

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

IN-CUSTODY DEATH – 002-23

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Pacific	1/3/23		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 years, 1 month
Officer B	24 years, 1 month
Officer C	3 years, 5 months
Officer D	14 years, 8 months
Officer E	11 years, 6 months

Reason for Police Contact

Officers attempted to arrest a Subject fleeing from a traffic collision. The Subject physically resisted, and a Non-Categorical Use of Force (NCUOF) occurred. Officers utilized a TASER, physical force, bodyweight, and verbal commands to overcome his resistance. Shortly after the Subject was taken into custody, paramedics rendered medical aid for the deployment of the TASER. The Subject was transported by to a hospital where he went into cardiac arrest and was later pronounced deceased.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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Male, 31 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, including any Minority opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on October 24, 2023.

Incident Summary

On Tuesday, January 3, 2023, at 1535 hours, West Traffic Division uniformed Police Officer A, was in the process of conducting a traffic stop on an unrelated motorist for a right turn traffic violation. After approximately 90 seconds, Officer A heard the sound of a traffic collision nearby and released the motorist with a verbal warning. He/she returned to his/her motorcycle and drove toward the collision when he encountered the Subject, walking in the middle of the roadway. The Subject quickly pointed to the area of the collision after Officer A asked him where it was.

Officer A drove east and observed a multiple-vehicle traffic collision. As depicted on Officer A's BWV, Officer A drove back toward the intersection and again contacted the Subject in the middle of the roadway. At 1537:08 hours, Officer A directed the Subject to move onto the sidewalk as he/she followed behind on his/her motorcycle. Officer A broadcast his/her current location and advised Communications Division (CD) he/she was at scene with a possible DUI Subject. He/she requested additional units to assist as he/she continued to communicate with the Subject and conduct his/her investigation. Officer A then requested an RA (rescue ambulance) to respond to the scene of the traffic collision.

At 1539:53 hours, as seen on Officer A's BWV, the Subject sat on the sidewalk and appeared to be out of breath. He took several deep breaths and said, "*Can I get a moment to catch my breath please.*"

Officer A attempted to deescalate the situation by communicating with the Subject. The Subject made statements about people wanting to kill him and that they were going to place things in his car. He also claimed he just finished doing a stunt. Officer A attempted to obtain further information and asked the Subject to explain what he meant. The Subject yelled for help as passing citizens walked close to where he was sitting. Officer A reassured the Subject he/she was there to help and asked who wanted to kill him. Officer A advised the Subject that he/she had requested an RA after the Subject said he might have a concussion.

After approximately seven minutes, the Subject stood up and said he did not want to be in the dark and wanted to be seen. The Subject walked toward the edge of the sidewalk and again asked for help. Officer A explained he/she was there to help him. Officer A again asked the Subject to sit on the sidewalk, but the Subject did not comply. Officer A continued to communicate with the Subject as an additional unit was observed on Officer A's BWV arriving at the scene of the traffic collision.

At 1545:01 hours, the Subject walked into the roadway. Officer A continued to verbalize with the Subject and repeatedly asked him to come back. According to Officer A, as he/she stepped around his/her motorcycle, the Subject ran westbound. As depicted on Officer A's BWV, Officer A mounted his/her police motorcycle and pursued as the Subject continued to run westbound in the middle of the roadway. As Officer A crossed the roadway and sounded his/her siren, he/she observed the Subject walking in the

center turning lane. While still seated on his/her motorcycle, Officer A ordered the Subject to get down on the ground. He/she dismounted his/her motorcycle and approached the Subject while commanding him to turn over on his stomach. The Subject sat on the roadway facing Officer A but refused to turn over onto his stomach.

At 1544:45 hours, Police Officers B and C arrived at the scene of the traffic collision. Officer C contacted a citizen who had been involved in the traffic collision. The citizen advised Officer C that the other officer (Officer A) needed help because the driver of the involved vehicle (the Subject) was trying to run away.

Officer B advised he/she observed a motorcycle officer talking to a male who did not appear to be complying with the officer. Officer B observed the officer get on his/her motorcycle and follow the Subject across the intersection. Officers B and C entered their police vehicle and drove toward the intersection.

Upon Officers B and C's arrival to Officer A's location, Officer B positioned their police vehicle in the middle of the roadway just east of Officer A's police motorcycle. Officers C and B exited their police vehicle and approached the Subject who was sitting on the ground. Officer A was standing directly in front of the Subject and was giving him verbal commands. As Officer A was communicating with the Subject, Officer B advised he/she planned to be the cover officer and that Officer C was the handcuffing officer.

At 1545:35 hours, as Officers C and B reached the Subject, Officer A could be heard ordering the Subject to turn onto his stomach. Believing that the Subject was complying and appeared to be unarmed, Officer B holstered his/her service pistol and assumed the role of handcuffing the Subject. As depicted on Officer C's BWV, the Subject attempted to stand up but quickly sat back down as Officers C and B reached for his hands. Officer C approached on the Subject's left side as Officer B approached on his right. Officer C grasped the Subject's left hand and wrist with both hands. Officer C ordered the Subject to stay down. Officer B attempted to grasp the Subject's right arm, but the Subject resisted and grabbed onto Officer B's right wrist. Officer B ordered the Subject to release his/her arm as Officer A grasped the Subject's left wrist with his/her left hand.

At 1545:48 hours, as depicted on Officer C's BWV, the Subject managed to stand up and took approximately four steps forward before falling back to the ground. Officers B and C were observed standing on opposite sides of the Subject as they grasped for his hands. The Subject is heard telling the officers, "*please, please,*" as officers continued to verbalize with him. Officer C ordered the Subject to turn onto his stomach and to stop resisting.

Officer B continued to utilize physical force and body weight in an attempt to control the Subject. Officer B continually moved his/her arms and hands in an effort to avoid being bitten by the Subject. At 1545:59 hours, Officer B can be seen on his/her BWV attempting to grasp the Subject's right arm.

Officer A continued to verbalize with the Subject and attempted to deescalate by calling the Subject by his first name.

At 1545:54 hours, on Officer C's BWV, Officer B was observed with his/her right forearm near the left side of the Subject's neck. Officer B advised he/she never intended to apply pressure to the Subject's neck. From 1545:55 to 1545:57 hours, on Officer B's BWV, Officer C's right hand can be observed on the front of the Subject's neck.

At 1545:58 hours, as observed on Officer B's BWV, Officer A positioned him/herself on the ground near the Subject's knees. Officer A was observed lying down on the pavement as he/she tucked the Subject's left leg between his/her right bicep and right chest. Officer A placed his/her left arm over the Subject's front waist and grasped his left wrist. Simultaneously, Officer B placed his/her knee on the pavement directly in front of the Subject's head and left shoulder. Officer B had his/her left hand on the Subject's left chest and his/her right hand on the Subject's right collar bone. Officer C was crouched as he/she grasped the Subject's right arm with his/her left hand while placing his/her right hand on the Subject's stomach. At this point, the Subject was on his back as officers appeared to struggle with him on the pavement. The Subject yelled out, "*They are trying to kill me. Kilo tried to kill me.*" As observed on Officer C's BWV, at 1546:08 hours, Officer C verbally warned the Subject to stop or he was going to be tased. Simultaneously, Officer B broadcast an Officer Needs Help call.

