

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

CATEGORICAL USE OF FORCE/CHOKE HOLD - 016-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No()
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Southwest	5/13/23		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 6 months
Officer B	3 years, 6 months

Reason for Police Contact

Southwest Patrol Division officers responded to an Assault with a Deadly Weapon (ADW) radio call. The officers attempted to detain the Subject, who resisted while being taken into custody. During the Use of Force (UOF), an officer contacted the front of the Subject's neck, resulting in a Categorical Use of Force (CUOF) investigation.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Male, 23 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 (FID) 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 (UOFRB) 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 March 21, 2023.

Incident Summary

On Friday, May 13, 2022, Victim A went to the Subject's residence in the City of Los Angeles. Upon his arrival, Victim A discovered that Subject A was not home. Victim A decided to wait at the residence for the Subject's return.

Victim A observed a bicycle that he loaned to the Subject lying in the front yard unsecured. Victim A was cognizant that the Subject had multiple bicycles stolen recently, causing him to become angry.

According to Victim A, when the Subject returned home, they argued over the aforementioned unsecured bicycle. Victim A stated that the argument escalated into a physical altercation. According to Victim A, the Subject picked up a scooter and threw it in his direction, striking his shin area.

Witness A was heard the Subject and Victim A arguing inside the Subject's residence. According to Witness A, the Subject asked Victim A to leave multiple times, but he did not comply.

Approximately 30 minutes later, the Subject and Victim A exited the Subject's residence and continued their argument in the front yard. Shortly thereafter, Witness A observed the Subject throwing objects and pushing Victim A. According to Witness A, the Subject repeatedly asked Victim A to leave his home, but he (Victim A) refused to do so.

According to Witness A, the Subject entered his residence and returned with a machete. Witness A observed the Subject swing the machete in Victim A's direction multiple times. Witness A believed that the Subject may have struck Victim A's back area with the machete, but she was uncertain.

At approximately 1546 hours, Witness heard someone yelling and threatening to kill another individual. Witness B observed the Subject and Victim A in the front yard of the Subject's residence. According to Witness B, the Subject was armed with a machete.

Witness B recognized the Subject, who had lived at the location for approximately six months and is known to cause problems. Witness B stated that the Subject has been the source of multiple radio calls.

According to Witness B, he observed the Subject push Victim A onto the ground. Victim A then picked up a bicycle and a scooter which he utilized as shields. As he did so, the Subject began swinging the machete in Victim A's direction. According to Witness B, the machete struck the bicycle. Witness B dialed 911 and reported the incident. A review of the 911 call determined that Witness B provided an incorrect address for the Subject's residence.

As Witness B was speaking with the Emergency Board Operator (EBO), the sound of two individuals, presumably the Subject and Victim A, could be heard in the background. Witness B advised the EBO that the Subject was trying to kill Victim A.

According to Victim A, the Subject did not produce a machete during this incident. Victim A denied using the bicycle as protection from the Subject.

According to Witness A, she left the location shortly after Witness B called 911 and did not witness the subsequent CUOF.

At 1552:08 hours, Communications Division (CD) broadcast, the incident as an "ADW suspect there now."

Although Witness B advised the EBO that the Subject was trying to kill Victim A, that information was not relayed to the responding units.

Police Officers A and B heard the radio call and advised CD that they would respond from Southwest Station. They responded to the location Code Three (with vehicle's emergency lights and siren activated).

According to Officer A, he/she was unable to log in on his/her Mobile Data Computer (MDC) and requested CD to voice the comments of the call over Southwest Division Frequency. Additionally, Officer A asked CD to contact the Person Reporting (PR) and inquire if the suspect was still at the location.

The Radio Telephone Operator (RTO) then verified that Officers A and B were Code Sam equipped with a 40-millimeter Less Lethal Launcher (40mm LLL) or beanbag shotgun).

Sergeant A advised CD that he/she was en route to the edged weapon radio call. He/she responded to the location Code Three.

Sergeant B advised CD that he/she was also en route to the call. He/she also responded to the location Code Three.

As he waited for officers to arrive at scene, Witness B informed the Subject that he called the police. According to Witness B, the Subject stopped his assault on Victim A and left the location.

At 1555:21 hours, the EBO called Witness B and inquired if the Subject was still at the location. Witness B advised the EBO that the Subject rode away on a bicycle and was headed toward the University of Southern California (USC). The EBO asked if the Subject still had the machete in his hand. Witness B replied, "No, he didn't leave the machete here."

The EBO broadcast to the responding units, “[A]dditional ADW suspect there now. [...] The suspect left the location, still has the machete, [...] heading towards USC.” Sergeant A was cognizant that USC was hosting events for graduation weekend and was concerned about public safety. Sergeant A immediately requested an air unit to respond.

Although Witness B advised the EBO that the Subject left the location on a bicycle, that information was not relayed to the responding units. According to Witness B, the Subject returned to the location, but he did not provide that information to CD.

While en route to the location, Sergeant B was also cognizant that USC had several events planned on campus that day, including their annual commencement ceremony. Sergeant B requested CD to contact USC Department of Public Safety (DPS) and advise them of the incident. Shortly thereafter, USC DPS broadcast over Southwest Division Frequency advising that they were aware of the incident.

At 1559:08 hours, Air Support Division advised CD they would respond to the location.

At 1603:16 hours, Sergeant A drove toward the location and broadcast that he/she was Code Six (had arrived on scene) in the area.

Officers A and B were driving west, nearing the location, when Sergeant A made the aforementioned broadcast. Officer B broadcast that they were also Code Six in the area.

Sergeant A and Officer B briefly stopped their police vehicles in the roadway alongside one another and communicated through their open driver-side windows. As captured on Body-Worn Video (BWV), Sergeant A advised the officers, “I’m going to canvass. Let me know if you need anything.”

According to Sergeant A, “Because it's graduation weekend, there's going to be more people at the location. There's going to be higher crowds. And if somebody with a machete was to wander to USC, there would be a higher propensity for violence or of a potential mass casualty event. And my feeling was that in the interest of public safety -- due to the reasonable expectation that the suspect had already been broadcast leaving the location approximately five minutes prior and the other things I mentioned, that it would be the best interest of public safety to either locate the suspect and directing other units in to exercise command and control by coordinating the response of other units to him to apprehend and stop him before he got to USC or God forbid he got to USC and something happened.”

Aware that Officers A and B had arrived at the radio call and Sergeant B was en route, Sergeant A decided to continue driving east and canvass the area for the Subject.

Unbeknownst to Sergeant A, Sergeant B also decided to canvass in lieu of responding directly to the scene. According to Sergeant B, he/she was aware that Sergeant A was

en route to the radio call and had already requested an air unit. Sergeant B drove to the area surrounding USC to search for the Subject because he/she was concerned about the USC graduation ceremony.

Meanwhile, Officer B drove past the call location and conducted a three-point turn. Officer B parked their vehicle along the south curb of the street.

Unbeknownst to the officers, they parked across the street from the Subject's residence. At that time, Officers A and B were unaware that Witness B provided the EBO with an incorrect/nonexistent address for their radio call.

At 1604:41 hours, Officer A requested CD to have Witness B step out and meet them. The officers then exited their police vehicle and attempted to locate the address of the radio call. The officers walked west on the street and entered the courtyard of an apartment complex. As they did so, Air 16 arrived over the scene.

Although Officer A was the designated less-lethal officer and informed Officer B he/she would deploy the 40mm LLL, it was left in the police vehicle when the officers exited.

According to Officer A, he/she generally does not deploy the 40mm LLL until he/she sees an actual subject. Officer A explained that having the 40mm LLL in his/her possession can limit force options and his/her ability to defend himself/herself and go hands on with potential suspects.

