

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

IN-CUSTODY DEATH - 011-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Rampart	02/11/10		

Involved Officers	Length of Service
Officer A	22 years, 10 months
Officer B	21 years, 9 months
Officer C	9 years, 7 months
Detective A	8 years, 6 months
Officer D,	1 year, 8 months
Officer E	1 year, 3 months

Reason for Police Contact

Officers responded to a radio call of a man running on the street, which resulted in a use of force and in custody death.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 46 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 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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on January 18, 2011.

Incident Summary

Witness A was driving northbound when she observed a male (subsequently identified as the Subject) running in the middle of the street. Witness A called 9-1-1, and told the operator that there was a guy running, on drugs, and was going to get himself killed. Communications Division (CD) dispatched the radio call to uniformed Officers A and B.

Force Investigation Division (FID) investigation revealed that Officer A was not wearing his issued ballistic vest on the night of the incident. The investigation further revealed that Officer A maintained his unholstered TASER in the left breast pocket of his jacket, and that he was not carrying a Hobble Restraint Device (HRD).

Officers A and B arrived near the intersection and notified CD of their Code Six status. Upon their arrival, Officers A and B did not see the Subject, and stopped and spoke with an unidentified woman standing at a bus stop. The unidentified woman told the officers that she had not seen anybody running in the street. She then requested the officers' assistance in securing her a taxicab. Officers A and B told the woman that there were multiple taxicabs waiting by the hospital, several blocks north of their location, and that they would drive there and notify a taxicab to pick her up. Officers A and B then drove north on toward the waiting taxicabs.

Meanwhile, plainclothes Detective A (passenger) and Officer C (driver) were driving westbound, several blocks west of the location of the radio call. Detective A and Officer C were assisting area units in burglary suppression near the border of two divisions. Detective A and Officer C were traveling in a dual-purpose police vehicle equipped with interior emergency lights. Each had a separate unit designation, but worked as partners that night, as they had for the previous six months. Detective A and Officer C were wearing LAPD raid jackets and ballistic vests. Detective A monitored one area radio frequency while Officer C monitored the other area radio frequency.

Detective A and Officer C were in the immediate area of the call, and decided to back up the primary unit. As they drove northbound Detective A and Officer C observed the Subject running/jogging southbound in the middle of the roadway, coming within approximately 8 to 15 feet of the driver's side of their vehicle. Detective A immediately broadcast the Subject's location and direction of travel, and, that he and Officer C would follow him. According to Detective A, he did not notify CD of his Code Six status at that time, but did notify CD that they were following the Subject, and also updated their location with CD approximately two or three times as they followed him.

Detective A and Officer C negotiated a U-turn, drove southbound and pulled their vehicle behind the Subject. Detective A and Officer C activated their forward-facing red emergency lights as well as their rear-facing amber lights to alert other pedestrians and motorists that there was a pedestrian in the roadway. The Subject continued running southbound toward the intersection. Officer C rolled down his window and yelled at the Subject to move over to the sidewalk. Simultaneously, Officer C motioned with his left arm out of the driver's side window for the Subject to move to the sidewalk.

Officer C also activated their emergency siren to get the Subject's attention and to alert other motorists that the Subject was in the roadway.

Witness B told investigators that the officers, who were talking to the Subject and telling him to stop, did so over the vehicle's "microphone." However, Detective A and Officer C' vehicle was not equipped with a Public Address system.

Meanwhile, Officers A and B arrived in the area, and pulled up alongside Detective A and Officer C' vehicle. Officer D and Officer E also heard CD and Detective A's radio broadcasts, responded to the area and pulled their vehicle alongside Detective A and Officer C and Officers A and B's vehicles.

Officer C continued telling the Subject to move over to the sidewalk and to stop. Officer C activated the siren again, which, according to Officer C, caught the Subject's attention. Detective A and Officer C along with Officers A, B, Officer D and Officer E stopped their vehicles approximately 15 to 20 feet behind the Subject. Detective A and Officers C, A, B, Officer D and Officer E exited their vehicles and took positions of cover behind their respective doors. The Subject then turned and faced the officers. According to Officer A, as the Subject turned in the officers' direction, he appeared to be shaking and was disoriented. According to Officer A, the Subject turned around and took approximately three to four steps toward the officers. Officer C then asked the Subject approximately five or six times to lie down, which the Subject did, on his back. Officer C then asked the Subject five or six times to roll over onto his stomach, which he did.