At 1546:00 hours, on Officer C's BWV, Officer B was observed with the palm of his/her right hand on the right side of the Subject's jaw. Officer B's thumb appeared to be near the Subject's neck. Officer B further advised the Subject's neck/throat was lower than where his/her thumb was placed, and he/she did not apply any downward pressure.

At 1546:04 hours, on Officer C's BWV, Officer B was observed with his/her hand around the front of the Subject's neck. Officer B advised he/she did not apply pressure on the Subject's neck, but tried to keep him on the ground.

At 1546:12 hours, on Officer C's BWV, Officer B was observed with the edge of his/her hand near the front of the Subject's neck. Officer B explained that due to the placement of his/her fingers and the space between his/her wrist and the Subject's neck, his/her hand did not restrict the Subject's airway or apply any pressure to the neck.

At 1546:19 hours, after giving the Subject multiple warnings to stop or else he was going to be tased, Officer C unholstered his/her TASER. The Subject again yelled that Kilo was trying to kill him and that the officers were actors. Officer C said he/she gave the Subject multiple commands to stop resisting and to put his hands behind his back.

Between 1546:20 and 1546:36 hours, as observed on Officer C's BWV, Officer B can be seen with his/her right elbow along the left side of the Subject's jaw line and his/her right forearm across his chest. Officer C held the TASER in his/her left hand and used his/her right hand to grasp the Subject's right hand. The Subject's breathing appeared to be labored and he stated, "*I can't.*" At 1546:32 hours, Officer C stated, "*Watch - -*

watch your elbow, partner.” The Subject wrestled his right hand away from Officer C’s grasp and used his right hand to move Officer B’s right elbow away from his jawline. The Subject then stated, *“They trying to George Floyd me. They trying to George Floyd me.”*

During this time, Officer B was seen with his/her right elbow along the left side of the Subject’s jaw line and his/her right forearm across his/her chest. Officer B reiterated he/she never applied pressure to the Subject’s neck or restricted his airway.

At 1546:36 hours, Police Officers D and E arrived at scene. Officer D positioned their police vehicle in the middle of the roadway just east of the officers positioned with the Subject. Both Officers D and E exited their police vehicle and approached the officers and the Subject. According to Officer D, as soon as he/she exited his/her police vehicle, he/she observed the Subject not obeying officers’ commands.

At 1546:41 hours, on Officer C’s BWV, Officer B was observed placing the Subject’s arm around the front of his own neck. Officer B advised the technique does not restrict blood to the brain and it is not a deadly force technique.

At 1546:49 hours, on Officer C’s BWV, Officer B was observed with his/her forearm near the Subject’s left neck. Officer B said he/she never intended to place any pressure on his/her neck or restrict his airway.

During a review of BWV, FID detectives noted nine separate instances where Officers B or C made contact near the Subject’s neck. Both officers advised they did not apply pressure to the Subject’s neck.

At approximately 1546:51 hours, Officer C warned the Subject, *“Stop it or I’m going to tase you,”* and, *“turn over or I’m going to tase you.”* Officer C also advised officers that he/she was going to activate his/her TASER. The Subject was continually rolling, pushing, and grabbing at officers. As further depicted on Officer C’s BWV, the Subject was lying on the right side of his body and could be seen propping his torso off the pavement as Officer B grasped the Subject’s right arm with his/her right hand. At 1546:53 hours, as depicted on Officer E’s BWV, Officer A had his/her right forearm on the Subject’s left thigh and his/her left hand on the Subject’s left shin. Officer E grasped the Subject’s left bicep with his/her left hand and placed his/her right hand on the Subject’s left shoulder. Officer E advised the Subject looked like he was trying to forcibly get up and officers were trying to hold him down until additional officers arrived. As depicted on Officer D’s BWV, he/she stood behind Officer A as he/she grasped the Subject’s left wrist with his/her left hand. Officer D advised the Subject was struggling and refusing to obey commands.

Officer C advised he/she did not have a good grasp on the Subject and decided to try another tool. Officer C felt that using the TASER would give officers an opportunity to handcuff the Subject and prevent the incident from escalating any further. Consequently, he/she deployed the first set of TASER darts from a distance of *“two to*

three feet.” Officer C advised he/she was aiming at the Subject’s chest and abdominal area. Officer C immediately noticed the TASER did not work and the Subject was still actively fighting. Officer C felt that due to the proximity to the Subject, he/she could not use any other type of force such as a baton or OC spray. He/she explained that officers were so close that there was nowhere to strike the Subject and OC spray would have affected the other officers. Officer D advised the Subject broke free from Officer C’s attempt to detain him/her. Officer D heard the TASER deployed but it didn’t seem to have very much effect, at least initially.

At 1546:54 hours, as observed on Officer C’s BWV, Officer C activated his/her TASER for the second time. According to Officer C, the Subject was still actively, forcefully pulling away from officers and it appeared as though he was trying to get up and escape. Due to the close distance between the Subject and officers, Officer C felt the TASER was the best force option available.

Officer C advised he/she did not know why the Subject was actively fighting the officers. He/she wasn’t sure if the Subject was trying to get away, if was he going to carjack a citizen, or if he was trying to hurt the officers.

Officer C explained that when he/she deployed the second set of darts, he/she was hoping to get a good connection and take the Subject into custody immediately. As depicted on Officer C’s BWV, he/she activated the TASER and deployed the second set of darts. According to Officer C, he/she pointed the TASER in a slightly upward position from the ground aiming for the Subject’s chest and abdominal area. During this activation, he/she also transitioned to drive-stun mode. According to Officer C, he/she placed his/her TASER against the Subject’s right shoulder after the darts appeared to have no effect on the Subject. The Subject continued to be non-compliant and resisted. He was forcefully pulling away from officers and it appeared he was trying to get up. Officer C felt the Subject’s shoulder relax and officers began to gain control of an arm. Officer C advised as soon as the TASER deactivated, the Subject once again began fighting and actively resisting officers.

At 1546:56 hours, as depicted on Officer C’s BWV, the Subject had his back to the officers. Officer B held the Subject’s right forearm with his/her right hand while his/her left hand was placed on the Subject’s upper back. As observed on Officer E’s BWV, Officer E’s right hand gripped the Subject’s left shoulder as his/her left hand grasped his left forearm. Officer E’s BWV further depicted Officer D holding onto the Subject’s left wrist with both his/her right and left hand. During this time, Officer A was observed lying on the ground pressing down on the Subject’s legs with both his/her arms.

At 1547:01 hours, Officer C activated his/her TASER for a third time. As depicted on Officer E’s BWV, Officer E grasped the Subject’s left forearm with both hands as Officer D grasped the Subject’s left wrist with his/her right hand and the Subject’s left elbow with his/her left hand. The Subject was observed clenching his hands and pulling his arms away from officers. Officer B was observed placing his/her left forearm on the middle of the Subject’s back. Officer C was heard warning the Subject, “*Stop it.*” At this

point, Officer C placed the TASER against the Subject's left shoulder and activated it. Simultaneously, Officer C placed his/her hand near the Subject's left elbow near Officer D's left hand. Officer C advised the Subject's left arm became less resistant as the TASER was activated and he/she believed the TASER was working. The Subject's arm posture changed dramatically, and officers were able to gain further control. Officer C advised he/she continued to assess after the TASER activation to determine if officers had placed the Subject into custody at this point, but they had not.

