

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

IN-CUSTODY DEATH – 034-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	6/9/2016		
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Officer(s) Involved in Use of Force	Length of Service
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Officer C	7 years, 11 months
Officer D	6 years, 9 months

Reason for Police Contact

During a strip search in police custody, the Subject swallowed drugs, which caused an In-Custody Death (ICD).

Subject	Deceased (X) Wounded () Non-Hit ()
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Subject: Male, 42 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 Subject criminal and medical 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 Chief 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.

Due to privacy concerns, certain medical information that was presented to the BOPC is not included in this report.

The following incident was adjudicated by the BOPC on May 2, 2017.

Incident Summary

Uniformed Police Officers A and B were on patrol when Officer A observed a vehicle with two occupants. Officer A immediately recognized the Subject, who was driving, from previous contacts and knew that the Subject did not own a vehicle or have a valid driver's license. Officers A and B decided to conduct a traffic stop for a violation of driving without a license and to investigate a possible stolen vehicle.

Officer A broadcast the officers' location and activated the Digital In-Car Video System (DICVS). The officers conducted a traffic stop and detained the Subject. While conducting their investigation, the officers learned the vehicle was owned by the passenger. Both the Subject and the passenger were documented gang members. Officer A broadcast a request for Gang Unit Officers to respond to their location and assist with the investigation.

Officers C and D responded to Officer A's request. Officer C immediately recognized the Subject from a recent arrest for violating a gang injunction in the same area. As a result, the Subject was arrested for a Violation of Court Order (Gang Injunction) and was driven to the local police station for booking. While being transported in the police vehicle, the Subject asked the officers to roll down the window and told them that he suffered from anxiety. Based on this request, Officer C rolled down the passenger side rear window.

Once the officers arrived at the station, the Subject was escorted inside and presented to the Watch Commander, Sergeant A, for booking approval. While standing at the intake window, the Subject kept moving around and was told several times to face forward. Due to Subject's prior narcotics offenses, Officer D requested approval for a strip search. Sergeant A approved the search.

Officers C and D walked the Subject into the booking area and entered a semi-private room specifically designated for strip searches, removed the Subject's handcuffs, and told him to face the wall. Officer D conducted the search while Officer C stood to his right while holding the property bag. The Subject removed his pants and Officer D told him not to remove any other clothing until directed to do so. The Subject ignored this direction and immediately attempted to remove his shirt.

As the Subject attempted to remove his shirt, the officers observed an unknown white substance wrapped in clear plastic secreted in his navel. Officer D approached the Subject removed the bindle, showed it to Officer C, and placed it in the property bag. Based on his observation, Officer D believed that the plastic contained narcotics.

The Subject was facing the officers when they observed the Subject reach behind his back and place his hands underneath his underwear, in the area of his buttocks. Officer D told the Subject that it was his last warning and directed him to turn around and place his hands against the wall.

As the Subject started to turn back toward the wall, Officer D observed him holding a white colored object in his left hand. The Subject quickly raised his hand and pushed the object into his mouth.

The officers believed that the Subject was attempting to swallow narcotics and immediately and repeatedly ordered the Subject to spit the object out. The officers approached the Subject and attempted to restrain him to keep him from ingesting the object. Officer C attempted to control the Subject's right arm. Officer D pushed the Subject's head forward and down so that his chin touched his chest area in an effort to prevent the Subject from swallowing the narcotics.

The Subject fell to his hands and knees but continued to resist the officers. The Subject attempted to stand up and as Officer D continued his attempts to control the Subject's right arm. Officer C moved to the Subject's left side, and the officers attempted to gain control of his hands. Officer D stated that as they attempted to control the Subject, the Subject used his fingers to push the object farther into his mouth and down his throat.

As Officers C and D were in the process of conducting the search, Officer E had entered the detention area and was walking his arrestee toward a holding cell located next to the strip search room. As he reached the door of the holding cell, he heard both officers telling the subject to "Spit it out. Spit it out. Spit it out!"

Due to the tight space inside the strip search cell, Officer D knew he could not deploy OC, which could have an adverse effect on them, or his baton, because he could inadvertently strike his partner. Officer D then advised his partner several times that he was going to use the TASER.

As Officer C continued to struggle to control the Subject, he yelled out to his partner to tase the Subject. Officer C heard Officer D yell loudly that he was going to get the TASER. Officer C continued to struggle with the Subject.

Officer D stepped back, unholstered his TASER, and took out the cartridge to use the TASER in the drive stun mode. As Officer D attempted to place the TASER against the Subject's back and activate the device, the Subject stood up and attempted to take the TASER from him.

Officer D stepped back and reinserted the cartridge. Officer D then aimed the TASER at the Subject's navel area and pressed the trigger. Officer D stated that as soon as he utilized the TASER, the Subject grabbed the TASER wires, ripped them out, and threw them at Officer D. Officer D could not tell if the TASER darts made contact, but believed that the TASER had no effect.