Officers A and B realized that the reported address was nonexistent. Shortly thereafter, CD advised the officers that Witness B was en route to meet and was wearing a green baseball hat, blue shirt, and grey pants.

At 1607:02 hours, USC DPS broadcast over Southwest Division Frequency, advising that their camera operators observed a possible suspect nearby in a cul-de-sac, still possibly armed with the machete.

Officers A and B heard the broadcast from USC DPS and began walking in an easterly direction, toward their police vehicle. As they did so, Witness B emerged from the front gate of his property, stepped onto the sidewalk, and identified himself as the PR.

According to Officer B, the broadcast from USC DPS caused him/her to believe that the Subject was no longer at the location.

Officers A and B spoke with Witness B in front of his residence. Witness B pointed in the direction of the Subject's residence and advised the officers that the Subject was attempting to kill Victim A with a machete. Witness B further stated that the Subject and Victim A were both inside of the residence.

As Witness B continued explaining his observations, Officers A and B began walking in an easterly direction, toward the Subject's residence. Witness B walked alongside the officers and informed them that the Subject was still armed with the machete.

Officer A positioned himself/herself on the sidewalk in front of the Subject's residence, adjacent to the pedestrian gate. Officer A noted that the front door of the Subject's residence was open. Officer B stood on the sidewalk west of Officer A and continued to speak with Witness B.

According to Officer B, he/she was cognizant that an air unit and two supervisors were responding to their radio call. Therefore, he/she did not request any additional resources. Officer B explained, "Well, I was also waiting for the - - the airship was en route. So I knew that - - I knew that I had two supervisors, the airship, and I knew that knowing this division, there's always - - when a call comes out like that, there's always people around the area, and especially so close to the station. So I felt pretty secure that someone would get there quickly."

The investigation determined that Officers A and B did not update their location with CD. According to Officers A and B, there was a lot of radio traffic at the time. Officer A stated that they were in close proximity to the initial radio call location and believed they could be easily located by responding units. Officers A and B's police vehicle was parked approximately 34 feet south of the front gate of the Subject's residence.

As the officers spoke with Witness B, the sound of someone yelling was captured on their BWVs. The sound appeared to be coming from the Subject's residence. According to Officer B, he/she heard someone talking loud inside the residence, but he/she was unable to decipher what was being said.

According to Officer A, "Oh, I can hear them [the Subject and Victim A] like yelling at each other at the top of their lungs inside the residence - - with the door open. So due to the exigent circumstance and the call, we have an ADW suspect, a machete, I want to go and at least see what's going on, make sure everyone is okay." Officer A added, "You know, because for all we know, he could have been there chopping him up right there. And that - - at that point, we have to go in. We have to go in."

At 1608:26 hours, Officer B walked in an easterly direction and joined Officer A at the pedestrian gate. As captured on BWV, Officer B stated to Officer A, "Let's go." Officer A pushed open the pedestrian gate and entered the property, followed by Officer B. The officers walked in a northerly direction, toward the front door.

According to Officer B, he/she did not recall stating, "Let's go" to Officer A and did not know what prompted him/her to say that.

As they walked toward the front door, Officer B announced their presence by shouting, "Hey, anyone inside come out, it's LAPD." Officer A walked up the porch steps and yelled, "Hey, is anybody inside?" Officer A stood near the threshold of the doorway,

knocked on the open front door with his/her left hand, and yelled, "LAPD." The officers received no response.

As captured on BWV, Officer B leaned forward and adjusted his/her left shirt stay as Officer A knocked on the front door. According to Officer B, his/her shirt stay broke, and he/she tucked it into his/her boot because he/she didn't want to trip.

Officer A remained near the threshold of the front door while Officer B stood on the porch, southwest of Officer A. Officer A knocked a second time and ordered the occupants to exit. Shortly thereafter, Victim A emerged from the east side of the hallway.

Victim A told the officers that he was arguing with the Subject and motioned backward with his left hand. Officer B asked Victim A if the Subject was trying to hurt him. Victim A advised the officers that he and the Subject were just wrestling a little bit.

As the officers communicated with Victim A, the Subject emerged from the east side of the hallway and stated, "They can't come in, bro." Officer A recalled the comments of the radio call and noted that the Subject matched the description of the suspect.

As captured on BWV, the Subject faced toward the officers and raised his hands in the air above his shoulders. The Subject then stated, "Hey, they don't have a warrant. They can't come in." Both officers were able to see the Subject's hands and determined that he was not holding any weapons. According to Officer B, the Subject's knuckles appeared to be bloody, causing him/her to believe the Subject may have been in a fight. According to Officer B, he/she believed the Subject stated, "I have a warrant."

According to Officer A, the Subject was sweating profusely, yelling, and had a thousand-mile stare. Those observations caused Officer A to believe that the Subject could be under the influence of narcotics (specifically phencyclidine, commonly referred to as PCP).

As captured on BWV, Officer A raised his/her left hand and motioned for the Subject to approach him/her. As he did so, Officer A stated to the Subject, "Hey come here, step to me, step to me bro." The Subject put both arms down along his sides and walked in a southerly direction, toward Officer A. As he did so, Victim A advised the Subject to calm down. The Subject stopped a few feet north of the threshold and extended both of his arms out to his sides.

Officer A was cognizant that the Subject was a potential ADW suspect and that a machete may have been used in the crime. Officer A did not know the whereabouts of the machete and was concerned that it could be nearby. Officer A decided to detain the Subject before he had the opportunity to arm himself.

Officer A explained, "So therefore, due to the exigency and the situation, I make the decision to go hands on while the opportunity is there rather than trying to talk to him

and then giving him the chance to go back and possibly arm himself. And, you know, I feel like if I would have - - if I wouldn't have grabbed him right there and I let him go, it could have been much worse. You know, he could have gone and picked up that machete, armed himself, hurt someone else there."

At 1609:12 hours, as captured on BWV, Officer A took one step into the residence and placed his/her right hand on the Subject's left shoulder area. In response, the Subject turned in a clockwise direction toward Victim A and stated, "Look they stepping in."

Officer A repositioned his/her right hand to the Subject's left triceps area, while simultaneously placing his/her left hand on the Subject's left forearm. Officer A then pulled the Subject in a southerly direction, toward the doorway. As they passed through the threshold, the Subject looked back at Victim A and advised him that the officers could not enter the residence without a warrant. The Subject then grabbed onto the doorframe with his right hand. Officer B ordered the Subject to relax multiple times, but he did not comply.

A review of officers' BWV determined that the Subject appeared to be bleeding from both hands.

As captured on BWV, Officer A transitioned his/her right hand to the Subject's left triceps/armpit area, while maintaining his/her grip on the Subject's left forearm. Officer A pulled the Subject in a southwesterly direction onto the front porch. As he/she did so, the Subject clenched his left fist and continued to grip the doorframe with his right hand. Officer A placed the Subject against the front (south) wall of the residence, just west of the front door.

The Subject continued to hold onto the doorframe with his right hand. Using his right hand, Officer B applied a firm grip to the Subject's right wrist. He/she then grabbed the Subject's right elbow area using his/her left hand. Officer B pulled the Subject's hand away from the doorframe and attempted to place his right arm behind his back.

As soon as the Subject lost his grip of the doorframe, he clenched his right fist. According to Officer B, "I grab his right arm and I immediately feel that he's - - he has a lot of strength." The Subject bent his right elbow and pulled his arm forward, toward his torso/chest area, and continued to clench his right fist. Officer B removed his/her left hand from the Subject's elbow area and briefly grabbed the Subject's right wrist. using both hands. Officer B then transitioned his/her left hand to the Subject's right forearm area.