At 1547:08 hours, Officer C activated his/her TASER for a fourth time. Officer C said he/she could hear the Subject say he was going to comply, but his actions were not showing that. According to Officer C, it appeared that officers had control of the Subject's left arm, but he was able to lift his right shoulder off the ground. As depicted on Officer D's BWV, Officer D grasped the Subject's left wrist with both hands as Officer B was observed with his/her left knee on the middle of the Subject's back. As observed on Officer E's BWV, he/she was standing off to the side of the Subject as Officer A was laying on the ground near the Subject's legs. Officer B was observed grasping the Subject's right hand with his/her left hand while simultaneously grasping the Subject's right forearm with his/her right hand. The Subject was observed pulling his arms away from officers when Officer C activated his/her TASER. Officer C ordered, "*Stop it. Don't resist.*" Officer C made direct contact with the Subject's upper back and once again believed it was effective. He/she believed it allowed officers the ability to gain further control. After continuing to assess, Officer C felt the TASER was again the most effective available tool to use in his/her effort to control the Subject. As soon as the TASER had completed its activation cycle, the Subject again actively resisted officers.

At 1547:14 hours, Officer C activated his/her TASER for a fifth time. He/she observed the Subject pull his arms away from officers and did not allow the officers to handcuff his hands. Officer C commanded, "*Stop resisting.*" Officer C placed the TASER against the Subject's right shoulder blade and activated it.

As depicted on Officer E's BWV, Officer B was observed holding the Subject's right wrist with both hands. Officer E was observed holding a set of handcuffs in his/her right hand as he/she gripped the Subject's right hand with his/her left hand. Officer E then handcuffed the Subject's right wrist and pulled his right arm toward his back with the assistance of Officer B. At 1547:27 hours, as observed on Officer D's BWV, the Subject was depicted resisting officers by grabbing onto Officer E's thumb.

Officer D grasped the Subject's left wrist with both hands as Officer A continued to control his legs with both arms.

Officer C advised he/she could see that the TASER was effective, and it allowed officers to gain further control. Officer C advised the Subject was still not in custody at this point in the incident. He/she further advised that based on the totality of the situation, the TASER was the most effective force option for this scenario. It was working and allowed officers to gain further control of the Subject each time it was successfully used.

Officer C ordered, *“Do not move. If not, I’m going to tase you again. Stop it. Stop resisting.”*

At 1547:34 hours, Officer C activated his/her TASER for a sixth time. According to Officer C, he/she observed the Subject tense up and attempted to prevent officers from connecting the handcuffs together to take him into custody. As he/she observed the Subject pulling his arms apart, he/she placed the TASER against the Subject’s left shoulder blade and activated it for the last time. As depicted on Officer D’s BWV, during the TASER activation, Officer D rested his/her knee on the small of the Subject’s back to keep him from struggling and was able to place another set of handcuffs on the Subject’s left wrist. Officer D was then able to connect both sets of handcuffs together. Officer C advised he/she then assessed again and confirmed that the Subject was handcuffed and that officers were okay. Officer C stated the TASER was working and it was the most effective option available for this use of force.

Force Investigation Division detectives determined Officer C warned the Subject he/she was going to use the TASER a total of 16 times throughout the incident.

At 1548:23 hours, Officer C placed an HRD on the Subject’s ankles. According to Officer C, he/she initially placed the HRD on the Subject’s ankles to minimize his chance of kicking officers.

At 1548:59 hours, Officer D’s BWV captured him/her move the HRD from the Subject’s ankles to his knees. He/she then picked up a police baton and knife from the roadway as he/she walked back toward Officers B and C. Officer D suggested to Officer B that the Subject be placed on his side. At 1549:42 hours, Officer B positioned the Subject into a seated position after he had been face-down for 43 seconds. Officer B explained that he/she needed to catch his/her breath before placing the Subject into the recovery position. Officer B advised throughout the whole process, he/she observed the Subject’s chest rise and the Subject was able to communicate.

Officer C advised before moving the Subject into a recovery position, he/she needed to catch his/her breath and assess the situation to confirm the Subject was being controlled by officers and no longer a threat.

At 1549:08 hours, Sergeant A arrived at scene. He/she exited his/her police vehicle and walked to the location of the incident. During his/her investigation at scene, Sergeant A’s BWV captured the Los Angeles Fire Department (LAFD) arriving at 1550:44 hours. Sergeant A advised the FF/EMTs (firefighter/ emergency medical technician) that the Subject would need the assistance of paramedics due to the Subject being tased.

Sergeant A conducted his/her initial investigation and retrieved Officer C’s TASER and expended darts believing he/she was conducting a NCUOF incident.

The Firefighter/Emergency Medical Technicians assessed and initially treated the Subject for the deployment of the TASER. At 1556:33 hours, Firefighter/Paramedics arrived and took over medical treatment of the Subject.

At 1556:42 hours, Police Officers F and G arrived at scene. Officer F positioned their police vehicle in the middle of the roadway just east of the use of force location. At 1600:00 hours, as observed on Officer G’s BWV, the Subject was wheeled to the rear of the ambulance on a gurney. Firefighter/ Paramedics administered medical treatment at scene until 1617:06 hours when they transported the Subject to the hospital. Officer G rode in the RA and Officer F followed behind. Firefighter/Paramedics continued medical treatment until they arrived at the hospital at 1624:44 hours.

During his treatment at the hospital, it was noted that the Subject was pulseless at the following times: 1920, 2007, 2010, and 2012 hours. The treating physician pronounced the Subject’s death at 2015 hours.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer B	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	Yes	Yes

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). Based on the BOPC’s review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found the tactics of Officers A, B, C, D and E to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officer B’s drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

The BOPC found Officer C's less-lethal use of force to be Out of Policy.

E. Lethal Use of Force

The BOPC found Officers B and C's lethal use of force to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and Subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in

circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the Subject;

- Whether the subject was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the Subject to escape;
- The conduct of the Subject being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus Subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable

officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a Subject.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a Subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious

Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the Subject leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

Detention

- While conducting a traffic stop, Officer A heard the sound of a traffic collision nearby and released the motorist with a verbal warning. Upon driving towards the scene of the traffic collision, Officer A was directed by individuals involved in the traffic collision that the Subject fled the traffic scene and was now standing in the roadway. Officer A approached the Subject and directed him to move to the sidewalk. Officer A formulated the opinion, based on his/her training and experience that the Subject may be under the influence. Based on the totality of the circumstances, Officer A had reasonable suspicion to detain the Subject.

A. Tactics

• Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a Subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment

- **Other Resources**
- **Lines of Communication**

Tactical de-escalation does not require that an officer compromise his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning and Assessment – Officers C and B had worked together approximately two times prior. At the beginning of their shift, they discussed tactical concepts, including contact and cover roles and less-lethal options. Officers D and E have been partners for approximately six years and routinely discuss tactics, including respective roles and foot pursuit concepts.

