

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

**IN-CUSTODY DEATH 045-18**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Olympic	7/20/18		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	9 years, 4 months
Officer B	8 years, 1 month
Officer C	8 years, 3 months
Officer D	7 years, 11 months
Officer E	8 years, 10 months
Officer F	11 months
Officer G	11 years, 3 months
Officer H	15 years, 3 months
Officer I	10 months

**Reason for Police Contact**

Officers responded to a radio call of a man throwing himself onto vehicles and lying in the street. Officers arrived on-scene and contacted the Subject, who was lying in the road, speaking incoherently, displaying symptoms consistent with being under the influence of narcotics, and possibly in need of medical assistance. Los Angeles Fire Department (LAFD) personnel responded and determined that a County Protocol for Agitated Delirium was warranted. Subsequently, officers briefly restrained the Subject while LAFD administered a sedative in accordance with Protocol 1208. The Subject was further evaluated by LAFD, displayed signs of medical distress, and was transported to a local hospital where he did not respond to treatment and was determined to have passed away.

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 32 years of age

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent Subject criminal and

medical history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Due to privacy concerns, certain medical information that was presented to the BOPC is not included in this report.

The following incident was adjudicated by the BOPC on January 29, 2019.

### **Incident Summary**

Communications Division received five emergency calls from persons reporting that a male suspect was throwing himself into passing vehicles and lying in the middle of the street. Officers A and B responded to the call.

Upon arrival at the scene, Officers A and B observed the Subject lying in the middle of the street, rolling around and making noises. Officers approached the Subject, assisted him out of the roadway, and then had him sit on the ground. According to Officer B, the Subject was non-responsive, made grunting noises, and kept rolling around on the ground.

According to Officer A, his/her initial impression of the Subject was that he was possibly deaf-mute because he made noises and was unable to speak, but made hand movements. The Subject did not respond to any of the officers' commands, and as Officer A continued to observe the Subject's actions, Officer A suspected that the Subject was under the influence of narcotics. Officer A then immediately requested a Rescue Ambulance (RA) and additional police assistance.

While Officers A and B waited for assisting units and the RA to arrive, the Subject rolled back and forth between the driveway and the street. The Subject made hand gestures, unintelligible noises, pointed to the sky, and hit the ground with his hands.

LAFD personnel arrived at the scene and were briefed by Officer B. LAFD personnel assessed the Subject and determined that County Protocol 1208 for Agitated Delirium was warranted. That protocol called for injecting the Subject with medication called Versed to sedate him, thereby creating a safer environment in which to further treat him.

Sergeant A arrived on-scene and was briefed by Officer A. LAFD informed Officer B that they wanted officers to assist by restraining the Subject when LAFD personnel administered the sedative. Sergeant A and LAFD personnel discussed a plan regarding how to approach and subdue the Subject. Sergeant A then advised Officers A and B of the plan to hold the Subject down once additional officers arrived, and that LAFD would then inject the Subject with the sedative.

According to Sergeant A, it appeared to him/her that officers were going to have to use force to hold the Subject down. The plan was to use the least amount of force necessary, or no force, if possible, to avoid injuring the Subject. Sergeant A stated he/she did not know if the Subject would react in a violent manner, and in his/her experience LAFD personnel would not assist LAPD officers with uses of force. Therefore, Sergeant A decided to wait for additional LAPD personnel to arrive.

Officers C and D were the first unit to arrive in response to the back-up request. Sergeant A immediately gathered Officers A, B, C, and D, and briefed them of the plan. Sergeant A advised the officers that once an additional unit arrived, officers were going to hold the Subject down so LAFD personnel could inject him with medication. Sergeant A told officers to wait until the Subject was face down on the ground before going hands-on and holding him down. Officer B asked if they should handcuff the Subject. Sergeant A advised the officers to handcuff the Subject if possible, but stated that if the Subject resisted, Sergeant A wanted the officers to just hold the Subject's arms straight down.

