

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

**IN-CUSTODY DEATH – 109-07**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes() No(X)</b>
77 <sup>th</sup> Street	12/22/2007		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Not applicable.	

**Reason for Police Contact**

Subject 3 was arrested as part of a prostitution enforcement operation. He was taken into custody and died the next day as the result of drug intoxication and heart disease.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ()</b>	<b>Non-Hit ()</b>
Subject 3: male, 44 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 10/14/08.

**Incident Summary**

Officers A and B participated in a spontaneous prostitution enforcement operation. Officers A and B worked undercover as street-walking prostitutes; plainclothes Officer C and Sergeants A and B were designated as the point officers positioned at different locations; plainclothes Officer D was designated as foot security positioned a few feet away from Officers A and B; plainclothes Officers E and F were designated as the arrest team positioned at a motel lot; and uniformed Officers G and H were designated as the arrest team deployed in a marked police vehicle.

After either Officer A or Officer B made contact with a solicitor and obtained a violation, that officer would direct the solicitor to drive their vehicle to the motel and wait for them

there. The officer would then walk toward the motel; however, as soon as the solicitor's vehicle entered the motel parking lot and was out of sight, the officer would return to her assigned position.

Meanwhile, at the motel parking lot, Officers E and F would approach the solicitor's vehicle, identify themselves as police officers and detain the solicitor. The detainees were handcuffed, searched and placed inside a van that was parked on the corner of the motel parking lot. In the event an arrest was to occur outside the motel parking lot, the marked police vehicle would be utilized as the arrest team.

Once the operation began, Subjects 1 and 2 were arrested without incident for solicitation of prostitution and were placed in the rear seat of the van with their hands handcuffed behind them. An hour later, Subject 3 (the decedent) made contact with Officer A and solicited her for an act of prostitution. Officer A said that Subject 3 showed no signs of being under the influence of narcotics or alcohol.

After Officer A obtained the violation, she directed Subject 3 to drive his vehicle into the motel parking lot. Officers E and F were advised by Sergeant B that Subject 3 was making his way toward them in a black pickup truck.

Subject 3 turned into the parking lot and parked his vehicle in one of the parking stalls located near Officers E and F's van. Officers E and F, attired in Los Angeles Police Department (LAPD) raid jackets with their badges hung around their neck on chains, walked up to Subject 3 and identified themselves as police officers. Officer E asked Subject 3 to step out of the vehicle. Subject 3 complied and was then handcuffed with his hands behind his back by Officer E. Meanwhile, Officer F glanced inside the vehicle to look for additional subjects and any weapons or contraband in plain view, with negative results.

Officers E and F walked Subject 3 behind their van. Officer E conducted a pat-down search and recovered Subject 3's wallet, belt and some loose change. Officer F removed the contents of the wallet, which included Subject 3's driver's license, credit cards and currency. Officer F then bundled the items together with a rubber band and placed them inside a property bag. Subject 3 was then seated in the back of the van.

**Note:** Officers E and F counted Subject 3's money, which totaled \$546.56, in the field.

Officers F and E began filling out required paperwork, including the *Arrestee Medical Screening* form, for Subject 3 at the van. Officer F asked Subject 3 if he had been drinking or had taken any drugs. Subject 3 responded with, "No."

Subjects 1 and 2 said they did not observe Subject 3 take anything out or eat anything while they were in the back seat of the van. Subject 2 indicated that Subject 3 spoke with the officers for over an hour, asking questions related to an upcoming court case, the length of time he was going to be in jail, and if he was

going to court. Subject 1 indicated that Subject 3 asked the officers questions regarding paying bail and what would happen to his vehicle. Subject 2 and Subject 1 both indicated that Subject 3's behavior was normal while he was with them in the van.

Officer E said he spoke with Subject 3 for approximately one hour at the van. Subject 3's demeanor was calm and he had no problems answering questions. Officer F said that Subject 3 was very articulate and mainly stated that he had made a mistake and should have gone to a strip bar instead. Officers E and F both indicated that Subject 3 did not appear to be under the influence of narcotics or alcohol.

Over the next hour, the officers involved in the vice operation arrested Subjects 4, 5, and 6 without incident. Subject 5 was detained at the motel parking lot and was placed inside the van. Subject 4 and Subject 6 were arrested by Officers G and H at locations away from the motel. The operation concluded after Subject 6's arrest.

**Note:** Subject 5, said that he was in the van with Subject 3 for approximately 20 minutes. Subject 5 indicated that Subject 3 was vocal and had a "nervous anticipation" about what this arrest would do to his record.

Officers F and E transported Subjects 1, 2, 3, and 5 to the police station. At the station, Officer F informed the arrestees that the watch commander would ask them three questions. Officer F went over the three questions, including, "Are you sick, ill or injured?" As the arrestees exited the van, Officer F asked them if they had any problems. Each arrestee responded by saying, "No."