Officer A was working as a motor officer and conducting a traffic stop when he/she heard a traffic collision. Officer A responded to the traffic collision and made the determination that the Subject was involved. Officer A then directed the Subject to the sidewalk and requested an additional unit to assist with his/her investigation. Officer A additionally noticed the distressed state that the Subject was in and requested an RA to respond.

When Officers C and B arrived at the traffic collision, they were alerted by citizens that Officer A may need assistance. Officers C and B responded to Officer A's location.

Time and Redeployment/Containment – When Officer A encountered the Subject, he/she instructed the Subject to sit on the ground. Officer A noted this was a de-escalation technique used in order to provide him/her more time for additional units to arrive and in case the Subject decided to flee the scene.

Other Resources – Upon making contact with the Subject, Officer A broadcast a request for an additional unit. During the UOF, Officer B broadcast that officers needed help. When Officer C believed that the officers' efforts to take the Subject into custody were ineffective, he/she decided to deploy and utilize his/her TASER to overcome his resistance.

Lines of Communication – Upon making contact with the Subject, Officer A continually verbalized with the Subject while waiting for an additional unit. When the Subject stood up, Officer A provided numerous commands for the Subject to stay at the location; however, the Subject fled. When Officer A made contact with the Subject in the street, he/she continued to verbally direct the Subject to comply. During the UOF, Officer C provided multiple less-lethal warnings to the Subject. Before Officer C deployed the TASER, he/she alerted other officers that he/she was going to do so.

During its review of this incident, the BOPC noted the following tactical considerations:

- **Required Equipment – TASER**

During this incident, Officer B's TASER was in his/her police vehicle, not on his/her person.

The BOPC noted that the UOFRB assessed Officer B's decision not to carry his/her TASER on his/her person. The UOFRB noted that according to Officer B, he/she left his/her TASER in his/her police vehicle due to the belief that he/she was going to be the designated cover officer. Per Officer B, he/she did not feel it was necessary to have both his/her TASER and service pistol on his/her person in this designated role. The UOFRB noted that uniformed officers assigned to field duties are required to wear a TASER and there was nothing to indicate Officer B was granted a variance from this rule. The UOFRB opined that by not wearing his/her TASER, Officer B limited the tools readily available to him/her to de-escalate a situation without the need to resort to greater levels of force.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer B were a substantial deviation, without justification, from Department-approved tactical training.

- **Code Six**

Upon arrival to the location, Officers C and B did not advise CD they were Code Six (on scene) over the police radio. Officer C stated that he/she utilized the Mobile Digital Computer (MDC) to update their status; however, per the incident recall, the officers did not go Code Six. Approximately two minutes and three seconds later, Officer B advised CD that the officers needed help and CD directed officers to their location.

The BOPC noted that the UOFRB assessed Officers C and B's adherence to the Code Six policy; the UOFRB members were not unanimous in their findings. The UOFRB Majority noted that the officers first arrived at scene at the location of the traffic collision. The officers were then alerted by citizens that the Subject was fleeing. The Majority noted that although the officers did advise CD that they were responding to an additional unit request, there was no record that they placed themselves Code Six upon arrival. The Majority opined that the officers had a sufficient amount of time to advise CD of their Code Six status before assisting Officer A and making contact with the Subject.

The Majority noted the Code Six policy's intent is to advise CD of an officer's location in the event assistance is needed. While Officer A was already at scene, the Majority noted Officers C and B should have advised other units that they were Code Six and assisting Officer A in attempting to take the Subject into custody. By not doing so, the Majority opined that Officers C and B placed themselves at a significant tactical disadvantage.

The Minority disagreed with the Majority. The Minority noted that Officer C stated he/she utilized his/her MDC to alert CD that he/she and his/her partner were Code Six. The Minority emphasized that the use of the MDC is often encouraged to minimize radio traffic in the event that an officer needs to broadcast pertinent information. Additionally, the Minority noted the MDC is not always reliable and not all commands are successfully sent. Therefore, while there was no record that Officers C and B went Code Six per BWV or the Incident Recall, there was also no evidence that Officer C did not use the keyboard to place him/herself Code Six. Therefore, it would be unreasonable to believe they failed to attempt to do so based on Officer C's statements. The Minority recognized the efforts to place themselves Code Six and opined that those efforts were sufficient to comply with the policy.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers C and B were a substantial deviation, with justification, from Department-approved tactical training.

- **Searches of Arrestees/ Handcuffing Protocols**

The Subject's waistband was not searched after the handcuffs and HRD were applied, nor was he/she searched before being placed in the RA.

The BOPC noted that the UOFRB assessed Officers A, B, C, D, and E's adherence to the searching policy. The UOFRB noted that after Officers D and E applied the handcuffs and Officer C and D applied the HRD, the Subject's waistband was not searched. The Subject was subsequently placed into the recovery position by Officer B and had still not been searched by any officer at scene. The UOFRB noted that after the RA arrived at scene, the Subject was placed on a gurney and remained unsearched. The UOFRB noted that Officer B articulated the possibility of a weapon being present, which further exacerbated the necessity for the officers to conduct a search. The UOFRB further noted that while Officers E and D were the officers involved in handcuffing the Subject, all involved officers had a responsibility for ensuring that a pat-down search of the Subject was conducted. The UOFRB opined that by failing to conduct a search, the officers unnecessarily placed all involved personnel in a potentially dangerous situation.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A, B, C, D, and E, were a substantial deviation, without justification, from Department-approved tactical training.

- **Hobble Restraint Device**

The BOPC considered the delay of approximately 43 seconds in placing the Subject into a seated or recovery position following the application of the HRD.

Department training establishes the following regarding the positioning of a person following the application of an HRD:

Once the HRD is secured on the person, officers shall immediately search the waistband area and as soon as practical place the individual in an upright seated position or on his or her left side (left lateral recumbent position).

Three members of the BOPC determined that the delay in placing the Subject into an approved position following the application of the HRD represented an unjustified and substantial deviation from approved Department tactical training. Two members of the BOPC found that the delay represented a deviation from training, but that the deviation was not substantial.

The BOPC also considered the following additional debriefing topics:

- **Backup Request** – the Subject stood up and fled on foot, refusing to listen to the commands being given by Officer A to remain seated. When the Subject fled, Officer A mounted his/her police motorcycle to follow him/her. Alternatively, Officer A should have broadcast a backup request prior to pursuing the Subject due to his uncooperative nature.
- **Maintaining Control of Equipment** – After his/her last TASER deployment, Officer C placed his/her TASER on the ground. To limit the possibility of suspects obtaining possession of police equipment, it is important for officers to maintain control of their equipment.
- **Uniform Standard** – The FID investigation revealed that Officer B had his/her Oleoresin Capsicum (OC) Spray in his/her left front pant pocket and not in the designated holder on his/her duty belt. Per Department policy, officers shall have their OC Spray on their duty belt in the approved carrier.

