

ABRIDGED SUMMARY OF AN IN-CUSTODY DEATH AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

In-Custody Death – 054-08

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Newton	06/03/08		

Officer(s) Involved in Use of Force	Length of Service
Police Officer A	11 years, 8 months
Police Officer B	3 years, 5 months
Police Officer C	3 years, 2 months
Police Officer D	3 years, 1 month
Police Officer E	2 years, 1 month
Police Officer F	1 year, 1 month

Reason for Police Contact

Officers responded to a radio call of a man kicking and screaming in the street. Upon contact with the officers, the subject became aggressive and fought with officers. The subject was subdued but continued his violent behavior and was subsequently hobbled to restrain his movements. While being restrained by officers, the subject ceased movement and medical personnel were summoned. The subject was transported to an area hospital where he expired.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
Male, 26 years			

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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. 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 May 26, 2009

Incident Summary

On June 3, 2008, police officers A and F responded to a radio call regarding a male Hispanic, lying in the street and yelling. Officers A and F arrived on scene but were unable to locate the described subject and decided to check the surrounding area. At a nearby intersection, Officer A observed a subject, later identified as Subject 1, walking quickly along the sidewalk, very animated, talking to himself and waving his arms in the air.

Officer A stopped his vehicle approximately 75 feet from Subject 1 and illuminated him with the vehicle spotlights. Once illuminated, Subject 1 turned and walked quickly toward the officers with his fists clinched. Both officers exited their police vehicle and stood behind their respective doors. Officer A, a drug recognition expert, believed Subject 1's behavior was consistent with a drug-induced mental illness.

Officer F ordered Subject 1 to stop and put his hands up in both English and Spanish, but Subject 1 failed to comply. Subject 1 continued toward the officers, fists clinched, talking to himself and shouting threats.

Subject 1 was wearing baggy pants and a white sleeveless undershirt that hung loose around his waist. Officer F, unable to see Subject 1's waistband, believed a weapon could easily be concealed in his clothing. Although Officer F could see Subject 1's hands and did not see him reach for his waistband, based on Subject 1's animated and unresponsive behavior, aggressive movements, verbal threats and ability to conceal a weapon in his clothing, Officer F believed that Subject 1 was about to arm himself. Officer F drew his service pistol.

Subject 1 continued toward Officer F, stepping into the street and reaching the passenger side of the police vehicle. Officer F backed to the rear of the police vehicle and gave the subject additional commands to stop and put his hands behind his head. Ignoring the commands, Subject 1 moved to the rear of the police vehicle as Officer F backed into the street. At this point, Officer A moved to the back of the police vehicle and verbally engaged Subject 1.

Subject 1 put both fists up and walked toward Officer A. Subject 1 threw five punches which Officer A blocked by to deflect the blows with his arms. Officer A responded by striking the subject once in the nose with his clinched left fist and once in the mouth with his clinched right fist. Officer A's punches staggered the subject and stopped his combative swings.

Note: At the same time, realizing that Subject 1 had not reached for his waistband, Officer F holstered his pistol.

As Subject 1's legs buckled, Officer A grabbed Subject 1's upper body, around his arm and shoulder, while Officer F grabbed Subject 1 around his legs. Together, the officers used a team takedown to force Subject 1 to the ground. Subject 1 landed face-down, with his left arm pinned under his body and his right arm free.

On the ground, Subject 1 thrashed around wildly while incoherently yelling in English and Spanish. Officer A put his knee on Subject 1's back between his shoulder blades and began wrestling with Subject 1's free arm while Officer F held onto Subject 1's legs. Subject 1 pinched and clawed with his free hand and swung his head backward toward Officer A. Officer A handcuffed Subject 1's right wrist, pulled and wrestled his left arm from under his body and completed the handcuffing. Officer A then put Subject 1 in an upright, seated position.

Officer F used his radio to request an additional unit and a supervisor.

Officers A and F stood behind Subject 1, struggling to hold him in a seated position while they waited for the responding units. Subject 1 continued to yell, whipped his head backward, kicked his legs and grabbed at Officer A's legs.

