnesses B and C, they heard Officer D use profanity. According to Officer C and four firefighters, Officer D did not use profanity.

Subject 1 ignored Officer D's commands and held onto the firefighters ankles with his free hand. Subject 1 started to roll to one side causing Officer D to immediately put his left hand down onto Subject 1's shoulder blade. Officer D used an open hand to push down on Subject 1's shoulder blade in an effort to maintain his own balance and to control Subject 1 while he tried to secure Subject 1's free arm for handcuffing. Officer D recalled pushing down on Subject 1's back one time, but this could have occurred multiple times as he reached for Subject 1's free hand.

Note: Witnesses had conflicting reports about whether Officer D struck Subject 1 with an open or closed fist several times. According to Officer C and four firefighters, Officer D did not strike or punch Subject 1.

Simultaneously, Officer C approached Subject 1 to assist Officer D. Due to Subject 1's kicking and twisting, Officer C grabbed Subject 1's legs and held them down using a firm grip. After a few seconds of struggling, Officer D was able to free Subject 1's hand from the firefighter's leg. He was then able to complete the handcuffing of Subject 1.

Officers A and B arrived on scene. Officer B first observed Subject 1 face down, handcuffed and being controlled by Officer D. Officer D was on the ground adjacent to Subject 1 with his left knee on Subject 1's back. Officer B approached Officer D to assist with the control of Subject 1. Officer B grabbed Subject 1's right arm, allowing Officer D the opportunity to get up off of the ground. As soon as Officer B grabbed Subject 1's arm, the firefighters lifted Subject 1 onto the gurney.

Subject 1 had been handcuffed for approximately 30 seconds when firefighters began to roll him onto his back in preparation of placing him onto a backboard. The firefighters then noticed that Subject 1 was not breathing. The firefighters asked Officer B to remove the handcuffs.

Cardio Pulmonary Resuscitation (CPR) was initiated by the firefighters, and Subject 1 was lifted onto the gurney, and then lifted into the RA. A monitor was attached to Subject 1, which indicated he had no heartbeat or pulse. Subject 1 was transported to the hospital, where he regained a pulse, was placed on a ventilator to sustain his breathing and was admitted into the Intensive Care Unit (ICU).

Officer A heard the firefighter's comment that Subject 1 was not breathing and requested a supervisor. Sergeant A responded to the call. After learning the details of the incident, Sergeant A separated the involved officers and notified the watch commander in anticipation of a categorical use of force investigation. Force Investigation Division (FID) detectives were notified, and Subject 1's medical condition was monitored. Several hours later, Subject 1's condition had not changed, and a

decision was made to release the scene and allow the involved officers to leave work without being interviewed.

Subject 1 remained on life support until the next morning, when he was pronounced dead by hospital staff.

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, B, C and D's tactics to be appropriate.

B. Non-lethal Use of Force

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

C. Other

The BOPC found Officer D's other action to warrant divisional training.

Basis for Findings

A. Tactics

The BOPC found that when Officers C and D arrived at the scene, they appropriately updated their status and location with Communications Division. Additionally, the officers observed LAFD personnel in need of assistance and aided in restraining Subject 1, preventing any injury to LAFD personnel.

As Officers A and B arrived on scene, Officer B assisted Officer D in placing Subject 1 in a seated upright position. When it was determined that Subject 1 was not breathing, Officer A appropriately requested a supervisor, secured the scene, and ensured evidence was preserved until the arrival of a supervisor.

The BOPC determined that Officers A, B, C and D's tactics were appropriate.

B. Non-lethal Use of Force

The BOPC noted that as Officers C and D arrived on scene, they observed Subject 1 lying face down in the gutter, flailing his arms and kicking his legs. Subject 1 grabbed the firefighter's lower legs, causing him to stumble. Fearing the firefighter was in danger; Officer D approached, placed his knees on Subject 1's upper back and controlled his left arm. Officer D then pried Subject 1's fingers from around the firefighter's legs and applied the handcuffs. Simultaneously, Officer C used his bodyweight to hold onto Subject 1's legs and prevent him from kicking.

When Officer B arrived with Officer A, he approached Officer D who was still applying bodyweight and assisted with placing Subject 1 in an upright and seated position.

The BOPC determined that Officers B, C and D's use of force was reasonable to control the subject.

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

C. Other

The BOPC noted that during the interview of Officer D by Force Investigation Detectives, he was asked if he believed his attempts to restrain Subject 1 constituted a reportable use of force. Officer D answered, "No." Although Officer D did not omit any of his actions during the interview, his actions did constitute a reportable use of force. The BOPC determined that Officer D would benefit from additional training regarding use of force policies and procedures.

The BOPC found that Officer D's action warranted divisional training.