Command and Control

- Sergeant A arrived on scene after the Subject had been handcuffed. He/she was the first supervisor at scene and assumed command and control of the incident. Sergeant A was advised a use of force incident had occurred and identified the officers involved in the incident. Sergeant A ensured the Subject received medical attention due to the use of the TASER and later directed Officers G and F to respond with the Subject to the hospital. Sergeant A initiated a Non-Categorical Use of Force (NCUOF) investigation by ensuring the canvassing of the area for witnesses and evidence, evidence preservation, and photographing the scene and officers involved. Sergeant A made notifications of the NCUOF to Lieutenant A, Watch Commander, Pacific Patrol Division. Sergeant A conducted a follow up investigation to the hospital where the Subject had been transported and obtained a status on him/her. At approximately 1655 hours, Sergeant A notified Lieutenant A that the Subject had been intubated and sedated.

At approximately 1700 hours, Lieutenant A directed the separation and monitoring of all involved officers, due to the possibility of the incident being a Categorical Use of

Force (CUOF). At approximately 1725 hours, Lieutenant A contacted the Department Operations Center (DOC) and made notification of the incident. At approximately 1750 hours, Lieutenant A was contacted by FID and provided FID with a brief of the incident. Force Investigation Division detectives responded to Pacific Community Police Station to assess the incident. At 2015 hours, while at Pacific Station investigating a Law Enforcement Related Injury (LERI), FID was updated that the Subject had been pronounced deceased at the hospital. FID then notified the DOC of the In-Custody Death (ICD), and notifications were made.

The BOPC determined that the overall actions of Sergeant A and Lieutenant A were consistent with Department training and the BOPC's expectations of supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that actions by Officers A, B, C, D, and E substantially deviated, without justification, from Department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this incident, areas were identified where improvements should be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

B. Drawing and Exhibiting

- **Officer B:** Upon arrival to Officer A's location, Officer B exited his/her police vehicle, unholstered his/her service pistol and held it in a low ready position. Based on the comments of the call and Officer B's observations, he/she believed the Subject was a felony suspect and could possibly be in possession of a weapon. Once it appeared that the Subject was complying and appeared to be unarmed, Officer B holstered his/her service pistol.

The BOPC noted that the UOFRB assessed Officer B's drawing and exhibiting of his/her service pistol. Based on the Subject's actions and the information known at the time, the UOFRB felt it was reasonable for Officer B to believe the situation may possibly escalate to the use of deadly force.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified. Therefore, the BOPC found Officer B's Drawing/Exhibiting to be In-Policy, No Further Action.

C. Non-Lethal Use of Force

Officer A – Firm Grips, Physical Force, and Bodyweight

Officer B – Firm Grips, Physical Force, and Bodyweight

Officer C – Firm Grips, Physical Force, and Bodyweight

Officer D – Firm Grips, Physical Force, and Bodyweight

Officer E – Firm Grips, Physical Force, and Bodyweight

As Officers C and B approached the Subject, Officer A could be heard ordering the Subject to turn onto his/her stomach. The Subject attempted to stand up but quickly sat back down as Officers C and B reached for his hands. Officer C approached on the Subject's left side as Officer B approached on his right. Officer C grasped the Subject's left hand and wrist with both hands. Officer C ordered the Subject to stay down. Officer B attempted to grasp the Subject's right arm, but the Subject resisted and grabbed onto Officer B's right wrist. Officer B ordered the Subject to release his/her arm as Officer A grasped the Subject's left wrist with his/her left hand.

The Subject managed to stand up and took approximately four steps forward before falling back to the ground. Officers B and C were observed standing on opposite sides of the Subject as they grasped for his hands. The Subject is heard stating "please, please," as officers continued to verbalize with him. Officer C ordered the Subject to turn onto his stomach and to stop resisting.

Officer B continued to utilize physical force and body weight in an attempt to control the Subject. He/she continually moved his/her arms and hands to avoid being bitten by the Subject. At 1545:59 hours, Officer B can be seen on his/her BWV attempting to grasp the Subject's right arm.

Officer A continued to verbalize with the Subject and attempted to de-escalate by calling the Subject by his first name.

During a review of BWV, FID detectives noted nine separate instances where Officers B or C made contact near the Subject's neck. Both officers advised FID that they did not apply pressure to the Subject's neck.

At 1545:54 hours, on Officer C's BWV, Officer B was observed with his/her right forearm near the left side of the Subject's neck (First neck contact).

From 1545:55 to 1545:57 hours, on Officer B's BWV, Officer C's right hand can be observed on the front of the Subject's neck.

At 1545:58 hours, as observed on Officer B's BWV, Officer A positioned him/herself on the ground near the Subject's knees. Officer A was observed lying down on the pavement as he/she tucked the Subject's left leg between his/her right bicep and right chest. Officer A placed his/her left arm over the Subject's front waist and grasped the Subject's left wrist. Simultaneously, Officer B placed his/her knee on

the pavement directly in front of the Subject's head and left shoulder. Officer B had his/her left hand on the Subject's left chest and his/her right hand on the Subject's right collar bone. Officer C was crouched as he/she grasped the Subject's right arm with his/her left hand while placing his/her right hand on the Subject's stomach. At this point, the Subject was on his back as officers appeared to struggle with him on the pavement. The Subject yelled out, "They are trying to kill me. Kilo tried to kill me." Officer C verbally warned the Subject to stop, or he was going to be tased. Simultaneously, Officer B broadcast an Officer Needs Help call.

At 1546:00 hours, on Officer C's BWV, Officer B was observed with the palm of his/her right hand on the right side of the Subject's jaw (Third neck contact). Officer B's thumb appeared to be near the Subject's neck.

Officer B further advised the Subject's neck/throat was lower than where his/her thumb was placed, and he/she did not apply any downward pressure.

At 1546:04 hours, on Officer C's BWV, Officer B was observed with his/her hand around the front of the Subject's neck (Fourth neck contact).

Officer B advised he/she did not apply pressure on the Subject's neck but tried to keep him on the ground.

At 1546:12 hours, on Officer C's BWV, Officer B was observed with the edge of his/her hand near the front of the Subject's neck (Fifth neck contact).

Officer B explained that due to the placement of his/her fingers and the space between his/her wrist and the Subject's neck, his/her hand did not restrict the Subject's airway or apply any pressure to the neck.

At 1546:19 hours, after giving the Subject multiple warnings to stop or else he was going to be tased, Officer C unholstered his/her TASER. The Subject again yelled that "Kilo" was trying to kill him, and that the officers were actors. Officer C said he/she gave the Subject multiple commands to stop resisting and to put his hands behind his/her back.

Between 1546:20 and 1546:36 hours, as observed on Officer C's BWV, Officer B can be seen with his/her right elbow along the left side of the Subject's jaw line and his/her right forearm across his chest (Sixth and Seventh neck contact). Officer C held the TASER in his/her left hand and used his/her right hand to grasp the Subject's right hand. The Subject's breathing appeared to be labored and he stated, "I can't." At 1546:32 hours, Officer C stated, "Watch - - watch your elbow, partner." The Subject wrestled his right hand away from Officer C's grasp and used his right hand to move Officer B's right elbow away from his jawline. The Subject then stated, "They trying to George Floyd me. They trying to George Floyd me."

During this time, Officer B was seen with his/her right elbow along the left side of the Subject's jaw line and his/her right forearm across his chest. Officer B reiterated he/she never applied pressure to the Subject's neck or restricted his airway.