The second unit to arrive in response to the back-up request was Officers E and F. Officer B approached Officers E and F and advised them of the plan to restrain the Subject so LAFD could administer medication to sedate him. The third unit to arrive to the back-up request consisted of Officers G and H. Sergeant A met Officers G and H and briefed them of the plan.

According to Officers D, E, F, and G, when they arrived on scene, they observed the Subject rolling around on the ground, acting erratic, and appearing to be under the influence of narcotics. Officers A, B, C, D, E, F, G, and H acknowledged they were briefed of the plan by Sergeant A.

As the Subject rolled around on the ground between the driveway and the traffic lane, Officer A asked if everyone was ready, and suggested they wait until the Subject was on his stomach. As the Subject rolled to his stomach, Sergeant A advised the officers to proceed. As the officers approached the Subject, he rolled onto his right side and then to his back.

The following recounts the actions of officers who used force during the incident. The incident was unfolding rapidly and the officers' actions, although depicted in a certain order, occurred simultaneously.

Officers A, B, E, and F reached down to control the Subject's arms and upper body. Officers C, D, and G reached down to control the Subject's legs. The officers rolled the Subject to the right, onto his stomach, and into a prone position.

As officers initiated control of the Subject, the Subject began to scream, opened his mouth, made growling-like sounds, and attempted to bite Officer B's hands. Officer A reached down and placed his/her right hand on the Subject's right shoulder blade,

his/her left hand on the Subject's left shoulder blade, and applied bodyweight to the Subject's upper back. Officer B placed his/her left knee on the Subject's lower back and applied bodyweight. LAFD personnel injected the Subject with the Versed medication while he was being restrained by officers.

Officer E reached down and placed a firm grip with his/her left hand behind the Subject's neck as the Subject continued to move his head from side to side with his mouth wide open. Officer E placed a firm grip on the Subject's right wrist and used physical force to extend the Subject's right arm out to his right side. The Subject turned his head to the right, and Officer E placed his/her left hand on the right side of the Subject's head and held the Subject's head against the ground. Officer B used firm grips to grab the Subject's left wrist with both of his/her hands and physical force to extend the Subject's left arm from underneath the Subject's chest to his left side. Officer B placed a firm grip on the Subject's left forearm with his/her right hand, a firm grip on the Subject's left wrist with the left hand, and used bodyweight to hold the Subject's arm down. The Subject yelled and made growling-like sounds. Sergeant A encouraged the Subject, telling him he was all right.

The Subject brought his right arm across his body to his left side and grabbed Officer B's left forearm with his right hand. Officer E reacquired a firm grip on the Subject's right wrist and used physical force to extend the Subject's right arm back out to his right side. The Subject turned his head to the left, lunged his head toward Officer B's hands, and attempted to bite Officer B's hands as Officer E placed his/her left hand on the left side of the Subject's head and held the Subject's head against the ground. Officer B released his/her grip of the Subject's left forearm with his/her right hand and placed his/her right hand over Officer E's left hand. Officer B reacquired a firm grip on the Subject's left forearm with his/her left hand and used bodyweight to hold the Subject's left arm down. Sergeant A told the officers they were just going to hold the Subject until he calmed down. Officers A and B reassured the Subject, telling him that he was doing good and that they were trying to help him.

According to Officer A, he/she leaned forward with his/her arms over the Subject's shoulder blades and placed his/her left knee on the Subject's lower back to apply pressure to prevent the Subject from rolling over. The Subject resisted and attempted to move and roll over to the side.

According to Officer E, the Subject lunged his head and attempted to bite Officer B multiple times. Officer E stated he/she communicated to the officers to watch their fingers because the Subject attempted to bite Officer B's hands. Additionally, Officer E indicated he/she used his/her left hand to control the Subject's head and prevent the Subject from lunging his head forward and biting officers. Officer E stated he/she placed his/her left hand on both sides of the Subject's head because the Subject turned his head back and forth and scraped the side of his face against the ground when he turned.