Officer B attempted to pull the Subject's right arm behind his back but was unsuccessful. According to Officer B, "We were having difficulty. Like I said, usually -- he was smaller than us. And I - - I could usually move the arm pretty easily. I couldn't move it one inch. And we were struggling to control him right off the get go." Based on his/her experience, Officer B believed the Subject was possibly under the influence of PCP.

As captured on BWV, the Subject repeatedly told the officers, "You are not stronger than me, bro." and continued to resist their efforts. According to Officer A, "And then that's when he begins to flail and he does a forward motion with his hands, tensing up and actively resisting. And that's when the use of force starts there."

According to Officer A, the Subject's body became tense and he began thrusting his arms forward and backward. Officer A attempted to place the Subject's left arm behind his back but was unable to do so. As this was occurring, Officer A's BWV camera was impacted and inadvertently deactivated.

A review of Officer A's BWV determined that it was deactivated at 1609:29 hours.

During the UOF, Officer A's BWV camera was impacted a second time, causing it to reactivate 20 seconds later, at 1609:49 hours. According to Officer A, he/she was unaware that his/her BWV camera deactivated during the incident.

As captured on BWV, Officer B removed his/her left hand from the Subject's right forearm and retrieved his/her radio, so he/she could request a back-up. According to Officer B, the Subject's strength and resistance, "...made me feel like I was not in control of the suspect, that a possible fight could be impending."

At 1609:32 hours, Officer B broadcast, "[L]et me get a back-up." In response to Officer B's broadcast, CD requested Officer B to identify his/her unit designation and location. A review of Southwest Division Frequency determined that Officer B's broadcast was somewhat garbled and difficult to decipher.

Meanwhile, the Subject continued to resist Officers A and B. Officer A placed his/her right arm under the Subject's left armpit area. According to Officer A, he/she then applied a firm grip to the Subject's left bicep area with his/her left hand and grabbed the Subject's left forearm area with his/her right hand. Officer A stated that the Subject continued to flail his arms. In order to gain compliance and control of the Subject, Officer A decided to take the Subject to the ground, where he/she could utilize the ground as a controlling agent.

As captured on BWV, Officer A leaned forward in a westerly direction while maintaining control of the Subject's left arm. According to Officer A, his/her intentions were to use forward momentum and body weight to take the Subject down to the ground. As Officer A attempted to guide the Subject to the ground, he (the Subject) resisted his/her efforts by pulling in the opposite direction and by stiffening/locking his legs.

Prior to taking the Subject to the ground, Officer A recalled hearing Officer B say, "Take him down. Take him down." A review of the BWV determined that Officer B did not make that statement. According to Officer B, he/she was unaware that Officer A had intentions of taking the Subject down to the ground.

According to the Subject, he resisted the officers because it felt like someone was choking him as Officer A attempted to take him to the ground. The Subject explained, "When [the officer] started doing all of that, that's when it was like then I had no choice but to resist. It's like somebody's choking me while the other dude is trying to, you get what I'm saying, pull me down and shit. I have no choice but to resist."

Officers A and B's BWV did not capture their hands contact the Subject's neck while they were standing near the doorway and/or as Officer A attempted to complete the takedown.

The Subject continued to resist the officers and walked in a westerly direction on the front porch. As he did so, Officer A briefly lost his/her grip of the Subject's left wrist. Officer A reapplied a firm grip to the Subject's left wrist while maintaining his/her right hand under the Subject's left armpit area.

The Subject turned in a counterclockwise direction and began walking in an easterly direction.

According to Officer B, "And I'm not sure what occurred but we end up moving to the left, taking three steps to the left, and that - - and I hit something and I end up falling."

As captured on BWV, Officer B tripped over an unknown object and fell onto the porch, losing his/her grip on the Subject's right arm in the process. According to Officer B, he/she landed on his/her back and could feel Officer A and the Subject stepping on his/her body.

As Officer B fell, Officer A lost his/her grip on the Subject's left wrist. Officer A then grabbed the back of the Subject's shirt with his/her left hand and repositioned his/her right hand to the back of the Subject's neck/shoulder area. Officer A attempted to take the Subject to the ground by applying his/her bodyweight.

Meanwhile, Officer B was still on the ground. Officer B reached up with his/her left hand and grabbed the Subject's right wrist. As he/she did so, Officer B was still holding his/her radio in his/her left hand. The Subject and Officer A then fell forward onto the porch area.

Approximately 31 seconds elapsed from the moment Officer A first went hands on with the Subject until they fell forward onto the porch.

The Subject landed on his left hip/buttocks with his head pointed in a southerly direction. Officer A positioned himself/herself on top of the Subject's lower back/legs. According to Officer A, as he/she fell on the Subject, his/her hands inadvertently moved to the Subject's upper back/neck area. Officer A explained, "I didn't choose that. That's just how we landed up. And we're still sliding down the stairs."

According to Officer A, the Subject was actively resisting and attempting to raise himself off the ground. As a result of the Subject's resistance, Officer A and the Subject began to slide down the porch steps. In an effort to overcome the Subject's resistance, Officer A began pushing down on the back of the Subject's neck. According to Officer A, he/she did so, "- just to overcome his resistance because he still, like, has the strength that he's pushing up and lifting me up, so I'm just trying to overcome his resistance and hold him down." Officer A added, "So, I'm trying to hold him down just to use the ground as a controlling agent and using body weight to hold him down."

According to Officer B, "My partner is trying to hold him down and it looks like he's - - the suspect is trying to actively get up."

Once Officer A's BWV became visible/unobstructed at 1609:49 hours, it captured his/her hands on the back of the Subject's neck.

As Officer A was holding the Subject down, Officer B simultaneously crawled in a southeasterly direction and positioned himself/herself just west of the Subject. Officer B retrieved his/her radio from the ground with his/her left hand and broadcast, "[L]et me get a back-up."

Communications Division (CD) repeated Officer B's back-up request over Southwest Division Frequency but incorrectly identified their unit designation. CD advised the responding units to stand-by for the location.

Using his/her right hand, Officer B attempted to grab the Subject's right forearm. In response, the Subject moved his right arm forward in a southerly direction and tucked it underneath his forehead. The Subject then stated to the officers, "Come on, put my hands behind my back, come on."

Officer B walked mid-way down the porch steps and kneeled down beside the Subject. Officer B placed his/her left hand under the Subject's right armpit area and his/her right hand on the Subject's right bicep. Officer B then pulled the Subject's right arm out from underneath him/her.

As captured on BWV, the Subject placed his left palm on the porch step and began to raise his head and shoulders. Officer B described the Subject's action as a push-up motion and believed the Subject was actively resisting and trying to escape. According to Officer B, Officer A appeared to be sliding forward, down the porch steps. Officer B then transitioned his/her right hand from the Subject's bicep area to his right wrist and directed Officer A to hold the Subject down.

According to Officer A, he/she straddled the Subject and placed both knees on his calves. The Subject continued to resist and lifted Officer A off the ground. According to

Officer A, the Subject's movements caused his/her hands to slide forward, contacting the sides of the Subject's neck.

As captured on BWV, Officer A's right fingers appeared to be curled inward as depicted in the below still photograph. Officer A's left fingers were not visible at that time.

During the UOF, Victim A was standing on the porch area north of the officers. Victim A repeatedly called out the Subject's name and advised him to relax. The Subject did not comply. Instead, he continued to resist the officers.

At 1609:55 hours, the Subject raised his head and shoulders off the porch steps. As he did so, Officer A's left hand became visible on Officer B's BWV. As captured on BWV, Officer A's left fingers were positioned across the front of the Subject's neck. Officer A's left fingertips were touching his/her right fingers, which remained bent/curled.