At 1546:36 hours, Officers D and E arrived at scene. Officer D positioned their police vehicle in the middle of the roadway just east of the officers' position with the Subject. Both Officers D and E exited their police vehicle and approached the officers and the Subject. As he/she exited his/her police vehicle, Officer D observed the Subject not obeying officers' commands and resisting the officers' attempts to place his hands behind his back. Officer E commanded the Subject to stop resisting.

At 1546:41 hours, on Officer C's BWV, Officer B was observed placing the Subject's arm around the front of the Subject's neck (Eighth neck contact).

Officer B advised the technique does not restrict blood to the brain and it is not a deadly force technique.

At 1546:49 hours, on Officer C's BWV, Officer B was observed with his/her forearm near the Subject's left neck (Ninth neck contact).

Officer B said he/she never intended to place any pressure on his neck or restrict his airway.

At approximately 1546:51 hours, Officer C warned the Subject, "*Stop it or I'm going to tase you,*" and, "*turn over or I'm going to tase you.*" Officer C also advised officers that he/she was going to activate his/her TASER. The Subject, actively resisting officers, was continually rolling, pushing, and grabbing at officers. The Subject was lying on the right side of his body and attempted to lift his torso off the pavement as Officer B grasped the Subject's right arm with his/her right hand. Officer A maintained a firm grip and bodyweight on the Subject's left thigh and left shin. Officer E grasped the Subject's left bicep with his/her left hand and placed his/her right hand on the Subject's left shoulder. The Subject attempted to forcibly get up and officers were trying to hold him down until additional officers arrived. As depicted on Officer D's BWV, he/she stood behind Officer A as he/she gripped the Subject's left wrist with his/her left hand. Officer D advised the Subject was struggling and refusing to obey commands.

Officer C advised he/she did not have a good grasp on the Subject and decided to try another tool. Officer C felt that using the TASER would give officers an opportunity to handcuff the Subject and prevent the incident from escalating any further. Consequently, he/she deployed the first of six TASER activations on the Subject (refer to the Less-Lethal Use of Force section for all TASER activations).

Officer D advised the Subject broke free from Officer C's attempt to detain him. Officer D heard the TASER deployed but didn't perceive it to have the desired effect.

At 1546:54 hours, Officer C activated his/her TASER for the second time. During this activation, he/she also transitioned to drive-stun mode. According to Officer C, he/she placed his/her TASER against the Subject's right shoulder after the darts appeared to have no effect on the Subject. The Subject continued to refuse to comply and resisted. He was forcefully pulling away from officers and it appeared he was trying to get up. Officer C felt the Subject's shoulder relax and officers began to gain control of an arm. Officer C advised as soon as the TASER deactivated, the Subject once again began fighting and actively resisting officers.

At 1546:56 hours, the Subject had his back to the officers. Officer B held the Subject's right forearm with his/her right hand while his/her left hand was placed on the Subject's upper back. Officer E's right hand gripped the Subject's left shoulder as his/her left hand grasped his left forearm. Officer D was also holding onto the Subject's left wrist with both his/her right and left hand.

During this time, Officer A was lying on the ground pressing down on the Subject's legs with both his arms.

At 1547:01 hours, Officer C activated his/her TASER for a third time. Officer E grasped the Subject's left forearm with both hands as Officer D grasped the Subject's left wrist with his/her right hand and the Subject's left elbow with his/her left hand. The Subject was observed clenching his hands and pulling his arms away from officers. Officer B was observed placing his/her left forearm on the middle of the Subject's back. Officer C was heard warning the Subject, "*Stop it.*" At this point, Officer C placed the TASER against the Subject's left shoulder and activated it. Simultaneously, Officer C placed his/her hand near the Subject's left elbow near Officer D's left hand. Officer C advised the Subject's left arm became less resistant as the TASER was activated and he/she believed the TASER was working. The Subject's arm posture changed dramatically, and officers were able to gain further control. Officer C advised he/she continued to assess after the TASER activation to determine if officers had placed the Subject into custody at this point, but they had not.

At 1547:08 hours, Officer C activated his/her TASER for a fourth time. Officer C said he/she could hear the Subject say he was going to comply, but he continued to resist. According to Officer C, it appeared that officers had control of the Subject's left arm, but he was able to lift his right shoulder off the ground. Officer D grasped the Subject's left wrist with both hands as Officer B was observed with his/her left knee on the middle of the Subject's back. He/she was standing off to the side of the Subject as Officer A was laying on the ground near the Subject's legs. Officer B was observed grasping the Subject's right hand with his/her left hand while simultaneously grasping the Subject's right forearm with his/her right hand. The Subject was observed pulling his arms away from officers when Officer C activated his/her TASER. Officer C ordered, "*Stop it. Don't resist.*" Officer C made direct contact with the Subject's upper back and once again believed it was effective. He/she believed it allowed officers the ability to gain further control. As soon as the

TASER had completed its activation cycle, the Subject again actively resisted officers.

At 1547:14 hours, Officer C activated his/her TASER for a fifth time. Officer B was observed holding the Subject's right wrist with both hands. Officer E was observed holding a set of handcuffs in his/her right hand as he/she gripped the Subject's right hand with his/her left hand. Officer E then handcuffed the Subject's right wrist and pulled his right arm toward his back with the assistance of Officer B. At 1547:27 hours, the Subject continued resisting officers and grabbed onto Officer E's thumb. Officer D grasped the Subject's left wrist with both hands as Officer A continued to control his legs with both arms.

At 1547:34 hours, Officer C activated his/her TASER for a sixth time. According to Officer C, he/she observed the Subject tense up and attempted to prevent officers from connecting the handcuffs together to take him into custody. As he/she observed the Subject pulling his arms away from one another, Officer C placed the TASER against the Subject's left shoulder blade and activated it again. During the TASER activation, Officer D rested his/her knee on the small of the Subject's back to keep him from struggling and was able to place another set of handcuffs on the Subject's left wrist. Officer D was then able to connect both sets of handcuffs together.

The BOPC noted that the UOFRB conducted a review and analysis of the investigation and circumstances of the incident in determining the reasonableness of the non-lethal force used by Officers A, B, C, D, and E.

As it pertains to Officer B, the UOFRB noted that he/she used firm grips, physical force, and bodyweight to control the Subject. The UOFRB evaluated each of Officer B's eight contacts to the neck and determined that his/her actions did not violate Department policy as he/she did not apply bilateral pressure capable of restricting blood flow to the carotid arteries. While the UOFRB evaluated each neck contact individually, they thoroughly discussed and deliberated the neck contacts, which occurred between 1546:20 to 1546:36 hours. The UOFRB determined that Officer B only applied pressure to the right side of the Subject's neck and did not apply bilateral pressure, which would have been considered deadly force. The UOFRB opined that throughout the incident Officer B utilized academy approved techniques; lateral head displacement and the arm cross face roll over to take the Subject into custody. The UOFRB also recognized that Officer B was an arrest and control instructor at the LAPD Academy with previous experience teaching and practical experience using these techniques. As such, the UOFRB recommended that while officers should still avoid contact with a Subject's neck, based on the Subject's level of resistance, the UOFRB opined that the force applied by Officer B was proportional and objectively reasonable.

As it pertains to Officer C, the UOFRB opined the single contact to the Subject's neck by Officer C was direct pressure to the front of his neck and should be assessed as a Lethal Use of Force.