Officer C asked the Subject three or four times to put his hands behind his back; however, according to Officer C, the Subject became unresponsive to his (Officer C') instructions at that time.

Officer A walked over to the Subject's right side, stopping near his shoulder area, and knelt down. With his right hand Officer A grabbed the Subject's right wrist, and, with his left hand, grabbed just above the Subject's right elbow. Officer D then walked over to the Subject's left side, knelt down and placed his right knee in the middle of the Subject's back. Officer D, then, with his right hand, grabbed the Subject's left elbow, and, with his left hand, grabbed the Subject's left wrist. Officer D lifted the Subject's left hand into a position of control between his (Officer D') legs, and placed his left knee on the Subject's upper back area.

Meanwhile, Officer E heard an unknown officer state handcuff the Subject and Officer E approached the Subject. Simultaneously, Officer B heard someone state, "Let's go ahead and handcuff him," and he also approached the Subject. The officers handcuffed the Subject, and as they did so, according to Officer B, the Subject began rubbing his face from side to side on the street. The Subject also began kicking his legs at the officers. Officer E placed his left knee in the Subject's left lower back/buttocks area.

Detective A and Officer C then approached the Subject, and, to prevent him from kicking and possibly injuring the officers, Detective A placed his right foot on the Subject's left foot while Officer C placed his left foot on the Subject's right leg.

According to Officer D, Officer E also placed his foot on one of the Subject's feet. Officer D did not recall which of Officer E's feet he placed on the suspect nor did he recall upon which of the Subject feet Officer E's foot was placed. Officer E did not indicate to investigators that he stepped on the Subject. Officer E then applied a HRD around the Subject's ankles. Officer A rolled the Subject over onto his back and attempted to place the Subject in a seated position; however, according to Officer A, the Subject's body was "rigid" and "stiff," and Officer A was unable to place the Subject in a seated position. Officer B told Officer A that the Subject should be rolled onto his side.

According to Detective A, the Subject "lifted [his feet] up a couple of times," at which point, as recalled by Detective A, "someone, it might have been myself, too, said, 'let's get him on his side. Get him on his side.'" As described by Detective A, "I could see that this individual definitely needed some type of medical attention because of the seizure - - going into some type of narcotic withdraw (sic). That was my impression when I was up close. I emphasize OD'ing on something. So I figured, you know, let's get him up on his side. [...] Ultimately, one of the officers or a couple of the officers, they got a hold of him from his shoulder area and arms and kind of sat him up onto his side."

The officers then rolled the Subject onto his right side, and, as they did so, Officer A noted that the Subject was breathing and that he was attempting to speak, but that his face was turning purple. Officer E, believing that the Subject may be overdosing, removed the HRD from the Subject's ankles. According to Officer E, approximately five to ten seconds passed from when the handcuff ratchet was applied to the Subject's left wrist to the point at which he applied the HRD to the Subject's ankles. Further according to Officer E, the HRD was on the Subject's ankles for approximately 45 seconds to one minute, and that the Subject was turned onto his side almost immediately after being hobbled. Detective A and Officer E checked the Subject's pulse as he lay on his side, noting that he had a pulse, but that his pulse was weak.

Officer A broadcast a request for a Rescue Ambulance (RA) for the Subject. Shortly thereafter, Officer A noticed that the Subject was no longer breathing, and requested a supervisor. Officer A noticed that the Subject was no longer breathing, and did not broadcast this information over the radio because he saw that the RA was approaching their location.

Meanwhile, Sergeant I A heard CD's broadcast and responded to the location of the call as he drove toward the location, he heard Detective A broadcast that he and Officer C were following the Subject. Sergeant A proceeded to drive toward the intersection of and prior to his arrival, he heard that two units that were already on scene, broadcast a Code Four, subject in custody, and request an RA unit for a possible overdose. Sergeant A arrived on scene and notified CD of his Code Six status. Upon his arrival,

Sergeant A assumed the role of Incident Commander. According to Sergeant A, the Subject was handcuffed, hobbled and lying on his side when he arrived; and was also foaming at the mouth.

The Los Angeles Fire Department (LAFD) personnel arrived at the location and found that the Subject did not have a pulse and was not breathing. At the LAFD's request, officers removed the handcuffs from the Subject's wrists. Los Angeles Fire Department personnel then rolled the Subject onto his back and initiated Cardio Pulmonary Resuscitation. The Subject was transported by an RA a medical center, and was pronounced dead by the emergency room doctor. After Sergeant A learned of the Subject's death, he ordered the involved officers not to discuss the incident, and separated and monitored them with the assistance of the additional supervisors.