Officer A did not recall placing his/her hand on the front of the Subject's neck. According to Officer A, "The hand may have been there but there was no pressure." Additionally, Officer A explained that he/she did not squeeze and/or apply inward pressure to the Subject's neck.

A review of Officer A's BWV determined his/her left hand was removed from the front of the Subject's neck at 1609:56 hours.

At 1609:57 hours, the Subject told the officers, "I'm calm, I'm calm, I'm calm." Officer B pulled the Subject's right arm down toward his (the Subject's) right side and applied a firm grip to the Subject's right wrist, using his/her left hand. Officer B then removed his/her right hand from the Subject's arm, retrieved his/her handcuffs, and handcuffed the Subject's right wrist. Officer B then gripped the handcuff chain with his/her right hand.

Meanwhile, Officer A realized his/her hands had slipped toward the sides of the Subject's neck and decided to reposition them. Officer A removed his/her left hand from the Subject's neck area and grabbed the Subject's left forearm. According to Officer A, he/she attempted to pull the Subject's left arm behind his back but was unsuccessful. Officer A decided to hold the Subject's left arm in place until additional resources arrived.

Approximately two seconds later, Officer A removed his/her right hand from the Subject's neck area and grabbed the back of the Subject's hair. According to Officer A, he/she grabbed the Subject's hair because the Subject kept moving his head. Officer A feared that the Subject was going to headbutt him/her and/or headbutt himself and get injured in the process.

As captured on BWV, Officer A grabbed the back of the Subject's hair and held his head down, against the porch step.

As captured on BWV, Officer B asked Victim A for the address of their location. Victim A informed Officer B of the address.

CD requested Officer B to identify their location. At 1610:19 hours, Officer B replied, "It's gonna be [address]. Let me get a help call!" In response, CD broadcast, "Any unit in the vicinity. [Unit] is requesting a back-up and supervisor, at [address]."

Officer B erroneously provided CD with the wrong address.

CD repeated the back-up request but did not upgrade the incident to a help call. A review of Southwest Division Frequency determined that Officer B's broadcast was slightly muffled and difficult to decipher.

Sergeants A and B heard the back-up request and responded to the location Code Three. In addition to the supervisors, multiple units responded to the location, including the Officers C, D, E, and F

As Officer B was communicating with Victim A, the Subject moved his head in a westerly direction, against the porch step. The Subject then repeatedly stated, "I can't breathe." The Subject advised Officer A that he was calm and relaxed and asked Officer A to get off him.

At this time, Officer A was still straddling the Subject. According to Officer A, his/her knees were still positioned on the Subject's calves, and he/she was not applying weight/pressure to the Subject's torso/chest. Instead, his/her body weight was being supported primarily by his/her knees and hands. Officer A believed the Subject told him he could not breathe as a ploy, in order to break free.

At 1610:20 hours, the Subject stated, "I can't breathe. I can't breathe. Can you get off of me, bro?" The Subject then began moving his head and body from side to side. Officer A remained straddled on top of him. In the process, the Subject and Officer A began to slide down the porch steps and onto the walkway area.

According to Officer B, he/she believed the Subject was trying to get up and briefly placed his/her right knee on the Subject's lower back area. Officer B removed his/her knee because he/she realized that it may have been interfering with Officer A's actions and was not necessary.

Officer B estimated that his/her knee was on the Subject's lower back for approximately one second.

According to the Subject, as he slid down the steps, he sustained a knot on his/her head. The investigation determined that the Subject sustained a small bump/contusion to the left side of his forehead.

The investigation determined that Officer A's BWV camera became dislodged from his/her uniform as they slid down the porch steps. Officer B's BWV captured a portion of their movements, but it was partially obstructed.

As the Subject slid down the porch steps, he pulled his right arm forward, tucked his right hand under his chest, and placed his right forearm onto the ground. He then began to crawl in a southerly direction. As he did so, Officer B continued to maintain his/her grip on the handcuff chain. As he resisted, the Subject repeatedly advised the officers that he was calm and stated, "Let me get up," multiple times.

Officer A explained, "And you can hear him breathing. You can hear him speaking. And every time, like he says, 'I can't breathe,' and then he does like - - and tries to lift up. So possibly, he was trying to get me to - - to relax - - to - - to let go when he would say that, and then he would try to push me off him."

According to Officer A, he/she tried to deescalate the situation by communicating with the Subject and attempting to befriend him. As captured on BWV, Officer A told the Subject, "Just relax, take a deep breath," and assured him that it was okay. the Subject replied, "Okay please let me up...please, please, please, please, please."

According to Officer B, "I mean, just -- just from looking at the video, he was saying he couldn't breathe. But to me, he appeared fine. He -- I didn't hear any noises like he was out of breath. He was yelling. So to be able to yell, you have to be full breath. I didn't hear any wheezing or anything that would indicate to me that someone couldn't breathe."

According to the Subject, he told Officer A he could not breathe approximately three times. The Subject stated, "He was squeezing my whole neck. Bro, I don't know if [he/she] was trying to wrap [his/her] whole round -- whole hands around my neck, but [his/her] whole hands was all right here, all -- all over."

According to Officer A, this incident was not a deadly force situation; therefore, he/she never applied any inward pressure or squeezing to the front of the Subject's neck. Officer A stated that he/she never applied direct pressure to the Subject's trachea or windpipe at any time during the incident.

Officer A stated that the Subject was yelling, talking, and breathing throughout the incident, and there was no physical indication that he was unable to breathe.

According to Officer B, he/she never observed any application of force to the Subject's neck, or any type of restriction to his trachea or windpipe during the incident. Officer B stated if he/she did observe such actions, he/she would have immediately intervened, told Officer A to disengage, and would have reported the incident to a supervisor.

As captured on BWV, Officer B briefly placed his/her left hand on the Subject's right shoulder area while still gripping the handcuffs with his/her right hand. Officer B then

transitioned his/her left hand to the handcuffs and released his/her right hand. Officer B held his/her right hand in front of his/her body and appeared to briefly examine it. He/she then re-gripped the handcuffs with his/her right hand and released his/her left hand.

It was later determined that Officer B sustained a fracture to his/her right ring finger. Officer B believed he/she injured his/her finger when he/she initially fell onto the porch.

At 1610:41 hours, the Air Unit broadcast to CD and inquired if Officers A and B were requesting back-up at the original radio call location. As captured on BWV, Officer B yelled out, "What street is this?"

As Officer B was communicating with CD, the Subject can be heard breathing heavily on Officer A's BWV. The Subject then stated, "I can't breathe, bro." Officer A advised the Subject to relax. Officer B gripped the handcuffs with his/her left hand and placed his/her right hand on the Subject's right shoulder area. Officer B advised the Subject to, "Chill out, bro." The Subject replied "okay" multiple times, then repeatedly asked the officers to let him go.

Officers A and B indicated that they continued to maintain control of the Subject and waited for additional resources to arrive and assist them with taking him into custody. According to Officer A, "Just - - just holding him down for the cavalry. Me and Officer B talked about it before. If we ever get in a use of force, you know, something like that, we have somebody possibly on PCP, someone who is just actively resisting, you know, who is kind of strong like that can be under the influence of something. We just want to get him to the ground and hold him down. We put out the backup already. You know, you can hear the sirens. You hear the airship. You know, we know our brothers and sisters are coming so we just want to hold him down. That's it."

The Subject indicated that an officer placed his/her knee and foot on the back of his neck during the UOF. According to Officers A and B, they never placed their knees or feet near the Subject's neck and/or head area.

Officers A and B's BWVs were viewed in their entirety and did not capture either officer place a knee or foot on the Subject's neck.