Officer D moved toward the Subject, placed the TASER against his shoulder, and activated the device again. The Subject unsuccessfully tried grabbing the TASER away from Officer D and then pushed him away.

The Subject continued to fight with the officers and attempted to grab the TASER from Officer D again. As the Subject grabbed for the TASER, Officer C punched the Subject three times in the face. The Subject slumped to the floor, at which time the officers handcuffed the Subject, and then rolled him onto his right side. A few seconds later, Officer D heard the Subject choking and gasping for breath, and then observed blood around the Subject's mouth.

After being notified of the situation by another officer in the area, Sergeant A responded to the strip search room and made a radio broadcast requesting a Rescue Ambulance (RA) to respond to the station for a male, conscious and breathing, who had been tased. After making the request, Sergeant A observed that the Subject appeared to have difficulty breathing and subsequently lost consciousness.

Sergeant A believed that the Subject was choking, or had ingested narcotics, and told the officers to attempt the Heimlich maneuver. Sergeant A used his radio to advise responding medical units of the Subject's deteriorating condition.

Officers C and D removed the handcuffs from the Subject and rolled him onto his back. Officer E straddled the Subject and attempted to dislodge the object from the Subject's throat.

The officers observed that the Subject was unconscious and not breathing, so they immediately began Cardio Pulmonary Resuscitation (CPR) on him. Officers A, C, and E alternated administering CPR until Los Angeles Fire Department (LAFD) personnel arrived. LAFD personnel continued efforts to revive the Subject but were unsuccessful. The Subject was declared deceased at the scene.

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 of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). In this incident, none of the involved officers drew their duty weapons. Therefore, there were no findings for Drawing/Exhibiting of a Firearm. 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 made the following findings.

A. Tactics

The BOPC found Officers C and D's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

The BOPC found Officers D's less-lethal use of force to be out of policy.

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Simultaneous Commands (Non-Conflicting)

The investigation revealed that Officers C and D were giving simultaneous commands to the Subject. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

2. Use of Force Warning

The investigation revealed that the officers did not give the Subject a use of force warning prior to utilizing the TASER and did not provide a reason for not giving the use of force warning. The officers are reminded to provide a warning, when feasible, prior to using a TASER. Additionally, if a warning is not feasible, the officers are reminded to provide specific reasons to justify their actions.

3. Proper Use of TASER in Drive-Stun Mode

The investigation revealed that Officer D removed the TASER cartridge prior to activating his TASER in drive-stun mode. Officer D is reminded that for maximum effectiveness, the cartridge should remain attached to the TASER when the TASER is applied in drive-stun to an area of the body away from the probe impact site.

4. Punches to Bony Areas

The investigation revealed that Officer C punched the Subject with a closed fist three times to the bony portion of his face. Fist strikes should be used primarily on soft tissue areas to prevent injury to an officer's hands. Officer C is reminded to consider using other force options prior to using fist strikes to bony areas.

These topics will be discussed at the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident-specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review the officer's individual actions that took place during this incident.

In conclusion, the BOPC found Officers C and D's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer C** (firm grip, bodyweight, and strikes)

According to Officer C, he used a firm grip on one of the Subject's legs to pull it out of the way. He reported that the Subject stood up, faced the officers, and then attempted to grab Officer C's arm. Officer C then used his bodyweight to pin the Subject against a wall to prevent him from reaching for the officers' weapons. As the Subject continued resisting the officers after being tased, Officer C used three closed fist strikes to the right side of the Subject's face in an attempt to control him.

The BOPC determined that an officer with similar training and experience as Officer C, when faced with similar circumstances, would believe this application of non-lethal force would be reasonable to overcome the Subject's resistance.

In conclusion, the BOPC found Officer C's non-lethal use of force to be in policy.

C. Less-Lethal Use of Force

- **Officer D** - (TASER)

According to Officer D, the Subject went to the floor on all fours and started to resist being detained. He attempted to control the Subject's hands but was unable to get control. Officer D drew his TASER, removed the cartridge, and applied the TASER to the Subject's back. The Subject then stood up and attempted to take the TASER from him. He re-inserted the TASER cartridge and then activated the TASER in probe mode, striking the Subject on his right side. The Subject continued to resist, and he activated the TASER two additional times in probe mode to stop the Subject's actions.

The BOPC determined that an officer with similar training and experience as Officer D would not reasonably believe the Subject's actions were violent or posed an immediate threat to himself or others at the time Officer D applied the TASER to the

Subject's back and therefore, the use of less-lethal force would not be objectively reasonable.

In conclusion, the BOPC found Officer D's less-lethal use of force to be objectively unreasonable and out of policy.