Officers C, A, D, and E utilized firm grips, physical force, and body weight to control the Subject. Based on the Subject's level of resistance, the UOFRB opined that the force applied by Officers C, A, D, and E were objectively reasonable and proportional.

In the Chief's review of this incident, as it pertains to Officer B's sixth and seventh neck contacts, the Chief determined that Officer B applied direct pressure to the Subject's trachea or windpipe and should be assessed as a Lethal Use of Force.

Based on the totality of circumstances the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, and E would believe the non-lethal force used during this incident was objectively reasonable and proportional. The BOPC found the use of Non-Lethal Force by Officers A, B, C, D and E to be In Policy, No Further Action.

D. Less-Lethal Use of Force

- **TASER**

Officer C – TASER 7, two discharges in probe mode from an approximate distance of two to three feet and four discharges in drive-stun mode. Six TASER activations in total.

- The first cartridge was discharged for duration of 1.58 seconds.
- One second later, the second cartridge was discharged for duration of 2.7 seconds and drive-stun mode was utilized for 2.24 seconds.
- Seven seconds later, the TASER was discharged a third time in drive-stun mode for a duration of 4.94 seconds.
- Seven seconds later, the TASER was discharged a fourth time in drive-stun mode for a duration of 4.94 seconds.
- Six seconds later, the TASER was discharged a fifth time in drive-stun mode for a duration of 4.99 seconds.
- 20 seconds later, the TASER was discharged a sixth time in drive-stun mode for a duration of 4.99 seconds.

First Activation (Probe mode)

While attempting to get the Subject into custody, Officer C advised he/she did not have a good grasp on the Subject and decided to try another tool. According to Officer C, he/she felt using the TASER would give the officers an opportunity to handcuff the Subject and prevent the incident from escalating further. In response, Officer C targeted the Subject's chest and abdominal area from approximately two to

three feet and deployed a set of TASER probes. According to Officer C, the probes did not seem to make contact and were ineffective.

Second Activation (Probe and drive-stun mode)

Officer C observed that the Subject was still actively, forcefully pulling away from the officers and it appeared to Officer C that he was still violently resisting. In response, Officer C targeted the Subject's chest and abdominal area from approximately two to three feet and deployed a second set of TASER probes. During this activation, Officer C transitioned to drive-stun mode. Officer C placed his/her TASER against the Subject's right shoulder after the darts appeared to have no effect on the Subject who continued to resist the officers. Officer C then felt the Subject's shoulder relax and the officers began to gain control of the Subject's arm. Officer C advised as soon as the TASER deactivated, the Subject once again began fighting and actively resisting officers.

Third Activation (Drive-stun mode)

Officer C observed that the Subject was still actively resisting and attempting to pull away from the officers. Officer C targeted the Subject's left shoulder and discharged the TASER in drive-stun mode. According to Officer C, the Subject's left arm became less resistant as the TASER was activated and he/she believed the TASER was working. The Subject's arm posture changed dramatically, and the officers were able to gain further control.

Fourth Activation (Drive-stun mode)

Officer C was able to hear the Subject saying he was going to comply, but he continued to actively resist. At this time, it appeared that the officers had control of the Subject's left arm, but he was able to lift his right shoulder off the ground. Prior to deploying the TASER, Officer C ordered the Subject to stop resisting before targeting the Subject's upper back and discharged the TASER in drive-stun mode. According to Officer C, he/she believed it was effective due to the Subject's response and compliance.

Fifth Activation (Drive-stun mode)

Officer C again observed the Subject was actively resisting the officers. Officer C observed the Subject pull his arms away from the officers and did not allow the officers to handcuff his hands. In response, Officer C targeted the Subject's right shoulder blade and discharged the TASER in drive-stun mode.

Sixth Activation (Drive-stun mode)

Officer C believed the TASER was effective, and it allowed the officers to gain further control. However, Officer C advised that the Subject was still not in custody

at this point in the incident. Officer C then observed the Subject tense up and attempted to prevent the officers from connecting the handcuffs together to take him into custody. In response, Officer C targeted the Subject's left shoulder blade and discharged the TASER in drive-stun mode. According to Officer C, the TASER was effective, and Officers D and E were able to connect the handcuffs.

The BOPC noted that the UOFRB evaluated Officer C's use of less-lethal force. As it pertains to TASER deployment one, the UOFRB noted that Officer C, B, and A had been physically fighting with the Subject for approximately one minute and five seconds and still had no success into getting him into custody. The UOFRB noted that Officer C believed that using the TASER would allow the officers an opportunity to handcuff the Subject and prevent the incident from escalating any further. Officer C articulated that he/she believed he/she was out of force options and that the TASER would be most effective due to the level of resistance and threat the Subject posed. The UOFRB noted that Officer C then discharged the TASER in probe mode; however, the darts were ineffective.

As it pertains to TASER deployment two, the UOFRB noted that the Subject was still on his side and actively and forcefully pulling away from the officers. At this time, Officer C believed that the Subject was trying to escape, and the officers were still not able to gain control of the Subject. The UOFRB noted that Officer C discharged the TASER for a second time in probe mode and then transitioned into drive-stun mode when he/she recognized the darts were ineffective. The UOFRB opined that C was able to recognize the ineffective deployment of the TASER in probe mode and transfer to an option that allowed the officers to begin gaining control of the Subject. The UOFRB recognized that when the TASER deactivated, the Subject once again began fighting and actively resisting officers.

As it pertains to TASER deployment three, the UOFRB noted that the Subject continued to actively resist the officers and therefore, Officer C discharged the TASER for a third time in drive-stun mode. The UOFRB opined that while the Subject was now on his stomach, he was still actively resisting, and the officers were still unable to gain control of his upper body. The UOFRB recognized that the Subject still posed an immediate threat. Therefore, based upon the Subject's actions, the UOFRB opined that the Subject was violently resisting and posed an immediate threat to the officers' safety regarding TASER deployments one through three.

As it pertains to TASER discharges four through six, the UOFRB was not unanimous in their findings. The UOFRB Majority noted that during these three discharges, the Subject was still pulling away from the officers; however, did not present a threat to the officers. The Majority noted that it appeared as if the Subject was beginning to comply with the officers' orders and as a result the officers were able to gain control of the Subject's upper body and eventually place him into handcuffs. The Majority noted that Officer C articulated that he/she was utilizing the TASER in drive-stun mode for pain compliance during deployments four through six; however, this does

not align with Department policy. Overall, the Majority noted that they would have preferred Officer C reassess the situation and switch to a different force option after the third TASER deployment. The Majority opined that while the Subject was still resisting, he was face down and did not pose an immediate threat of violence or physical harm to the officers.