At 1611:19 hours, the Air Unit arrived overhead and advised the responding units that Officers A and B were in the front yard of the location.

At 1611:51 hours, Sergeant B broadcast that he/she was Code Six (had arrived on scene) as he/she neared the location. Sergeant B was cognizant that another unit (Officers C and D) was following him/her. Sergeant B exited his/her vehicle and ran in a northeasterly direction, toward the location.

Upon his/her arrival, Sergeant B observed Officer A holding the Subject down. Sergeant B, aware that Officers C and D were arriving at scene, directed Officer A to

continue holding the Subject down. He/she then reiterated that he/she was Code Six and requested two additional units.

According to Sergeant B, he/she could not recall Officer B's position when he/she arrived at scene.

The investigation determined that Sergeant B did not formally announce him/herself as the Incident Commander (IC) upon arrival; however, he/she did assume the role and duties of the IC. Sergeant B stated, "I just felt that once I went on the radio, usually, when I go to calls and it's me, people already know that I'm the incident commander. I don't need to tell them that. Especially, if I have a junior sergeant, they already know, so I know I'm the senior person, and I know that -- that I'm responsible for that call."

Meanwhile, Officers C and D drove toward the location. As they arrived at scene, Officer D broadcast that they were Code Six. Officer C parked their vehicle on the north side of the street, west of the location. Both officers exited the vehicle and ran toward the location.

At this time, the Subject was lying face down on the walkway, with his head pointed in a southeasterly direction. Officer B was kneeling down beside the Subject and holding his (the Subject's) right arm behind his back. As he/she did so, Officer B was gripping the handcuff chain with his/her right hand.

Simultaneously, Officer A was lying face down on the Subject's back and grasping his (the Subject's) hair with his/her right hand. Officer A held the Subject's left arm above his head by gripping the Subject's left wrist and using the ground as a controlling agent.

Officer D approached Officers A and B and positioned himself/herself on the Subject's right side. Officer D knelt down and placed his/her left knee on the ground, adjacent to the Subject's right shoulder. He/she then placed his/her left hand on the Subject's back and grabbed the Subject's left hand, using his/her right hand.

Officer A raised his/her chest off the Subject's back and repositioned his/her knees, placing his/her right knee on the Subject's buttocks/lower back area and his/her left knee on the Subject's left hamstring area.

As captured on BWV, Officer D placed his/her right knee above the Subject's head. As he/she did so, his/her knee appeared to make contact with the Subject's head/hair. According to Officer D, he/she was hovering or squatting over the Subject and did not apply any bodyweight to his head.

The Subject asked, "Why you leaning on me, man?" Officer D advised the Subject, "Nobody is hurting you. You're fine." It is unclear which officer the Subject was speaking to when he asked, "Why you leaning on me, man?"

Simultaneously, Officer A released his/her grip on the Subject's hair and grabbed the Subject's left wrist/forearm area using both hands and began guiding the Subject's left arm behind his back. Officer D transitioned his/her right hand to the Subject's left elbow and assisted Officer A.

Together, Officers A and D pulled the Subject's left arm behind his back. Officer B then completed the handcuffing process.

Once the Subject was handcuffed, Officer A recovered his/her BWV camera from the ground and moved his/her right knee forward onto the Subject's lower back. Officer A then repositioned his/her left knee, placing it on the ground adjacent to the Subject's left hip. After Officer A adjusted his/her knee positions, the Subject stated, "Stop, man, get your knee off of me, man." Officer A reattached his/her BWV camera to his/her chest and removed his/her right knee from the Subject's back.

According to Officers C and D, they never observed Officers A or B place their hands near the Subject's neck.

At 1612:27 hours, Sergeant B contacted CD and requested one additional unit only. Sergeant B broadcast for any additional responding units to cancel their response.

Meanwhile, Sergeant A arrived at scene. As he/she approached the location, Sergeant A heard Sergeant B's broadcast. Sergeant A broadcast that he/she was Code Six and advised that there was a Code Four (no additional assistance needed at scene), suspect in custody.

Using both hands, Officer A gripped the Subject's left arm, while Officer B gripped his right arm. Together, Officers A and B assisted the Subject into a standing position and escorted him off of the property. Sergeant B accompanied Officers A and B as they escorted the Subject toward his/her police vehicle.

In the presence of Sergeant B, Officer B conducted a search of the Subject's person. During the search, Officer A held onto the Subject's left arm, while Officer B held his right arm. As captured on BWV, the Subject looked over his left shoulder at Officer A and repeatedly stated, "Stop doing that to me, bro." and "You know what you're doing?" According to Officer A, he/she recalled the Subject making those statements, but he/she did not do anything to prompt them. No evidence and/or contraband was recovered from the Subject's person.

At 1612:48 hours, Officers E and F arrived at scene as the Subject was being searched. Upon their arrival, Sergeant B directed them to stand by with Officers A and B, which they did.

At 1613:18 hours, Sergeant B advised Sergeant A that a UOF had occurred and directed him/her to canvass for witnesses and request a Rescue Ambulance (RA). Sergeant A requested an RA for the Subject at approximately 1613:36 hours.

According to Sergeants A and B, they were not advised at the scene that Officer A made contact with the Subject's neck during the UOF; therefore, they began investigating the incident as a Non-Categorical Use of Force (NCUOF).

Sergeant B requested Officer E to conduct an additional search of the Subject's person. Officer B relinquished custody of the Subject to Officer E, who searched the Subject's person in the presence of Officer F. That search also yielded negative results.

During the search, the Subject thanked Officer E for handling him gently and advised him/her that one of the officers put a knee on his face. Officer E did not inquire about what transpired and ultimately placed the Subject in the back of Sergeant B's vehicle.

According to Officer E, when Officer B broadcast the back-up request, it sounded like there was a struggle. Upon his/her arrival, Officer E noted that there were two supervisors at scene inquiring about witnesses and involved officers. Officer E stated that he/she was never informed that a UOF occurred, but he/she formed the opinion that one occurred based on the above information.

According to Officer E, "When we first took custody of him [the Subject], he said -- he was complaining about someone. I remember his words correctly as 'kicking my ass' but he didn't specify who or what happened to -- to me." A review of Officer E's BWV determined that the Subject never accused officers of "kicking his ass." Instead, the Subject stated that an officer placed a knee on his face and was manhandling him.

According to Sergeant B, he/she notified the Watch Commander, Sergeant C, of the UOF.

At 1624:10 hours, Los Angeles Fire Department (LAFD) arrived at scene. The LAFD personnel contacted the Subject, who declined medical treatment at that time.

Officer B was treated on scene for his/her injured finger and was transported to Cedars-Sinai Medical Center for further treatment.

At 1627:40 hours, Officer D approached the Subject as he sat in Sergeant B's vehicle. Officer D asked the Subject for permission to enter his room and locate/recover his machete.

The Subject gave Officer D consent to do so. The Subject advised Officer D that he keeps the machete for protection and believed that he left it on his bed. The Subject further stated that Victim A may be able to direct officers to the machete.

Officer D advised Officer A that the Subject consented to a search of his bedroom. Officers A and D then entered the Subject's bedroom, at which time Officer A began a consensual search of the premises.

Officer A located three knives that were lying on top of the Subject's bed. Officer D took a photograph of the knives and showed it to Witness B. Witness B advised Officer D that none of those knives were used in the ADW. Witness B reiterated that the ADW weapon was a machete.

As captured on BWV, Officer D approached Victim A on the front porch and asked if he knew the location of the machete. Victim A agreed to assist the officers and walked toward the Subject's room with Officer D. As they walked north in the hallway, Victim A stated, "I'm not going to kill anybody," and laughed. Officer D yelled to Officer A, "Hey partner, dad's going to try and see. Are you cool with that partner?" Officer A replied, "Alright."