Officers D and E arrived on scene a short time later. Upon arrival, the officers observed Officer A standing over Subject 1, who was seated in the street. Officers D and E observed Subject 1 violently swinging his head, kicking his legs and yelling. Additionally, Officer D noticed that Officer A's right hand was bleeding and he assumed control of Subject 1 so Officer A could attend to his injured hand.

Despite the officers' efforts, Subject 1 continued to yell and kick wildly. Officer F repeated commands for Subject 1 to calm down, but he failed to comply. Believing they could not control Subject 1, the officers applied a Hobble Restraint Device (HRD) around Subject 1's legs to prevent him from kicking.

At that time, Officers B and C arrived at scene. Upon arrival, Officers B and C observed Officers A, D, E, and F struggling to control Subject 1, who was seated in the street.

Sergeant A arrived on scene and was briefed by Officer A. Sergeant A, the first supervisor to arrive, assumed the role of incident commander and directed the officers as they continued to struggle with Subject 1. Subject 1 kicked, jerked violently and spat at the officers, eventually turning onto his left side and stomach area.

Even with the HRD was applied, Subject 1 continued to resist, thrashing about, swinging his head from side to side and spitting at the officers. Concerned about Subject 1's spitting, Officer E applied a spit sock over his head.

Believing they needed more control of Subject 1, a second HRD was applied to his arms. Officer F positioned the HRD above Subject 1's elbows. Subject 1 was then put into a seated position, which proved difficult to maintain as he continued to thrash about. Officers then positioned Subject 1 on his left side and attempted to keep him in that position.

Officer F broadcast a request for a rescue ambulance (RA) for the laceration to Officer A's hand. Los Angeles Fire Department (LAFD) personnel arrived on scene and attended to Officer A.

In the meantime, Subject 1 continued to struggle and thrash around until he suddenly became quiet and stopped moving. Concerned by his sudden change of behavior, officers checked Subject 1 and found that he was no longer breathing. Officers C and E checked Subject 1 for a pulse with negative results. Officer E removed the spit sock from Subject 1's head and shined her flashlight in his eyes. When there was no reaction, the officers alerted the LAFD personnel who were at scene.

Firefighters A and B administered medical treatment to Subject 1 and a second RA unit responded to the scene. Shortly thereafter, LAFD personnel transported Subject 1 to the hospital for further medical treatment. Subject 1 failed to respond to medical treatment and was pronounced dead by the attending physician.

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 Sergeant A and Officers A, B, C, D, E and F to warrant a Tactical Debrief.

B. Drawing /Exhibiting/Holstering

The BOPC found Officer F's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC found Officers A, B, C, D, E and F's non-lethal use of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officers A and F did not update CD of their new location when they located Subject 1.

It would have been prudent for Officers A and F to notify CD of their updated status and location when conducting field activities.

2. Officers A and F did not immediately request back-up after recognizing Subject 1's aggressive behavior.

It would have been prudent for Officers A and F to be familiar with when to request a back-up, assistance or help.

3. Officers A and F did not request assistance or help after encountering Subject 1's violent behavior and his willingness to fight with the officers.

It would have been prudent for Officers A and F to request the appropriate level of response for the circumstances they are faced with.

The BOPC found that Sergeant A and Officers A, B, C, D, E and F warrant a Tactical Debrief.

B. Drawing/Exhibiting

Officer F exited his police vehicle and observed Subject 1 quickly advancing toward him. Subject 1 was aggressive and was wearing baggy clothing. Officer F could not observe what was in the subject's waistband area and observed several tattoos, which made him consider that the subject was a possible gang member.

The BOPC found Officer F's drawing to be in policy.

C. Non-Lethal Use of Force

Officers A, B, C, D, E and F were confronted with an aggressive and combative suspect. The subject resisted the officers' attempt to arrest him, which forced the officers to use a variety of force types to take him into custody.

The BOPC found Officers A, B, C, D, E and F's non-lethal use of force to be in policy.