Officer B said that throughout the incident the Subject struggled, opened his mouth, lunged his head forward toward Officer B's arms, and attempted to bite Officer B's forearms. Officer B did not feel any contact from the Subject's bite attempts, and stated the glove on the Subject's left hand came off, but Officer B was not positive if the Subject bit the glove off.

As the officers struggled to control the Subject's arms, Sergeant A directed Officer I to grab the Subject's right arm and hold it down. Officer I reached down and used a firm grip with his/her left hand to grab the Subject's right bicep and held it down on the ground using bodyweight. Officer I applied a firm grip with his/her right hand to the Subject's right hand and held it down on the ground using bodyweight. Officer I repositioned his/her right hand to the Subject's right forearm, used a firm grip, and applied bodyweight to hold the Subject's right arm down on the ground. Officer E placed his/her right knee on the Subject's left arm at the elbow and applied bodyweight.

Officer F placed his/her right hand at the top of the Subject's back, just below his neck, grabbed the Subject's sweatshirt, and applied bodyweight. The Subject lifted his left elbow off the ground, and Officer A repositioned his/her left hand to the Subject's left arm and applied bodyweight to keep the arm down. Sergeant A told Officer H to help Officer B hold the Subject's arm. Officer H applied a firm grip with his/her right hand to the Subject's left forearm and applied bodyweight to hold the Subject's left arm against the ground. As the Subject turned his head to the right, Officer F moved his/her right hand to the back of the Subject's head and applied bodyweight. Simultaneously, Officer E moved his/her left hand on top of Officer F's right hand and applied bodyweight.

Officer D applied a firm grip with his/her left hand to the back of the Subject's left knee and applied bodyweight to hold the Subject's left leg down. Officer D applied a firm grip with his/her right hand to the Subject's left ankle and applied bodyweight to hold the Subject's left leg down. Officer F placed his/her left knee on the back of the Subject's upper left leg and applied bodyweight. Officer F used a firm grip with his/her left hand to grab the back of the Subject's left knee and applied bodyweight. Officer F moved his/her left knee to the back of the Subject's upper right leg and applied bodyweight. Officer G applied firm grips with both of his/her hands to the Subject's right ankle and applied bodyweight to keep the Subject's right leg down. Officer G placed his/her left knee on top of the Subject's right foot and applied bodyweight. Officer G then removed his/her knee off from the Subject's right foot, and the Subject continued to move his right foot. Officer G placed his/her left knee on top of the Subject's right foot three separate times as the Subject continued to move his foot. According to Officer G, he/she placed his/her left knee on the Subject's right foot and applied bodyweight because the Subject's leg strength lifted him off the ground.

Officer C applied a firm grip with his/her right hand to the Subject's right ankle and applied bodyweight. Officer C applied a firm grip with his/her left hand to the Subject's left ankle and applied bodyweight. After several seconds, Officer C released his/her grips, stood up, and backed away from the Subject.

According to Officer C, he/she held the Subject's ankles for several seconds and then realized there was no need for Officer C to hold the Subject because Officers D and G held the Subject's legs down. Officer C released his/her hold of the Subject's legs and stood up. Officer C stated after a couple minutes, he/she observed Officer G struggling to hold the Subject's right leg down, at which point he/she reengaged, as far as holding the Subject's legs down.

Officer C reengaged and placed his/her right hand on top of the Subject's right foot and applied bodyweight to hold the foot down. As the Subject continued to move both of his legs, Officer C placed his/her left hand on top of the Subject's left foot and applied bodyweight to hold the Subject's foot down, as he/she continued to also hold the Subject's right foot down.