Victim A entered the Subject's bedroom but did not know the whereabouts of the machete. Officers A and D continued their search with Victim A in the room.

As captured on BWV, Victim A remained in the Subject's room with the officers for approximately 38 seconds. According to Officers A and D, Victim A was very cooperative, and they did not perceive him as a threat. Additionally, both officers indicated that they were able to see Victim A and monitor his location during the search.

Shortly thereafter, Victim A advised Officers A and D that he would ask the Subject where the machete was and exited the bedroom. Officer D continued to search and located the machete behind a plastic/cloth storage dresser that was positioned along the west wall. Officer A photographed and recovered the machete. Officers A and C showed the machete to Witness B, who identified it as the weapon used in the ADW.

Officers E and F transferred the Subject from Sergeant B's vehicle into their own and transported him to Southwest Community Police Station.

At 1644:50 hours, Watch Commander Lieutenant A met with the Subject upon his arrival to the station. The Subject did not complain of any sickness, illness, or injuries; and he understood the cause for his arrest. According to Lieutenant A, he/she did not observe any visible injuries on the Subject.

According to Lieutenant A, Sergeant B called him/her from the scene and informed him/her that Officers A and B were involved in a UOF, which consisted of a team takedown. Sergeant B also informed him/her that Officer B injured his/her finger during the incident.

At 1719:57 hours, Sergeant A met with the Subject at Southwest Station and admonished him of his Miranda Rights. The Subject waived his rights and was interviewed by Sergeant A as part of the NCUOF investigation. During the interview, the Subject provided a verbal statement regarding the UOF and wrote a statement pertaining to the ADW investigation.

During the interview, the Subject advised Sergeant A that Officer A pulled him out of his residence and attempted to tackle him. The Subject stated that the officers grabbed him by the neck and did a choke move on him. According to Sergeant A, he/she observed minor lacerations on the Subject's hands and a bump on his head. Sergeant A stated that he/she was unsure if the bump on the Subject's head was an injury or merely the shape of his head.

Following his/her interview with the Subject, Sergeant A notified Lieutenant A of a possible Level I NCUOF. According to Sergeant A, Lieutenant A directed him/her to continue his/her investigation, review video, meet with the officers, and determine what level UOF occurred.

Sergeant A conducted interviews with Officers A, C, and D independently to ascertain if their statements were consistent with the UOF. Sergeant A said he/she utilized his/her Department-issued cellular phone to record the interviews.

At approximately 1800 hours, Sergeant A approached the Subject, who was still in a holding cell, to take photographs of his injuries. During that contact, the Subject reported that his hands were injured and complained of pain to his head. As captured on BWV, the Subject stated to Sergeant A, "My head is throbbing from your officers putting their knee on my head. And laying and putting their weight on my head." Sergeant A asked the Subject if he would like an ambulance and he replied, "Uh, yeah." Sergeant A requested an additional RA for the Subject at 1802:20 hours.

At approximately 1818 hours, LAFD RA No. 46 arrived at Southwest Community Police Station and completed a medical assessment on the Subject. Although the Subject advised the LAFD firefighter-paramedics (FF/PMs) that he sustained injury to his right wrist/forearm and both hands, he did not complain of pain to his head. The FF/PMs treated the Subject and determined that he was okay for booking.

As part of his/her NCUOF investigation, Sergeant A viewed Officer A's BWV. Officer A was present for the viewing. As they watched the BWV, Sergeant A observed Officer A's hands in a position where they may have contacted the Subject's neck. According to Sergeant A, Officer A stated that when he/she fell to the ground with the Subject, his/her hands may have fallen forward, but he/she did not realize it happened until viewing his/her BWV.

Sergeant A reported his/her findings to Lieutenant A, who also watched the BWV. The incident was ultimately confirmed as a CUOF after review by Force Investigation Division (FID).

Body-Worn Video (BWV) and Digital In-Car Video (DICV) Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	No ¹	Yes	No
Officer B	Yes	Yes	Yes	Yes	No

Los Angeles Board of Police Commissioners' (BOPC's) Findings

The BOPC reviews each Categorical Use of Force (CUOF) incident based upon the totality of the circumstances, namely all 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 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 non-lethal use of force to be In Policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force to warrant a finding of Administrative Disapproval - 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.

¹ Officer A's BWV appeared to be inadvertently de-activated and then re-activated during the struggle with the Subject.

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 Subject 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 Subjected 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 Subjected offense;
- The level of threat or resistance presented by the suspect;
- 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 suspect;
- 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, subjects, Subjects, persons in custody, subjects 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.

A. Tactics

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication (Los Angeles Police Department, Use of Force - Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016).

Tactical de-escalation does not require that an officer compromise his or 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 – Officers A and B were police academy classmates and had been partners for approximately six months. They routinely discussed tactics, including lethal and less-lethal roles. As Officers A and B responded to this call, and they discussed the suspect's description, lethal and less-lethal roles, and the location's address. Officers A and B determined that Officer B would be lethal, and Officer A would be less lethal with the 40mm LLL. Unbeknownst to the officers, Witness B provided the Emergency Board Operator (EBO) with an invalid address.

As Officers A and B arrived at the scene, they believed that the correct address. As a result, Officer B parked the police vehicle approximately 34 feet west of the actual call location. While Officers A and B were looking for the address, USC DPS broadcast that they were monitoring a possible suspect at a nearby location. This led Officers A and B to believe the subject was no longer at their location. Officers A and B did not discuss the information provided by the University of Southern California Department of Public Safety (USC DPS) and did not plan to encounter the subject.

Assessment – When Officers A and B arrived at the call, they assessed the scene and determined that the provided address was non-existent. Speaking to Witness B, the officers were directed to the correct address for the radio call. Officer A stood outside the location, observed that the residence's front door was open, and heard yelling coming from inside. Due to the comments of the call and the yelling, Officer A determined that exigent circumstances existed. In response, he/she and Officer B entered the property and approached the front door. Officer A no longer heard the yelling as he/she stood in the threshold. The officers announced their presence and knocked on the door. While officers were speaking to Victim A, the Subject emerged from a bedroom on the east side of the hallway. Officers A observed the Subject's hands, assessed that he was not armed, and decided to detain him before he could do so.

Time, Redeployment/Containment, and Other Resources – While responding to the call, Officer A heard Sergeants A and B advise that they too were responding. Officer A was also aware that an air unit had been requested. Although Officer A was the designated less-lethal officer, he/she chose to leave the 40mm LLL in their police vehicle. According to Officer A, he/she generally does not deploy the 40mm LLL until he/she sees an actual suspect. Officer A explained that having the device in his/her possession can limit force options, his/her ability to defend himself/herself and go hands-on with potential suspects.

According to Officer A, as he/she stood at the front gate, he/she believed the Subject was actively hurting Victim A inside the residence. Believing it was an exigent circumstance, Officer A and his/her partner approached the residence. According to Officer B, he/she did not consider requesting additional units before the use of force because he/she heard USC DPS broadcast that a possible suspect was at another location. During the UOF, Officer B broadcast a backup followed by an officer help call. Sergeants A and B, along with Officers C, D, E and F, heard the backup request and responded, as did the air unit.

The BOPC noted that the UOFRB was critical of Officers A and B's decision to approach the residence before requesting/obtaining additional units and acquiring a beanbag shotgun or 40mm LLL.