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 Detective A's tactics to warrant a Tactical Debrief.

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

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Use of Force

The BOPC found Detective A's Non-Lethal Use of Force to be in policy.

The BOPC found Officers A, B, C, D, and E's Non-Lethal Use of Force to be in policy.

Basis for Findings

A. Tactics

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

In this instance, Officer C and Detective A were northbound when they observed the Subject jogging southbound in the number one southbound lane. After negotiating a U-turn, Officer C verbally instructed the Subject to stop running and walk to the curb. As they approached, Officer C observed Officer A in the passenger seat of the marked police vehicle and indicated he would relinquish his primary contact officer role; However, Officer C continued to verbalize with the Subject

After communicating with Officer A, it would have been prudent for Officer C to have relinquished the contact officer duties to the uniformed patrol officers. Additionally, in order to ensure that officers are aware of the situation at hand and of officers' intentions, Officer C is reminded to ensure that he clearly communicates with other officers during a tactical situation.

In conclusion, although the BOPC was concerned with Officer C' decision to remain as the contact officer, his actions did not substantially deviate from approved Department tactical training. Nevertheless, to ensure that the involved personnel are aware of the importance of ensuring that effective tactical communications take place during a tactical situation.

In this instance, the Subject complied with Officer C' verbal commands and lay prone on the ground. Once the Subject was in the prone position, he became unresponsive and Officer A elected to approach. The investigation revealed the officers at scene did not communicate with each other or develop a plan to take the Subject into custody prior to Officer A moving forward.

Although there was a lack of tactical planning, the officers immediately moved in to assist Officer A as he approached the Subject. With that said, although a tactical plan would have been prudent, the officers were confronted with a suspect that was unresponsive to their verbal commands and by lying prone on the roadway, temporarily afforded the officers with a window of opportunity to safely approach and maintain a tactical advantage while they attempted to take him into custody.

In conclusion, Officer A's actions did not substantially deviate from approved Department tactical training; however, in order to ensure that the officers are aware that in most circumstances effective tactical communication is crucial to ensure a positive outcome, this topic will be discussed during the Tactical Debrief.

In this instance, Officer C approached and placed his left foot on the Subject's right leg to prevent him from kicking and injuring the officers. Simultaneously, Detective A approached and placed his right foot on the Subject's left foot.

In conclusion, Officer C and Detective A are reminded that stepping on a suspect may throw an officer off balance, may be viewed negatively by the public and may cause unnecessary injuries. Although stepping on a suspect's legs deviated from approved Department tactical training, tactics are conceptual and ever evolving. The actions were minor in nature and did not cause additional injury to the Subject. As a result, the BOPC found that the stepping on the Subject did not rise to the level requiring a finding of Administrative Disapproval. However, the BOPC directed that this topic be discussed during the Tactical Debrief.

In this instance, the HRD was placed on the Subject's ankles after he began to kick his legs. Immediately following the application of the HRD, Detective A properly instructed the officers to place the Subject into a seated position. Due to the Subject's weight, the officers struggled to maintain his body in a seated upright position and eventually placed him on his right side.

The officers were cognizant of the need to place the Subject in a seated upright position and only when they were unable to maintain him in such a position was he placed on his right side. Although the Subject was not placed in a left lateral recumbent or a seated upright position, the right lateral is also an approved position. Therefore, the officers' actions did not substantially deviate from approved Department tactical training. However, as a general topic of discussion, positioning of suspects once the HRD is applied will be addressed during the Tactical Debrief. In conclusion, a Tactical Debrief is the appropriate mechanism for Detective A along with Officers A, B, C, E and D to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Force

In this instance, the officers responded to a radio call of a *"415 man running in the intersection."* Detective A and Officer C located the Subject walking southbound and broadcast his location. When the Subject reached the intersection, he obeyed Officers C' verbal commands and lay face down on the ground. Officer A opted to approach and placed a firm grip on the Subject's right arm. The Subject became rigid and began to shake his head from side to side. Simultaneously, Officer A was joined by Officer E, Officer D, B, C and Detective A. The officers worked in concert to control the Subject and take him into custody. Officers with similar training and experience would reasonably believe that the application of Non-Lethal force would be appropriate based on the Subject's actions. In conclusion, the BOPC found that the application of Non-Lethal force utilized by Detective A along with Officers A, B, C, D, and D to be In Policy.

