

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

**IN-CUSTODY DEATH – 111- 05**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Wilshire	12/17/05		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
None	

**Reason for Police Contact**

Officers responded to a stolen vehicle call and arrested a male subject. The Subject was transported and booked at the Wilshire Area station jail

<b><u>Subject(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 48 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, 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 BOPC of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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.

The following incident was adjudicated by the BOPC on October 31, 2006.

**Incident Summary**

Officers A and B responded to a call of a stolen vehicle. Officers A and B located the stolen vehicle, began to follow it, and requested additional units and an airship for backup. Officers C and D, among others, responded to the call for backup.

When the airship arrived near the location of the stolen vehicle, Officers A and B conducted a traffic stop and were assisted by Officers C and D.

During the traffic stop, Officer C ordered the Subject driver out of the vehicle and into a felony prone position. Officers A and B cleared the vehicle and recovered a glass pipe and a rock resembling cocaine from the ashtray. Officer C handcuffed the Subject and conducted a pat-down search, but did not recover anything. Officer C transferred custody of the Subject to Officers A and B, who then transported the Subject to the Wilshire Area Station in order to present him to the watch commander for a booking approval.

Wilshire Area Sergeant asked the Subject the following three questions: 1) Do you understand why you were detained/arrested?; 2) Are you sick, ill, or injured?; 3) Do you have any questions or concerns? The Subject answered "Yes," "No," and "No," respectively. The Subject was processed, booked, and was eventually placed in a jail cell called Tank 13.

The following morning, Senior Detention Officer B (SDO) was conducting a routine, half-hour check of the jail tanks at Wilshire Area and asked the Subject if there was anything wrong with him, but the Subject just walked away and returned to his bunk bed without responding.

On that same day, a Detention Officer (DO) conducted a routine, half-hour check of the jail tanks at Wilshire Area and noticed that the Subject was on the toilet at both of those times. Again, the DO asked the Subject if there was anything wrong, and the Subject replied by saying, "No." On Wednesday, Jail Division DOs conducted routine checks of the jail tanks 11 times.

On Thursday morning, SDO B was completing a routine check of the tanks and heard a strange noise in the form of gurgling sounds coming from Tank 13. SDO B looked into Tank 13 and noticed that the Subject was going through some kind of convulsions. SDO B called another DO to the location and entered Tank 13 to evaluate the situation. Once inside, SDO B saw that the Subject was going through seizures and vomiting blood. SDO B directed another DO to call the watch commander and to call for a Rescue Ambulance (RA). The DO immediately went to Sergeant A and told him about the Subject's condition. Sergeant A requested an RA and notified Lieutenant A of a sick prisoner in the jail who was vomiting blood. Sergeant A and Lieutenant A both went inside the jail to see what was going on.

The RA arrived at the Wilshire Area Station, carrying 3 Firefighter/Paramedics. A fire engine also responded to the call, carrying an LAFD Captain, LAFD Engineer, and an LAFD Firefighter. The paramedic personnel quickly loaded the Subject onto a gurney and into the RA. Training Division Recruit Police Officer and his partner were called to the Wilshire Area Station in order to accompany the Subject and the paramedic personnel to the hospital. When they arrived outside of the station, one Officer was told to ride in the RA with the Subject while the other Officer followed in the police vehicle. Sergeant A directed the two Officers to remain at the hospital until personnel from the next watch relieved them. The two Officers entered the emergency room and from only a few feet away were able to watch the medical personnel treating the Subject.

The Subject's condition did not improve, and he was pronounced dead. The Coroner's autopsy report determined that the cause of the Subject's death was atherosclerotic cardiovascular disease, and that other conditions contributing, but not related to the immediate cause of death included cocaine use, cirrhosis of the liver, and pneumonia. Toxicology test results confirmed the presence of a cocaine metabolite in the Subject's body. The autopsy report also determined that the manner of the Subject's death was by accident, and that there was no evidence of injury. Sergeant A was notified of the Subject's death. Sergeant A made contact with Force Investigation Division (FID) personnel, and an In-Custody Death investigation was initiated.

### **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 the tactics of Officer A, Officer B and the Senior Detention Officer warranted divisional training.

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

The BOPC found that drawing, exhibiting, and holstering of a firearm did not apply.

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

The BOPC found that use of force did not apply.

#### **D. Other Issues**

The BOPC found that the Detective would benefit from additional training on booking approvals and warrants divisional training.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Officers A and B acted appropriately, utilized sound tactics in the arrest of the Subject, and properly recovered rock cocaine and a cocaine pipe from the vehicle that the Subject was driving. The BOPC also noted that the investigation revealed that when Officers A and B submitted the Booking Approval, Form 12.31, to the Detective for approval, they did not request a strip search or a visual body cavity search. The Subject was subsequently booked into the Wilshire Area Jail without being subjected to a strip search. The BOPC stated that due to the recovery of rock cocaine and a cocaine pipe from the interior of the vehicle, and due to the Subject's extensive narcotics-related criminal history, such a search was warranted and might have led to the recovery of additional narcotics or contraband.

The BOPC determined that, in an effort to maximize officer safety and jail security, Officers A and B would benefit from additional training on the criteria for conducting strip and visual body cavity searches. The BOPC will direct the Commanding Officer, Wilshire Area, to provide and document the appropriate training to Officers A and B.

Next, the BOPC noted that the investigation revealed that SDO B observed the Subject hunched over the cell toilet and going through his feces as if he was looking for something.

The BOPC determined that although the investigation did not clearly establish the extent of SDO B's observations, SDO B could benefit from additional training in the recognition of behavior that is consistent with the concealment of narcotics or contraband, which may warrant an additional search. The BOPC will direct the Commanding Officer, Jail Division, to provide and document the appropriate training for SDO B.

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

The BOPC noted that drawing, exhibiting, and holstering did not apply.

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

The BOPC noted that use of force did not apply.

### **D. Other Issues**

The BOPC noted that a review of the Booking Approval, Form 12.31, revealed that although a Sergeant was the watch commander, a Detective provided the approval for the booking charge. The BOPC further noted that in order to maintain the Department's compliance with the Consent Decree (CD), it would have been proper for the Detective to give Officers A and B booking advice, sign the "Advising Investigative Supervisor" section of the Form 12.31, and refer the officers to the watch commander for booking

approval. The BOPC stated that by doing so, the watch commander, who reviews booking approvals on a regular basis, might have observed the omission of the strip or visual body cavity search request and ensured that the Subject was properly searched prior to entering the jail.

The BOPC stated that, in order to ensure compliance with the CD mandates, they would direct the Commanding Officer, Wilshire Area, to provide and document the appropriate training for the Detective.