Lines of Communication – While searching for the correct location, Officers A and B located Witness B and were advised that both the victim and Subject were inside the residence. Witness B also advised the officers that the Subject was trying to kill the victim with a machete. Officer A walked to the front gate of the residence as Officer B continued to gather information from Witness B. After Officer B finished speaking with Witness B, he/she met Officer A at the front gate and stated, "Let's Go." There was no additional communication between the officers as they walked toward the front door.

While standing in the threshold of the front door, Officers A and B spoke with Victim A. During their conversation, the Subject appeared in the hallway and walked toward the officers. Initially, the Subject appeared to follow the officers' direction and began to exit the residence. As the officers were attempting to detain the Subject, to prevent him from arming himself, the use of force occurred. During the use of force, Officer B advised CD that officers needed backup units. Officer B also tried to advise CD that officers needed help, but it appears that his/her broadcast was slightly muffled and difficult to decipher. As he/she struggled to control the Subject, Officer A attempted to de-escalate the situation by telling the Subject to relax and to breathe, and by calling him "Bro." The Subject's resistance limited the officers' ability to use communication as a de-escalation technique. As additional units arrived, Officer A continued to verbalize with the Subject to de-escalate the situation.

The BOPC noted that the UOFRB was critical of Officers A and B's lack of communication with each other. The UOFRB noted that before attempting to detain the Subject, Officers A and B did not communicate with each other. The UOFRB also noted that there was limited communication between the officers during the use of force.

- During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 - Updating Status/Code Six

After realizing that the address they were originally provided with was non-existent, officers were directed to the correct location by Witness B. Standing outside the location, Officer A heard yelling and believed that there were exigent circumstances that required officers to approach the front door. However, neither he/she nor Officer B advised CD of their updated location. As a result, responding units were unsure of their location while responding to the backup.

The BOPC noted that the UOFRB was critical of Officers A and B's failure to update their location before approaching the front door. The UOFRB noted that Officers A and B had been advised by Witness B that the Subject and Victim A were inside the residence, and that the Subject had tried to kill Victim A with a machete. The UOFRB also noted that Officer A had heard yelling, prompting him/her to believe there was an exigency, all the more reason to provide CD with an updated location. While the UOFRB noted that there was radio traffic on the frequency, they opined that the facts of the case did not preclude the officers from updating their location before approaching the front door and making physical contact with the Subject. The UOFRB also noted that at one point during the use of force, Officer B was confused about the street he/she was on and had to ask Victim A and his/her partner to verify the location. Based on the totality of the circumstances, the UOFRB opined that Officers A and B's actions placed them at a significant tactical disadvantage and created confusion as to their location.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, without justification, from Department-approved tactical training. Therefore, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

Additional Tactical Debrief Topics

Backup-Request vs. Help Call – Officer B broadcast a backup-request call shortly after the Subject began physically resisting. During the use of force, Officer B broadcast an additional backup-request call before broadcasting an officer-needs-help call. Alternatively, Officer B should have broadcast the officer-needs-help call once the Subject began to actively resist.

Non-Medical Face Coverings – Officers A and B were not wearing non-medical face coverings at the scene, as directed by the Chief in May 2020. Additional personnel at the scene that were not wearing non-medical face coverings will be addressed at the divisional level.

B. Non-Lethal Force

- **Officer A** – Firm Grips, Physical Force, and Bodyweight
- **Officer B** – Firm Grips, Physical Force, and Bodyweight

As Officer A and the Subject passed through the threshold onto the front porch, the Subject clenched his left fist and grasped the doorframe with his right hand. Officer B ordered the Subject to relax, but the Subject did not comply. Officer B applied a firm grip on the Subject's right wrist and removed his right hand from the doorframe. Both officers then attempted to place the Subject's arms behind his back, but he managed to pull his right arm into his chest. The Subject repeatedly told the officers, "You are not stronger than me, bro" and continued to resist their efforts.

According to Officer A, the Subject's body became tense, and he began thrusting his arms forward and back. In response, Officer A placed his/her right arm under the Subject's left armpit. Officer A then applied a firm grip on the Subject's left bicep with his/her left hand and grabbed the Subject's left forearm with his/her right hand. Officer A stated that the Subject continued to flail his arms. To gain control of the Subject, Officer A decided to take the Subject to the ground to use it as a controlling agent. Officer A leaned forward while maintaining control of the Subject's left arm. As Officer A attempted to guide the Subject to the ground, he resisted by pulling in the opposite direction and by stiffening and locking his legs.

The Subject continued to resist the officers and walked in a westerly direction on the front porch. As he did so, Officer A briefly lost his/her grip on the Subject's left wrist. Officer A reapplied a firm grip on the Subject's left wrist while maintaining his/her right hand under his left armpit area.

As the Subject resisted, Officer B tripped over an unknown object and fell, losing his/her grip on the Subject's right arm. As Officer B fell, Officer A lost his/her grip on the Subject's left wrist. Officer A then grabbed the back of the Subject's shirt with his/her left hand and repositioned his/her right hand to the back of the Subject's neck/shoulder area. Officer A attempted to take the Subject to the ground by applying bodyweight. Meanwhile, Officer B, who was still on the ground, reached up with his/her left hand and grabbed the Subject's right wrist. The Subject and Officer A then fell forward onto the porch. The Subject landed on his left hip/buttocks. Officer A positioned himself/herself on top of the Subject's lower back/legs. According to Officer A, as he/she fell on the Subject, his/her hands inadvertently moved to the Subject's upper back/neck area. Per Officer A, the Subject was actively resisting and attempting to raise himself off the ground. As a result of the Subject's resistance, he/she and Officer A began to slide down the porch steps. To overcome the Subject's resistance,

Officer A began pushing down on the back of his neck. According to Officer A, he/she did so to overcome the Subject's resistance.

As Officer A was holding the Subject down, Officer B simultaneously crawled in a southeasterly direction and positioned himself/herself just west of the Subject. Using his/her right hand, Officer B attempted to grab the Subject's right forearm. In response, the Subject moved his right arm forward and tucked it underneath his forehead. The Subject then stated, "Come on, put my hands behind my back, come on." Officer B walked mid-way down the porch steps and knelt beside the Subject. Officer B placed his/her left hand under the Subject's right armpit area and his/her right hand on the Subject's right bicep. Officer B then pulled the Subject's right arm out from underneath him. The Subject then placed his left palm on the porch step and began to raise his head and shoulders. Officer B described the Subject's action as a push-up motion and believed he was actively resisting and trying to escape. According to Officer B, Officer A appeared to be sliding forward, down the porch steps. Officer B then transitioned his/her right hand from the Subject's bicep area to his right wrist and directed Officer A to hold the Subject down.

According to Officer A, he/she straddled the Subject and placed both knees on his calves. The Subject continued to resist and lifted Officer A off the ground. According to Officer A, the Subject's movements caused his/her hands to slide forward, contacting the sides of the Subject's neck. As captured on BWV, Officer A's right fingers appeared to be curled inward. Victim A repeatedly told the Subject to relax, but he continued to resist. The Subject then raised his head and shoulders off the porch steps. As he did so, Officer A's left fingers were positioned across the front of the Subject's neck. As depicted in BWV, Officer A's left fingertips were touching his/her right fingers, which remained bent/curled.

