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

IN-CUSTODY DEATH – 030-15

Division Date Duty-On (X) Off ( ) Uniform-Yes (X) No ( )
Southeast 4/13/15

Officer(s) Involved in Use of Force Length of Service
Officer A 3 years, 5 months
Officer B 2 years, 11 months

Reason for Police Contact

Communications Division (CD) received a call of a Subject on drugs, throwing objects, and possibly threatening family members. Responding officers took the Subject into custody. Non-lethal force was used when the Subject resisted as the officers prepared to load him into the police vehicle. The Subject subsequently died several hours later.

Subject(s) Deceased (X) Wounded () Non-Hit ( )
Subject: Male, 29 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 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.

The following incident was adjudicated by the BOPC on February 16, 2016.
**Incident Summary**

Communications Division (CD) received an emergency call from Witness A, who was calling on behalf of a family member, Witness B. According to Witness A, Witness B requested the police to respond to her apartment because the Subject, another family member, was under the influence of drugs and was throwing things around the apartment. Witness B was scared that the Subject “might do something to himself or to them.” Witness A provided the Subject’s description, as well as requested the officers to approach in a “quiet” manner, so the Subject would not run away. The operator asked if a Rescue Ambulance (RA) would also be needed. Witness A agreed, stating that the Subject had a history of narcotics use.

CD assigned the call for service to Officers A and B. Officers A and B arrived and stopped their vehicle in front of the apartment complex. Officer A communicated their status and location (Code Six) to CD via the vehicle’s Mobile Digital Computer (MDC).

Officers A and B exited their vehicle and approached the exterior wrought iron fence, which surrounded the complex. The officers were met by Witness C, another family member who was a child, at the fence. Witness C was holding open the wrought iron self-locking gate for the officers to enter. Witness C requested that the officers approach quietly via the rear entrance to their apartment. Officer B noticed that Witness C appeared timid and scared.

Witness C attempted to guide the officers toward the rear entrance, but was stopped by Officer A. Officer A asked Witness C to contact a family member or the person who called the police. Based on Officer A’s request, Witness C guided the officers to the front exterior stairway, which led onto a second-floor walkway.

**Note:** The officers waited at the base of the stairs while Witness C went back up alone. According to Officer A, he requested Witness C go back up and bring her family member down, so the officers could get additional information. Witness C told him she did not want to go back up but did.

Officer B observed Witness C walk up the stairs and crawl on all fours when she reached an apartment window located on the second-floor walkway. The window was later identified as the Subject’s bedroom. As Witness C reached the front door of the apartment, Officer B observed the Subject confront Witness C at the doorway. The Subject demanded to know what Witness C was doing. Witness C denied doing anything.

The officers then walked to the front door of the apartment and made contact with the Subject. Officer A observed the Subject in the doorway and noted he matched the description given by CD. Officer A also noted the Subject was sweating profusely, had glazed eyes, and was not looking in the officers’ direction. Believing he was the Subject described in the radio call, Officer A attempted to detain him. Officer A repeatedly ordered the Subject to step away from the doorway, to turn around, and to put his hands behind his back. The Subject did not follow Officer A’s orders, but after numerous
commands, put his hands up near his head. Officer A approached the Subject, grabbed his hands, and handcuffed him just outside of the apartment’s front door.

Officer A remained on the walkway with the Subject while Officer B entered the apartment and interviewed Witness B in Spanish. Due to the small size of the apartment, Officer B was able to remain in close proximity to render aid to Officer A, if needed. Officer A additionally positioned himself at the front door entrance and angled his body to remain within line of sight with Officer B. Officer A noted the Subject was breathing rapidly and that his clothes were soaked with sweat. The Subject would not stand still, was continuously jittery, and moved his shoulders back and forth. The Subject ignored Officer A’s repeated attempts to conduct a basic field interview. Officer A’s initial assessment of the Subject at this point was that he was mentally ill or under the influence of a narcotic.

According to Officer B, Witness B stated that her family member, the Subject, had been acting strangely and believed it was due to him being on drugs. Witness B told Officer B that the Subject had been throwing things around the apartment, and directed Officer B to the bathroom and kitchen areas. Officer B observed miscellaneous items scattered around the rooms and liquid bleach splattered throughout the rooms. Witness B also directed Officer B to the Subject’s bedroom. Officer B observed that the bedroom appeared to have been ransacked, and saw a damaged window screen, which faced the outside walkway. Witness B stated that the Subject had punched the window screen, causing the damage. Witness B made it clear that she did not want the Subject to remain in the apartment. Witness B told Officer B that she and Witness C were afraid of the Subject. Officer B observed that Witnesses B and C appeared scared; Witness B whispered whenever she went near the Subject and seemed afraid to speak in front of him.