The Minority disagreed with the Majority. The UOFRB Minority noted that the Subject continually resisted throughout this incident and therefore posed an immediate threat to the officers. The Minority noted that the Subject was suspected of a felony crime and the officers were fighting with the Subject in the middle of the street, which emphasized the need to get the Subject into custody as quickly as possible. As it relates to TASER discharge four, the Minority noted that while the Subject was on his stomach, the officers still did not have control of his upper body. Officer B could still be observed attempting to gain control of the Subject's right hand as the Subject attempted to raise his torso off the ground. As it relates to TASER discharge five, the Minority noted that the Subject was actively trying to place his right hand under his chest and was still resisting the officers' attempts to take him into custody. Finally, regarding TASER discharge six, while the Minority noted that the officers were able to successfully apply the right handcuff to the Subject's hand and during this TASER deployment successfully apply the left handcuff, Officer C's perception should be accounted for. The Minority opined that Officer C's field of view of the handcuffing process was impeded by other officers and therefore it was Officer C's perception that the Subject still displayed a high level of resistance and posed an immediate threat. The appropriate standard is one of objective reasonableness of an officer with similar training and experience, from the information available to the officer at the time. Based on the totality of the incident, the Minority opined from the information available to the involved officer who was actively engaged, Officer C's perception and decision to use less-lethal force (discharges four through six) was objectively reasonable to an officer of similar training and experience.

In the Chief's review of this incident, he noted the time between the first TASER activation and the last was approximately 41 seconds. As it pertains to TASER activations one through four, the Chief noted the Subject was violently resisting the officers' attempts to take him into custody. He noted the use of the TASER to be effective in assisting officers to take control of the Subject. As it pertains to TASER activation five and six, the Chief determined the officers had sufficient control of the Subject and that his level of resistance, while still ongoing, did not justify the use of a TASER as a reasonable force option.

Based on the totality of the circumstances, the Chief determined that an officer with similar training and experience as Officer C, in the same situation, would reasonably believe that the use of less-lethal force (TASER discharges one through four) was proportional and objectively reasonable. Additionally, the Chief determined that an officer with similar training and experience as Officer C, in the same situation, would

reasonably believe that the use of less-lethal force (discharges five through six) was not proportional or objectively reasonable.

In its evaluation of the less-lethal force used by Officer C, the BOPC considered that Department policy and training establishes the following regarding an officer's authority to use a TASER:

*An officer may use the Taser as a reasonable force option to control a suspect **when the suspect poses an immediate threat to the safety of the officer or others.** (Emphasis in original.)*

Less-Lethal force options shall not be used on a suspect or subject who is passively resisting or merely failing to comply with commands. Verbal threats of violence or mere non-compliance do not alone justify the use of less-lethal force. An officer's decision to draw, exhibit, or use the TASER should be based on the tactical situation and/or the suspect's actions. In addition, generally, an officer shall give a verbal warning prior to using such force when feasible.

Note: *When used in drive-stun mode only, the TASER causes localized pain to the suspect and does not cause NMI on the same scale as "probe-mode" or the "three-point or four-point" drive-stun technique, and shall not be used on a suspect who is merely non-compliant.*

One member of the BOPC concurred with the Chief's findings regarding Officer C's use of less-lethal force; however, the majority of the BOPC determined that throughout the time when the TASER was used by Officer C, the Subject was on the ground and was being physically restrained by four officers. During this period of time, the Subject appeared to physically resist (with diminishing degrees of success) the officers' efforts to place handcuffs on his wrists by attempting to pull his arms away from them and by lifting his torso. While this active resistance by the Subject complicated the officers' efforts to handcuff him—and warranted the use of non-lethal force against him—the majority of the BOPC determined that the available evidence did not support a determination that it was objectively reasonable for Officer C to believe that the Subject's actions "posed an immediate threat to the safety of the officers or others." Notably, there was no indication that the Subject was armed with any kind of weapon and his actions were not assaultive toward the officers. Accordingly, by a four-to-one vote, the BOPC adopted a finding of Out of Policy for Officer C's use of less-lethal force (all six TASER discharges).

E. Use of Lethal Force

- **Carotid Restraint/Choke Hold**

Officer C

According to Officer C, while attempting to take the Subject into custody, Officer C was trying to assist Officer B in taking control of the Subject's upper body. Officer C described the Subject as "fidgeting" and hard to control. During this time, Officer C's hand can be observed on the front of the Subject's neck.

During an interview with FID, Officer C was shown a frame-by-frame portion of Officer B's BWV, which showed the singular neck contact by Officer C. According to Officer C, he/she was unaware his/her hand had come in contact with the Subject's neck prior to watching Officer B's BWV. Officer C advised he/she did not intend to touch the Subject's neck, choke him, or in any way restrict the Subject's blood or oxygen supply. Officer C advised that this incident was not a deadly force situation and his/her only intention during that portion of the incident was to hold the Subject down. Officer C further advised that he/she never applied pressure to the Subject's neck.

The BOPC noted that the UOFRB evaluated Officer C's use of lethal force. Based on the available evidence, the UOFRB determined that although there was no evidence that C applied pressure to the sides of the Subject's neck, capable of creating a substantial risk of restricting blood flow that may have rendered him/her unconscious, it did appear Officer C inadvertently applied pressure to the Subject's trachea by utilizing a c-clamp. The UOFRB arrived at this determination by examining frame by frame, still shot evidence from the BWV footage to determine that Officer C had apparently applied direct force to the trachea. Although the UOFRB noted that this contact was without malice, they noted that there is no exception in Department policy for accidental contact, regardless of duration. The FID investigation determined the contact to be approximately two seconds and the UOFRB also noted that there was no evidence the Subject posed an imminent deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, in the same situation, would not reasonably believe that the use of deadly force was necessary, proportional, or objectively reasonable. Therefore, the BOPC found Officer C's Use of Lethal Force to be Out of Policy, Administrative Disapproval.

- **Officer B**

The BOPC noted that in the Chief's review of this incident, the Chief determined Officer B's sixth and seventh neck contacts were direct pressure to the Subject's trachea/windpipe and should be assessed as a Lethal Use of Force.

During a review of the BWV, Officer B can be seen with his/her right elbow along the left side of the Subject's jaw line and his/her right forearm across his chest (Sixth and Seventh neck contact). Officer C held the TASER in his/her left hand and used his/her right hand to grasp the Subject's right hand. The Subject's breathing appeared to be labored and he stated, *"I can't."* At 1546:32 hours, Officer C stated, *"Watch - - watch your elbow, partner."* The Subject wrestled his right hand away from Officer C's grasp and used his right hand to move Officer B's right elbow away from his jawline. The Subject then stated, *"They trying to George Floyd me. They trying to George Floyd me."*

During this time, Officer B was seen with his/her right elbow along the left side of the Subject's jaw line and his/her right forearm across his chest.

Officer B reiterated he/she never applied pressure to the Subject's neck or restricted his airway.

The BOPC considered that while the UOFRB determined that Officer B only applied pressure to the right side of the Subject's neck and did not apply bilateral pressure to his carotid or direct pressure to the Subject's trachea, the Chief determined Officer B's neck contacts (Sixth and Seventh) were direct pressure to the Subject's trachea/windpipe. The Chief noted that during Officer B's neck contacts (Sixth and Seventh), his/her arm was in a position to apply pressure that compromised the Subject's ability to breathe. Officer B's arm placement contributing to the Subject's restricted breathing was noted by the Subject's struggle to speak and Officer C advising Officer B to watch his/her elbow. In addition, the Chief noted there was no evidence the Subject posed an imminent deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, in the same situation, would not reasonably believe that the use of deadly force was necessary, proportional, or objectively reasonable. Therefore, the BOPC found Officer B's Use of Lethal Force to be Out of Policy, Administrative Disapproval.