The arrestees were escorted to a holding tank next to the watch commander's office. The watch commander, Sergeant C, asked Subject 3 the following three questions, listed on the LAPD Adult Detention Log: "Do you understand why you were arrested?; Are you sick, ill or injured?; and Do you have any questions or concerns?" Subject 3 responded with, "Yes," "no," and "no." Sergeant C said he did not observe any objective symptoms of Subject 3 being intoxicated or medically ill.

**Note:** For court purposes, Officer D photographed Officer A with Subject 3. Officer A indicated that Subject 3 showed no signs of being under the influence.

Officers E and F escorted the arrestees to a holding tank. Subject 3 was placed inside the holding tank with Subjects 1, 4 and 6. Officers E and F went to the Vice Office to complete reports and run the arrestees' records. Subject 3's criminal record indicated he was on active parole for possession of a controlled substance and has had prior arrests for narcotics and weapons related charges; however, a request to authorize a strip search was not completed.

Officers E and F returned to the holding tank, handcuffed the arrestees and escorted them downstairs to the Regional Jail for booking. The arrestees were handcuffed to a detention bench inside the jail while they waited for an open booking window.

Subject 3 was escorted to the booking window for processing. Detention Officer (DO) A reviewed the documents and directed Officer F to place Subject 3 in a holding cell to await the fingerprinting process. Subject 2 was later placed in the same cell. DO A's contact with Subject 3 lasted approximately 10 minutes; Subject 3 appeared normal and responded to the questions asked.

Subject 2 said that while he and Subject 3 were in the cell, Subject 3 began "acting weird and stressed out." Subject 3 stated, "Hey, you guys are dropping rocks and they're going to put it on me." Subject 3's eyes became wide open and he began to walk around the cell and talk to himself.

DO B removed Subject 3 from the holding cell approximately 20 minutes later and escorted him to the live scan machine for fingerprinting and an arrest photograph. DO B noticed that Subject 3 would turn around to "look at" invisible things and mutter under his breath.

As DO B placed Subject 3's hand on the fingerprint scanner, Subject 3 stated, "They're watching us," and he grabbed DO B's fingers with his opposite hand. DO B felt uneasy and was about to broadcast a backup request when DO B observed Senior Detention Officer (SDO) A around the corner. DO B called SDO A, pointed to Subject 3 and stated that something was wrong with him. SDO A observed that Subject 3 had a blank stare and asked him if he had taken any drugs. Subject 3 responded, "No, I don't know why I'm feeling this way." SDO A asked Subject 3 if he needed a doctor and he responded with, "No."

Due to his behavior, SDO A decided to place Subject 3 alone inside a sobering tank. As the cell door closed, Subject 3 stated, "You need to help me," and he attempted to push the door open. After the door was shut, Subject 3 sat on the ground. SDO A and DO B advised SDO B of the incident. SDO B decided to look at Subject 3 and requested the assistance of DO C.

SDOs A and B and DOs B and C went to the cell and observed Subject 3 standing in the middle of the cell. DO C attempted to communicate with Subject 3 through the door; however, they were unable to understand each other. SDO B directed DO C to command Subject 3 to move away from the door and sit at the corner so they could open the door. Subject 3 complied. DO C told Subject 3 that he wanted to make sure he was okay. DO C noticed that it appeared Subject 3 could no longer understand what he was saying. He also noticed that Subject 3 began to walk back and forth, saying, "You guys are trying to set me up. You guys are trying to set me up." SDO B directed DO C to shut the door.

DO C completed a *Sobering Cell Inmate Welfare* form for Subject 3. SDO B and DO C

then went to the Jail Dispensary and advised Registered Nurses (RNs) A and B that they needed to evaluate Subject 3.

SDO B, DO C, and RNs A and B all returned to Subject 3's cell. RN A asked Subject 3 if he needed medical attention, if he had swallowed or ingested anything and if he had taken any drugs. Subject 3 responded "no" to all questions. After the assessment, RN A signed the *Sobering Cell Inmate Welfare* form. The RNs returned to the dispensary.

RN A said that it was obvious that Subject 3 was under the influence of something just from looking at his eyes; however, since Subject 3 was coherent and his body movements appeared normal, RN A got the impression that he was going through a withdrawal process. RN B said that Subject 3 just stood there looking at him and he did not respond to any questions. Subject 3 did not appear to be in distress.

Jail personnel conducted the following welfare checks on Subject 3 and documented their observations on the *Sobering Cell Inmate Welfare* form; at 10:28 p.m., DO C observed Subject 3 pacing back and forth. At 10:50 p.m., DO D observed Subject 3 walking in the cell. When he spoke to DO D, she noted that his speech was slurred. At 11:10 p.m., PDO B observed Subject 3 seated on the toilet with his pants down to his ankles. Subject 3 was sweating profusely and he was shaking. PDO B immediately went to the Jail Dispensary seeking medical attention for Subject 3 and spoke with RN C. RN C advised PDO B to notify a doctor because she was preoccupied with a patient.

PDO B found the doctor and they both returned to Subject 3's cell. The doctor observed that Subject 3's eyes were dilated, and he was sweating profusely and shaking. The doctor directed SDO B to bring Subject 3 to the Jail Dispensary and to have someone telephone the 911 emergency operator. RN C telephoned the 911 emergency operator for a Rescue Ambulance (RA) to respond to the Jail.