According to Officer A, the Subject refused to provide his name or any other information, but Witness B assisted by providing his identifying information.

Due to the Subject’s behavior and the officer safety tactics implicated by the narrow exterior walkway, Officer A asked the Subject to get on his knees. The Subject complied and faced the exterior wall of the apartment with his feet crossed at the ankles.

Officers A and B considered the request from Witness B to have the Subject arrested or taken to a hospital. The officers additionally assessed the situation and considered what type of crime, if any, had been committed. Officer B had observed evidence of vandalism inside the apartment, while Officer A believed the Subject showed signs of being under the influence of a narcotic. Officer A stated a decision was made for Officer B to remain with the Subject on the second-floor walkway, while Officer A walked downstairs to their police vehicle to conduct a want and warrant query on their vehicle’s MDC. Officer A stated they did not want to move the Subject downstairs, or escalate the situation until they had a better assessment of their situation.
Officer B recalled that while he had the Subject detained on the second-floor walkway, the Subject continuously moved and attempted to turn toward Officer B, making it difficult for Officer B to maintain control of him. In an effort to control the Subject, Officer B placed his right hand on the Subject’s right shoulder to stop him from turning around toward him.

As a result of Officer A’s want and warrant query, the Subject was identified as a possible match for a wanted felony suspect. While the Subject’s name matched that on a felony warrant, other identifiers did not match. Officer A notified CD of this information.

As Officer A walked back to his partner’s position, he observed the Subject vigorously moving his shoulders back and forth while Officer B had his right hand on the Subject’s shoulder, in an effort to control him. Officer A returned to the Subject’s location and requested that the Subject stand up so that he could further assess the Subject for symptoms of being under the influence of a narcotic. Officer A considered his prior observations of the Subject and additionally noted the Subject had dilated pupils that were not reacting to light and a rapid pulse of 160 beats per minute. Based on the Subject’s behavior and objective symptoms, Officer A formed the opinion that the Subject was under the influence of a stimulant, but did not believe it was a medical emergency at that time.

Due to the Subject’s uncooperative behavior, possibly being under the influence of a narcotic, wanting to further analyze the want and warrant returns, and the unsafe location of the narrow second-floor walkway, the officers decided to walk the Subject down to their police vehicle.

As he and Officer B walked the Subject down the apartment’s front stairs, Officer A also requested an RA. Officer A was on the Subject’s right side and Officer B was on the Subject’s left side as they walked down from the top of the stairs and through the courtyard of the apartment complex. While they walked, the Subject was stumbling, losing his balance, trying to turn around, and continually called for his mother.

Officer A stated the Subject’s actions became increasingly more aggressive, so he requested the response of additional officers to assist. The officers walked the Subject directly to their police vehicle and positioned the Subject facing the trunk of the vehicle near the rear passenger side panel.

Officer B attempted to communicate with the Subject and asked him if he preferred to go to the hospital instead of going to jail. Officer B told the Subject that they did not want to take him to jail. The Subject did not answer their questions, but stated that nothing was wrong and his girlfriend would pick him up. The officers intended to place the Subject in the back of their police vehicle until the RA arrived. Officer A opened the front passenger side door of the police vehicle and intended to turn on the rear camera of the Digital-In Car Video System (DICVS) prior to placing the Subject in the rear passenger seat.
According to Officer B, he stood behind the Subject at the trunk area of the police vehicle and attempted to have the Subject spread his feet apart, in preparation of placing the Subject in the back of the police vehicle.

The Subject continued to be difficult by falling back toward Officer B. Officer B placed his left forearm against the Subject's upper back, while he used his right hand to hold the handcuff chain.

The Subject turned his head to his left, in the direction of his mother's apartment, and yelled for her. The Subject then spun his body to his left, in a downward and counter clockwise motion, which caused the Subject to lose his balance and fall to the ground. The Subject's movement and fall caused Officer B to fall on top of the Subject.

