

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

**IN-CUSTODY DEATH – 020-10**

<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>
Pacific	03/04/2010		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer C	16 years, 6 months
Officer A	8 years
Officer D	7 months
Officer B	7 months

**Reason for Police Contact**

Officers responded to a radio call of an assault with a deadly weapon.

<b><u>Subject(s)</u></b>	<b><u>Deceased (x)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject: Male, 50 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 February 22, 2011.

## **Incident Summary**

Witness A called the police and reported she had been the victim of an assault with a deadly weapon. Witness A said the Subject threw a "box fan" at her, causing minor injuries, and then fled on his bicycle. Witness A gave the dispatcher a description of the Subject and also indicated that the Subject owned several guns.

Communications Division (CD) assigned the call to Officer A and B. Officers C, D, E, and F also responded. Officers C, D, A and B met to discuss the details of the call and formulate a plan. The officers decided to search the area for the Subject prior to responding to the victim's residence. Officers A and B observed a person matching the Subject's description, lying on his back on the sidewalk with a bicycle nearby. Officers C and D were directly behind Officers A and B. The Subject sat up as the officers approached. While maintaining a position of cover, Officer A drew his gun because of the threat of the Subject being a potential felon with access to firearms. Officer A and B ordered the Subject to stand up, face a cinder block wall, and place his hands on his head. The Subject was handcuffed and the Subject asked if he could lean against the wall. The Subject said he was sick. Officer A re-holstered once the Subject was handcuffed, and a cursory search was completed of the Subject's waistband. The Subject complained that the handcuffs were too tight, so Officer C loosened them and re-positioned his hands. The Subject also told Officers C and A that his back was hurting and that he had been lying on the sidewalk trying to stretch it. At the conclusion of the handcuffing and search, Officer C placed the Subject in the back seat of Officer A's vehicle. Officer A partially lowered the back windows of his vehicle for added ventilation. While the Subject was detained by Officers A and B, Officers C, D, E, and F drove back to the Subject's home to conduct a follow-up investigation.

The Subject did not appear to be disoriented, nor did he smell of alcohol; however, he did appear stressed. The Subject asked Officer A if he could step out of the police vehicle and stretch. Officer A allowed the Subject to get out of the car, which he did without assistance. Officer A removed one of the Subject's handcuffs but maintained a grip on it for control. The Subject stretched for a few minutes, Officer A handcuffed him again, but added a second set of handcuffs, allowing the Subject more room.

A short time later, Officers C and D returned with Witness A to complete a field show-up. Witness A identified the Subject. Officers C and A decided Officers A and B would complete the report while Officers C and D transported the Subject and booked him.

After taking Witness A home, Officers C and D returned to Officer A and B's location. Officer C asked the Subject a series of medical questions to assist in determining where best to book him. Officer C removed the Subject from Officer A's vehicle, and placed him in the right rear seat of Officers C and D's vehicle. The Subject was then driven to the police station. As they reached the front of the station, the Subject complained of being dizzy, but still spoke normally. They reached the entrance security gate and the Subject fell over onto his back, with his head behind the driver's seat. Officer A asked the Subject if he was okay and offered to call an ambulance for him.

The Subject did not reply. The Subject was having trouble breathing, and he was “shaking, consistent with having a seizure. Both officers got out of the vehicle and Officer C opened the left rear passenger door. The Subject was lying on his back with his eyes open and was “sneezing” repeatedly. Officer C requested a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA).

Officer D located Lieutenant A and advised him of the incident. The Subject was on his back, laying in the backseat of the police vehicle. The Subject’s eyes were open but that he appeared to no longer be breathing. Officer C did not feel a pulse or detect any breathing. Officer C started Cardio Pulmonary Resuscitation (CPR) by standing in the open door and leaning over the Subject’s head and shoulders. Officer C continued chest compressions before being relieved by Officer D.

The RA arrived and the Subject was removed from the police vehicle and his handcuffs removed. He was placed on a gurney and transported to a hospital, where the Subject was pronounced.

### **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 Officer A, B, C and D’s tactics to warrant a tactical debrief.

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

The BOPC found Officer A’s drawing and exhibition of a firearm to be in policy.

### **Basis for Findings**

#### **A. Tactics**

In this instance, Officers A and B approached the Subject with the intention of detaining him pending further investigation. In conclusion, Officers A and B had adequate time to notify CD prior to making contact with the suspect. While their actions deviated from

current Department tactical training, the deviation was not substantial and in this instance it did not affect the outcome of the incident.

In this instance, the officers believed the Subject was a possible ADW, domestic violence suspect and the comments of the radio call mentioned the Subject having access to firearms. The officers observed the Subject lying on his back upon the sidewalk and elected to approach the Subject after ordering him to stand up.

In conclusion, although the Subject offered no resistance throughout the detention process, the BOPC would have preferred that the officers maintain their tactical advantage and ordered the Subject to remain on the sidewalk and directed him into a high risk prone position. While the officers' actions deviated from approved Department tactical training, these actions were not substantial and did not affect the outcome of the incident. In this case, although there were identified areas where improvement could be made, the tactics utilized did not unjustifiably and substantially deviate from approved Department tactical training.

In conclusion, the BOPC found that Officers A, B, C and D's tactics warrant a tactical debrief and to evaluate the events and actions that took place during this incident and assess the identified tactical considerations with the objective of developing peak individual and organizational performance.

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

In this instance, Officer A responded to an "*ADW Domestic Violence*," radio call, as Officer A and his partner officer were responding to the location of the crime, they observed the Subject in the area and elected to detain him. Officer A exited his police vehicle and drew his service pistol. It was reasonable for Officer A to believe that the situation could escalate to the level where the use of Lethal Force might become necessary. In conclusion, the BOPC found Officer A's drawing and exhibiting to be in policy.