Sergeant A directed Officer B to handcuff the Subject, one arm at a time. Officer B guided the Subject's left arm behind the Subject's lower back and handcuffed the left wrist. Officer B maintained hold of the handcuffs using a pistol grip with his/her right hand, while Officers A and E discussed how to guide the Subject's right arm behind the lower back. Officer A pointed to the Subject's left shoulder with his/her right hand and asked for someone to get on that side. Officer B placed his/her left knee on the Subject's left shoulder and Officer E moved his/her right hand to the right side of the Subject's head and his/her left hand to the Subject's upper back and applied bodyweight, while Officers A and I guided the Subject's right arm to the lower back. Officer B completed handcuffing process. At the time the Subject was handcuffed, he was no longer resisting the officers.

Immediately upon handcuffing the Subject, Sergeant A directed that the Subject be placed on a gurney. The officers then rolled the Subject to his right side and sat him up. Officer E grabbed the Subject by the rear of his sweatshirt, Officer B grabbed the Subject's right bicep, Officer F grabbed the Subject's left bicep, Officer G grabbed the Subject's left leg, and Officer D grabbed the Subject's right leg. The Subject appeared to be sedated. The officers then lifted the Subject off the ground and placed him onto the gurney.

After the Subject was placed onto the gurney, LAFD requested that officers remove the Subject's handcuffs. Officer G removed the handcuff from the Subject's right wrist and secured the Subject's left arm to the left side of the gurney railing. The gurney was rolled inside the RA by LAFD personnel.

According to LAFD personnel, the Subject's level of consciousness went from exaggerated and resisting to completely limp, unconscious, and not breathing. The Subject was moved to the back of the RA, where Cardiopulmonary Resuscitation (CPR) was initiated, and the Subject was treated as a full cardiac arrest patient during transport to the hospital.

Officer B rode inside the RA as the Subject was transported to the hospital. Officer A followed the RA in his patrol vehicle.

The Subject was treated at the hospital by on-duty emergency room personnel. The Subject did not respond to medical treatment and was subsequently determined to have passed away.

### **Los Angeles Board of Police Commissioner's Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

The BOPC found Officers A, B, C, D, E, F, G, H, I, and Sergeant A's tactics to warrant a Tactical Debrief.

#### **B. Drawing and Exhibiting**

Does not apply.

#### **C. Non-Lethal Use of Force**

The BOPC found Officers A, B, C, D, E, F, G, H, and I's non-lethal use of force to be In 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. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use

force when warranted may endanger themselves, the community and fellow officers.”  
(Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where Palencia’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer’s use of deadly force includes consideration of the officer’s tactical conduct and decisions leading up to the use of deadly force.  
(Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

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



(Tactical De-Escalation Techniques, October 2016.)

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force that might subject innocent bystanders or hostages to possible death or injury.

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#### **A. Tactics**

- In conducting an objective assessment of this case, the BOPC determined that Sergeant A, along with Officers A, B, C, D, E, F, G, H and I's tactics did not substantially deviate from approved Department tactical training.

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

The BOPC found Officers A, B, C, D, E, F, G, H, I, and Sergeant A's tactics to warrant a Tactical Debrief.

#### **B. Drawing and Exhibiting**

Does not apply.

#### **C. Non-Lethal Use of Force**

- **Officer A** – (Firm Grip and Bodyweight)

According to Officer A, he/she was designated to control one of the Subject's arms. When the Subject rolled into a prone position, Officer A placed his/her right hand on the Subject's right shoulder blade area, his/her left hand on the Subject's left

shoulder blade area, and his/her left knee on the Subject's lower back. To prevent the Subject from rolling to one side, Officer A leaned forward and utilized his/her bodyweight to overcome the Subject's resistance.