The Subject fell to the pavement face down, without the use of his hands to break his fall. The Subject landed next to the police vehicle, and Officer B fell on top of the Subject, while still holding the handcuff chain with his right hand. Officer B attempted to regain his balance and control the Subject by placing his right knee on the Subject’s middle or lower back area, while still holding the handcuff chain.

Officer B was on the Subject’s left side, toward the Subject's head area. Officer B stated the Subject was grabbing and squeezing his fingers, causing him pain. The Subject also attempted to grab his shirt and utility belt. Officer B sustained a minor cut to his right palm during this time.

Officer B immediately got off of the Subject’s back and positioned himself next to the Subject. Officer B, while facing toward the Subject’s feet, used his right hand to hold the Subject’s left elbow and his left hand to hold the Subject’s right elbow. The Subject continued to move his body and continually used his handcuffed hands to make grabbing motions. The Subject aggressively kicked his feet and struck Officer A’s ankles. Officer B was primarily focused on his efforts to control the Subject’s upper body but observed Officer A attempt to control the Subject’s legs. Officer A told the Subject to stop resisting.

According to Officer A, he was positioned by the front passenger door of his police vehicle as he attempted to turn on the DICVS. He stopped his attempt to activate the DICVS when he observed the Subject struggling with Officer B. The Subject vigorously moved his shoulders back and forth, looked back, and screamed for his mother. Officer A then saw the Subject fall face down on the ground.

Officer A described the Subject aggressively kicking his lower legs up and down while face down on the ground. Officer A ran to the right side of the Subject’s legs and took a squatted position. Officer A used both his arms to grab the Subject’s lower legs while they were positioned perpendicular to the ground. The Subject kicked and fought and simultaneously moved his shoulders back and forth. During the struggle, Officer A was kicked on his left thigh area.
At one point Officer A broadcast a backup request as the officers tried to hold him in position. Officer B then heard the Subject vomiting and observed a clear liquid emitting from the Subject’s mouth. Officer B then released his position and stood up.

Officer A stated the Subject continued to struggle with them prior to vomiting. Due to being so far south in the division and unsure if the situation was going to escalate, Officer A used his right hand to retrieve his TASER from the right pocket of his pants. Officer A took the cartridge out of the TASER, conducted a test, put the cartridge back in the TASER, and continued to hold it in his right hand. Officer A heard the siren of responding officers as he observed the Subject vomit clear liquids. Officer A returned the TASER to the right pocket of his pants and observed the Subject no longer struggled against them.

Officer A broadcast an updated RA request and advised the Subject was unconscious and breathing. The Subject had vomited and stopped his aggressive behavior toward the officers. Officer A placed the Subject in what he described as a recovery position, consisting of placing him on his right side, allowing fluids to come out and not interfere with his breathing. Officer A held him in the position and made sure his airway was open.

A few minutes later, the Los Angeles Fire Department (LAFD) RA arrived on scene. Officer A removed the handcuffs from the Subject as Fire Department personnel arrived. Officer A advised Fire Department personnel that the Subject had vomited, was unconscious, not breathing, and was under the influence of a stimulant. Fire Department personnel assessed the Subject, placed him onto a gurney, loaded him into the RA, and provided medical attention. The Subject was then transported to a local hospital.

The Subject was treated in the emergency room at the hospital but did not respond to treatment and was pronounced deceased by the emergency room doctor.

The Los Angeles County Department of the Medical Examiner determined the cause of death to be Methamphetamine Toxicity.

**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 firearm 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 unanimously made the following findings:

A. Tactics

The BOPC found Officers A and B’s tactics to warrant a finding of Administrative Disapproval.

B. Non-Lethal Use of Force

The BOPC found Officers A and B’s use of non-lethal force to be in policy.

Basis for Findings

A. Tactics

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

  1. Public Safety at Critical Incidents

     Officers A and B allowed Witness C to go back upstairs to the apartment where the Subject was located.

     Placing an innocent person in harm’s way should be avoided at every opportunity. It would have been tactically prudent and safer for the involved personnel to not include Witness C in their initial approach of the residence.