PDO B broadcast a request for assistance. Shortly thereafter, SDO C and DOs D, E, F, and G responded to the cell. As a precaution, DOs D and G equipped themselves with a TASER.

PDO B opened the cell door and advised Subject 3 that if he did not cooperate, the TASER would be used. PDO B directed Subject 3 to place his hands behind his back so they could handcuff him. Subject 3 placed his hands behind his head and was approached by DO E, who attempted to apply handcuffs. Subject 3 continued to shake, and his arm was rigid. DO E was unable to complete the handcuffing process with one set of handcuffs. As a result, a second pair of handcuffs was utilized.

Jail personnel escorted Subject 3 to the dispensary. Subject 3 walked on his own; however, he became rigid at times, causing them to stop. DO E and SDO C assisted Subject 3 by holding his arms as he walked. Subject 3 then arrived at the dispensary. The doctor assessed Subject 3 and attempted to obtain his blood pressure reading; however, she was unsuccessful because he was shaking so much. The doctor asked

Subject 3 if he had used drugs. Subject 3 admitted to using methamphetamines earlier in the evening. SDO D telephoned the emergency operator and requested a patrol unit to respond to the station to escort the RA to the hospital.

Los Angeles Fire Department (LAFD) Firefighter/ Paramedics arrived at the Jail Dispensary and found Subject 3 seated on a chair with his hands handcuffed behind his back. Subject 3 was conscious but incoherent, and he did not respond to the paramedics' questions. The doctor advised the paramedics that Subject 3 had admitted to using methamphetamines.

CD assigned uniformed Officers I and J to escort the RA from the station, Code Two.<sup>1</sup> CD upgraded the response to Code Three minutes later.<sup>2</sup> While awaiting the arrival of the escort unit, the paramedics transferred Subject 3 onto their gurney.

Officers I and J advised CD that they had arrived at the station. Officers I and J walked up to Subject 3 and swapped DOs E and F's handcuffs with theirs. As Subject 3 was transported to the hospital, Officer J rode in the back of the RA followed by Officer I in their police vehicle. When the RA arrived at the hospital, Emergency Room personnel treated Subject 3 for a narcotics overdose. Subject 3 was later transferred to the intensive care unit for further treatment.

Several hours later, Officers I and J were advised by medical personnel that Subject 3 would remain at the hospital for several days. Officer I contacted the Assistant Watch Commander, Sergeant E, seeking advice. After becoming aware that Subject 3 had been arrested on a misdemeanor charge, Sergeant E directed Officer I to complete a release from police custody form so that continued police presence would not be necessary to guard him.

The day after Subject 3 was hospitalized, PDO A received a call from the hospital advising him that Subject 3's condition had continued to deteriorate and that he eventually expired. Subject 3 had been pronounced dead.

A subsequent autopsy examination determined Subject 3's death to be the result of drug intoxication and heart disease. The manner of Subject 3's death was deemed to be accidental.

### **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

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<sup>1</sup> A radio call accompanied by a "Code Two" designation is an urgent call. The red light and siren shall not be used, and all traffic laws shall be observed.

<sup>2</sup> A radio call accompanied by a "Code Three" designation is an emergency call and allows the use of the red light and siren.

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 Sergeants A and B's tactics to warrant a tactical debrief.

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

Does not apply.

#### **C. Lethal Use of Force**

Does not apply.

#### **Basis for Findings**

#### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. The investigation was unable to locate the "Code Five" broadcast. According to the Area Command Center records, an incident number was generated for the location of the sting operation after it had concluded.

Sergeant B should have ensured the "Code Five" request was made and an incident number generated prior to initiating the operation. A "Code Five" broadcast serves to ensure that patrol personnel are aware of the police activity and avoid the area, unless it becomes necessary to respond.

2. Personal property of each arrestee was taken while in the field.

The operation involved the detention of multiple arrestees that were held in a temporary quasi field jail. The practice of securing each arrestee's property prior to booking them into custody enhanced the officers' ability to account for such property. Additionally, although the money was not booked as evidence, it served to establish the intent of each arrestee.

3. Subject 3 was not strip searched.

Although not mandated, it would have been prudent to conduct a strip search prior to booking Subject 3 into custody. Subject 3 had an extensive arrest record that

included numerous arrests for narcotics and weapons related charges. Additionally, Subject 3 was on active parole for possession of methamphetamine. In this instance, Officers E and F should have requested the authorization to conduct a strip search. Sergeant B reviewed the booking recommendation before Sergeant D approved the booking charge, and in both instances, the omitted request for a strip search should have been identified and consideration given to authorize the search.

4. Sergeant B counted Subject 3's money while not in the presence of Subject 3.

Sergeant B verified the amount of money inside Subject 3's money envelope; however, it was not done in Subject 3's presence, and it should have been. The mandate ensures integrity in the handling and booking of money and protects personnel from erroneous complaints.

The BOPC found Sergeants A and B's tactics to warrant a tactical debrief.