- **Officer B** – (Firm Grip, Bodyweight, Physical Force)

According to Officer B, he/she was designated to control one of the Subject's arms. When the Subject rolled into a prone position, Officer B grabbed the Subject's left arm with both hands. The Subject reacted by moving his left arm closer to his body. As Officer B attempted to maintain control of the Subject's left arm, Officer B's arms were dragged in close proximity to the Subject's mouth, at which time the Subject lunged his head forward and tried to bite Officer B's arms multiple times. As the Subject was struggling, trying to turn and bite, Officer B did his/her best to maintain control of the Subject's left arm while waiting for him to calm down.

According to Officer B, after some time had passed, Sergeant A asked Officer B if he/she could handcuff the Subject. Officer B advised Sergeant A that he/she believed they could. Officer B then placed a knee on the Subject's left shoulder, guided the Subject's left arm to his back and secured a handcuff on his left wrist. The officers controlling the Subject's right arm then guided his right arm to his back, and the Subject was handcuffed without further incident.

- **Officer C** – (Firm Grip and Bodyweight)

According to Officer C, he/she was designated to control one of the Subject's legs. Officer C observed that while Officers D and G were each holding down one of the Subject's legs, the Subject was still trying to move them. Officer C squatted down and placed a hand on each of the Subject's ankles to hold them down. Officer C determined his/her efforts were no longer needed to control the Subject's legs, and he/she released his/her grip. Officer C continued to monitor the situation, and when Officers D and G appeared to be struggling to control the Subject's legs, Officer C resumed his/her previous position and held down the Subject's ankles.

- **Officer D** – (Firm Grip and Bodyweight)

According to Officer D, he/she was designated to control one of the Subject's legs, and grabbed the Subject's lower left leg near the calf and ankle area with both hands. The Subject continued to be erratic and was kicking. Officer D maintained his/her hold on the Subject's lower leg, applying pressure to prevent the Subject from kicking an officer or hurting himself.

- **Officer E** – (Firm Grip and Bodyweight)

According to Officer E, he/she was directed to control the Subject's upper torso area. When the Subject began to roll into a prone position, Officer E grabbed the Subject's right arm and applied bodyweight to pin it to the ground. Simultaneously, as the

Subject was trying to bite officers, Officer E placed his/her left hand on the Subject's head and applied slight bodyweight to control the Subject's head against the ground. Officer E recalled that the Subject attempted to bite Officer B's hand three or four times.

- **Officer F – (Firm Grip, Bodyweight, Physical Force)**

According to Officer F, when he/she put his hands on the Subject, the Subject was moving around and trying to bite one of the officers. In an attempt to hold the Subject in place and to prevent him from biting anyone, Officer F simultaneously placed his/her left knee, with all of his/her bodyweight, on the Subject's right thigh and his/her right hand on the Subject's trapezoid area, with no pressure.

- **Officer G – (Firm Grip and Bodyweight)**

According to Officer G, he/she was positioned closest to the Subject's legs and advised the other officers that he/she would grab a leg. With both of his/her knees on the ground, Officer G grabbed the Subject's lower right leg and ankle with both hands. Officer G leaned forward and held down the Subject's right leg with the weight of his/her upper body. At times, the Subject was lifting Officer G with his leg strength, so Officer G placed his/her left knee on the Subject's right foot.

- **Officer H – (Bodyweight)**

According to Officer H, when the officers took control of the Subject, there was no place for him/her to assist. As Officer H monitored the unfolding situation, Sergeant A directed him/her to help Officer B control the Subject's left arm. Officer H inserted him/herself behind Officer B, then placed his/her right hand on the Subject's left forearm and held it down.

- **Officer I – (Firm Grip and Bodyweight)**

According to Officer I, when he/she arrived, Officer I observed officers on the ground attempting to control the Subject who was flailing his arms, legs, and head. Sergeant A directed Officer I to assist by holding the Subject's right arm. Officer I placed his/her left hand on the Subject's bicep and his/her right hand on the Subject's forearm to hold down the Subject's right arm.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, E, F, G, H, and I, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers A, B, C, D, E, F, G, H, and I's non-lethal use of force to be objectively reasonable and In Policy.