     In its review, the BOPC considered that the officers were aware Witness C was a child and that the Subject was described as much larger man. They were also aware that the Subject was reported to be under the influence of “unknown narcotics,” “throwing objects,” and “possibly threatening family members.” Upon contacting Witness C, Officer A observed her to be “timid” and “scared of something,” which he believed was her family member (the Subject.) Officer B requested that Witness C go back upstairs to the apartment and bring her mother down while the officers waited at the base of the stairs. According to Officer B, Witness C told him she did not want to go, but did so at the direction of the officers. Witness C’s fear of the Subject was even more evident after she went upstairs, where she got down on her hands and knees to crawl beneath the window in an effort to not be seen by him. Instead of avoiding his detection, Witness C was confronted by the Subject, which could have resulted in harm to her. Both officers later reported concern with the elevated platform and the possibility of the Subject falling over the rail.
Based on the information known to the officers at the time of their interaction with Witness C, the BOPC believes that the officers knew, or should have known, that a volatile and dangerous situation existed in the apartment and that Witness C did not want to return there. In addition, by waiting at the base of the stairs, the BOPC does not believe the officers were in a position to effectively render aid and/or assistance to Witness C, should the situation have escalated.

The BOPC determined that the tactics employed by Officers A and B, as related to the Public Safety at Critical Incidents, substantially deviated, without justification, from approved tactical training and warranted a finding of Administrative Disapproval.

2. Separation

Officer A returned to the police vehicle to utilize the MDC, while Officer B remained with the handcuffed Subject on the second-story walkway of the apartment building.

The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

In this case, the distance between the officers was approximately 90 feet, the Subject was handcuffed, and they were able to maintain a line of sight of each other. Consequently, the BOPC concluded that the distance between the officers did not jeopardize their ability to effectively communicate or render aid. However, the BOPC would have preferred that Officers A and B would have remained in closer proximity to each other by bringing the Subject down to the police vehicle as they gathered additional information from their MDC.

- The BOPC additionally considered the following:
  
  1. RA Request

When the officers initially contacted the Subject, both officers observed that the Subject was sweating profusely, very fidgety, breathing heavily, and believed that he was under the influence of narcotics. According to the investigation, Officer A is also a former EMT and concluded during his initial assessment that the Subject was likely under the influence of methamphetamine, but was not in need of immediate emergency medical attention at the time even though he had a pulse of 160 beats per minute. Although the officers did eventually request an RA as a result of their belief that the Subject was under the influence of narcotics, it would have been better if they made this request when they initially made contact with him.

  2. Agitated Delirium
Throughout this incident, the Subject’s behavior was consistent with a person suffering from a state of Agitated Delirium. In an effort to improve future tactical performance, the officers will be directed to review the Department’s training materials pertaining to Agitated Delirium.

3. Required Equipment

The investigation revealed that Officers A and B were not in possession of their Hobble Restraint Devices (HRD) and that both officers exited their vehicle without their batons. Officers A and B were reminded to have all required equipment on their person while performing field patrol duties.

4. Securing Equipment

The investigation revealed that Officer A left the TASER holster in the police vehicle and carried his TASER in both his right rear pocket and sap pocket before and during the incident. Officer A was reminded that officers must carry the TASER on their person utilizing a Department-approved holster.

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 that the tactics be evaluated based on the totality of the circumstances.

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

The BOPC found Officers A and B’s tactics to warrant a finding of Administrative Disapproval.

B. Non-Lethal Use of Force

- Officer A – Physical Force
- Officer B – Firm Grip, Bodyweight, Physical Force

As Officers A and B were preparing to place the Subject in the back seat of their police vehicle, the Subject was unable to maintain his balance and began to lean back toward Officer B. In an effort to control the Subject, Officer B stood behind the Subject and placed his left forearm against his [the Subject's] upper back and held the handcuff chain with his right hand.
The Subject then turned his head completely around and yelled for his family member, which caused the Subject to lose his balance and fall face down on the ground. Due to the momentum of the fall, Officer B also lost his balance and fell on top of the Subject.

The Subject attempted to push off his stomach and then began grabbing at Officer B's uniform shirt, utility belt, and the fingers on his right hand. Officer B got off of the Subject’s back and positioned himself next to the left side of the Subject's body. The Subject continued grabbing, kicking, and rolling back and forth on his stomach. Officer B then grabbed the Subject’s left elbow with his right hand and right elbow with his left hand in order to control his movement.

Officer A observed the Subject on the ground kicking and moving his arms uncontrollably, and ordered him to stop resisting. Officer A then squatted down next to the Subject and wrapped his arms around the Subject's legs in an effort to control his movement.

The BOPC determined an officer with similar training and experience as Officers A and B would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape, and effect an arrest.

Therefore, the BOPC found Officers A and B’s non-lethal use of force to be objectively reasonable and in policy.