As he continued to resist, the Subject told the officers, "I'm calm, I'm calm, I'm calm." Officer B pulled the Subject's right arm down toward his (the Subject's) right side and applied a firm grip to the Subject's right wrist, using his/her left hand. Officer B then removed his/her right hand from the Subject's arm, retrieved his/her handcuffs, and handcuffed the Subject's right wrist. Officer B then gripped the handcuff chain with his/her right hand. Meanwhile, Officer A realized that his/her hands had slipped toward the sides of the Subject's neck and decided to reposition them. Officer A removed his/her left hand from the Subject's neck area and grabbed his left forearm. According to Officer A, he/she attempted to pull the Subject's left arm behind his back but was unsuccessful. Officer A decided to hold the Subject's left arm in place until additional resources arrived. Approximately two seconds later, Officer A removed his/her right hand from the Subject's neck area, grabbed the back of the Subject's hair, and held his head against the porch step. According to Officer A, he/she grabbed the Subject's hair because he kept moving his head. Officer A feared that the Subject was going to headbutt him/her and/or strike his head against the ground, injuring himself.

As he continued to resist, the Subject moved his head in a westerly direction against the porch step. The Subject then repeatedly stated, "I can't breathe." The Subject told

officers that he was calm and relaxed and asked Officer A to get off him. Officer A was still straddling him. According to Officer A, his/her knees were positioned on the Subject's calves, and he/she was not applying weight/pressure to his torso/chest. Instead, his/her body weight was being supported primarily by his/her (Officer A's) knees and hands. Officer A believed that the Subject told him/her he could not breathe as a ploy to break free. The Subject then began moving his head and body from side to side. Officer A remained straddled on top of him. In the process, the Subject and Officer A began to slide down the porch steps onto the walkway area. According to Officer B, he/she believed that the Subject was trying to get up. In response, Officer B briefly placed his/her right knee on the Subject's lower back area, but then removed it, because he/she realized that it may have been interfering with Officer A's actions.

As the Subject slid down the porch steps, he pulled his right arm forward, tucked his right hand under his chest, and placed his right forearm on the ground. He then began to crawl forward. As he did so, Officer B continued to maintain his/her grip on the handcuff chain. As the Subject resisted, he repeatedly told the officers that he was calm and repeatedly stated, "Let me get up." According to Officer A, he/she tried to de-escalate the situation by communicating with the Subject and attempting to befriend him. Officer A told the Subject, "Just relax, take a deep breath," and Officer A assured him that it was okay. The Subject replied, "Okay," then stated, "Please let me up, please, please, please, please, please." According to Officer B, he/she did not hear wheezing or anything that would indicate that the Subject could not breathe." According to Officer A, there was no indication that the Subject was unable to breathe.

Officer B briefly placed his/her left hand on the Subject's right shoulder area while still gripping the handcuffs with his/her right hand. Officer B then transitioned his/her left hand to the handcuffs and released his/her right hand. Officer B then re-gripped the handcuffs with his/her right hand and released his/her left hand. Officers A and B continued to maintain control of the Subject until Sergeant B arrived at the scene along with Officers C and D. Sergeant B directed Officers A and B to hold the Subject against the ground.

Officers D approached Officers A and B and positioned himself/herself on the Subject's right side. Officer D squatted down and placed his/her left knee on the ground adjacent to the Subject's right shoulder. He/she placed his/her left hand on the Subject's back and grabbed the Subject's left hand, using his/her right hand. Officer A raised his/her chest off the Subject's back and repositioned his/her knees, placing his/her right knee on the Subject's buttocks/lower back area and his/her left knee on the Subject's left hamstring area. Officer D placed his/her right knee above the Subject's head. As he/she did so, his/her knee appeared to contact the Subject's hair. According to Officer D, he/she was hovering and squatting over the Subject and did not apply bodyweight to the Subject's head. Officer A released his/her grip on the Subject's hair and grabbed the Subject's left wrist/forearm area using both hands and began guiding the Subject's left arm behind his back. Officer D transitioned his/her right hand to the Subject's left

elbow and assisted Officer A. Officers A and D positioned the Subject's left arm behind his back. Officer B then completed the handcuffing process.

After the Subject was handcuffed, Officer A moved his/her right knee forward to the Subject's lower back. Officer A then repositioned his/her left knee, placing it on the ground adjacent to the Subject's left hip. After Officer A adjusted his/her knee, the Subject stated, "Stop man, get your knee off of me man." Officer A removed his/her right knee from the Subject's back. Officer A gripped the Subject's left arm, while Officer B gripped his right arm. Officers A and B assisted the Subject into a standing position and escorted him off the property.

The Subject indicated that during the UOF, an officer placed their knee and foot on the back of his neck. According to Officers A and B, they never placed their knees or feet near the Subject's neck and/or head area. Officers A and B's BWVs were viewed in their entirety and did not capture either officer placing a knee or foot on the Subject's neck. Based on the available evidence, the UOFRB determined that the officers' knees did not contact the Subject's neck and that they did not apply reportable force.

The BOPC noted that the UOFRB evaluated Officer A's use of non-lethal force. As it pertains to Officer A, the UOFRB noted that he/she used firm grips, physical force, and bodyweight to control the Subject. While the UOFRB was concerned about the position of Officer A's hands on the back and sides of the Subject's neck, they determined that his/her actions did not violate policy as he/she did not apply bilateral pressure capable of restricting blood flow, rendering the Subject unconscious. Regardless, the UOFRB noted that it was not a best practice, as his/her hands subsequently applied direct pressure to the Subject's trachea, albeit inadvertent. As such, the UOFRB recommended that officers avoid contact with a suspect's neck. As it concerns Officer A's firm grip on the Subject's hair, while not a technique for every situation, it was an effective way to prevent him from headbutting Officer A and from harming himself. Based on the Subject's level of resistance, the UOFRB opined Officer A's use of the technique was proportional and objectively reasonable.

The UOFRB noted the Subject's comments about not being able to breathe and that he made a grunting noise. The UOFRB also noted that the Subject was actively resisting, attempting to push off the ground and crawl away. The UOFRB opined that the grunting noise was not a result of airway or blood flow restriction and may have been caused by the Subject attempting to lift Officer A, who weighed approximately 200 pounds.

In terms of Officer B, the UOFRB noted that he/she also used firm grips and bodyweight to control the Subject. Based on the Subject's level of resistance, the UOFRB opined that the force applied by Officer B was proportional and objectively reasonable.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A and B, in the same situation, would reasonably believe that the use of body weight, physical force, and firm grips were

objectively reasonable and proportional. Therefore, the BOPC found Officers A and B's non-lethal use of force to be In Policy.

C. Lethal Use of Force

- **Officer A**

According to Officer A, he/she and the Subject were on the ground sliding forward off the steps of the porch and onto the walkway below. Officer A's hands slid from the Subject's upper body and toward the back of the Subject's neck and head as he/she was trying to prevent the Subject from standing up. According to Officer A, as soon as he/she noticed the placement of his/her hands, he/she repositioned them by placing his/her left hand on the Subject's left wrist and his/her right hand higher up on the Subject's head as he/she grabbed the Subject's hair.

During FID's second interview with Officer A, Officer A was shown a frame-by-frame portion of his/her BWV, which showed Officer A's fingers bent and not around the Subject's neck. As the BWV continued frame by frame, the next timestamp at 16:09:55 showed Officer A's left hand wrapped completely around the front of the Subject's neck. Officer A stated that he/she didn't know that his/her left hand contacted the front of the Subject's neck, and he/she did not apply pressure to the Subject's neck.

The BOPC noted that the UOFRB evaluated Officer A's lethal use of force. Based on the available evidence, the UOFRB determined that although there was no evidence that Officer A 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 unconscious, it did appear Officer A inadvertently applied direct pressure to the Subject's trachea. As such, the UOFRB determined that this contact was without malice. Regardless, the UOFRB noted that there is no exception in Department policy for accidental contact, regardless of duration. 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 A, in the same situation, would not reasonably believe that the use of deadly force was necessary, proportional, and objectively reasonable. Therefore, the BOPC found Officer A's lethal use of force to warrant a finding of Administrative Disapproval - Out of Policy.