

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

IN-CUSTODY DEATH – 067-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Central	12/19/18		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	20 years, 4 months
Officer C	19 years, 11 months
Officer D	10 months

Reason for Police Contact

Officers responded to a radio call of a battery in progress. Upon their arrival, the officers observed the Subject lying on the pavement, being restrained by multiple citizens. The officers approached the Subject and utilized body weight and firm grips to place him into custody. The Subject was subsequently transported to a local hospital where he was pronounced dead.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 46 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on November 5, 2019.

Incident Summary

Victim A was standing on the subway platform and was facing the train tracks waiting for the train, when he was approached from behind by the Subject.

Security video from the MTA platform recorded the Subject push Victim A from behind, causing him (Victim A) to fall forward onto the train tracks below. The Subject immediately jumped down onto the tracks and began repeatedly punching Victim A on his face and body. Victim A attempted to climb onto the platform to escape the attack, but the Subject pulled him down and continued to strike him. According to Victim A, he did not know the Subject and had no prior contact with him.

Witness A observed the incident and ordered the Subject to stop assaulting Victim A. Witness A reached down and pulled Victim A off the tracks and onto the platform. The Subject then climbed onto the platform and fled the train station.

Witness A believed there was a third person on the tracks with Victim A and the Subject. He did not know if this individual was assaulting Victim A or attempting to restrain the Subject. The identity of this individual was not determined.

Witness B reported that he was riding the escalator down toward the train platform at the time of this incident. According to Witness B, the Subject made a loud grunting noise as he ran toward Victim A and pushed him from behind onto the train tracks.

The Subject was recorded on MTA security video running up the stairway toward the street.

Two individuals called 9-1-1 independently to report the incident. Both advised Communications Division (CD) that they did not witness the incident but were told by a passerby to call the police.

CD broadcast the "Unknown Trouble" call, Code-Three (emergency), on the police radio.

Officers A and B advised CD they would handle the call. During their response, CD upgraded the call to an assault with a deadly weapon and advised the officers that the victim was pushed onto the train tracks by an unknown suspect. Upon their arrival, the officers were advised that the Subject had fled the scene. They interviewed Victim A and Witness A and completed an Investigative Report for the crime of Attempted Murder.

Meanwhile, Victim B, who was employed as a construction worker, was at an active work site in the area, holding a stop sign in his left hand. Victim B was attired in an orange reflective safety vest and hard hat. His job was to direct work trucks into the job site and halt pedestrian traffic as necessary.

According to Victim B, the Subject approached him as a truck was entering the construction site. He verbally warned the Subject that a truck was approaching, then directed his attention back to the truck, which was close to his (Victim B's) location. Victim B then redirected his attention to the Subject, who immediately punched him on the forehead. The impact of the blow caused him to drop down to one knee. As Victim B rose to his feet, the Subject continued punching him. Victim B attempted to defend himself by blocking the punches and grabbed onto the Subject's body. During the altercation, the Subject and Victim B fell to the ground, knocked over some construction signage, and wrestled until Victim B was ultimately able to get on top of the Subject and hold him down.

Witness C was driving in the area and observed the assault. Witness C stated that the Subject threw Victim B to the ground and repeatedly punched him in the face. Witness C immediately called 9-1-1 to report the incident.

Witness D was walking near the intersection when he observed the Subject walking erratically while making a growling sound. According to Witness D, the Subject attacked Victim B without provocation, and Witness D also observed the Subject punch and strangle Victim B. Witness D believed the Subject was under the influence of narcotics and possessed "super-human strength." Several construction workers eventually came to Victim B's aid and helped restrain the Subject. Witness D indicated that he left the scene at that point.

Witnesses E and F were co-workers of Victim B. Witness E indicated he was seated in the cab of his construction crane. He observed a physical altercation between the Subject and Victim B and yelled, "Hey!" which got the attention of Witness F, who was working nearby. According to Witness F, Victim B and the Subject were attempting to punch one another and ultimately fell to the ground. Witnesses E and F then ran toward the altercation to assist Victim B. Witness F indicated he arrived first and observed the Subject lying on his back with Victim B on top of him. After separating them, Witness F rolled the Subject onto his left side and then to his stomach. Witness F laid on top of the Subject and positioned his chest and arms against the Subject's back. Witness F observed the Subject grinding his teeth and foaming at the mouth and believed he was under the influence of an unknown substance.

According to Witness E, he controlled the Subject's legs by straddling his left leg and holding the Subject's right leg down with his right hand. Witness E said the Subject was very strong and nearly escaped their grasp. He repeatedly told the Subject to relax and applied bodyweight to both of the Subject's legs to keep him from getting up. While waiting for police to arrive, two unidentified males assisted by grabbing the Subject's arms.

While the Subject was being restrained by Witnesses E and F, and the two unidentified males, Victim B stood and recorded a portion of the incident with his cell phone. He recorded the video clip while waiting for the officers to arrive.

Witness G was a co-worker of Victim B and was first alerted to the incident when he observed several individuals running across the street. Witness G did not witness the altercation, and when he arrived at scene, observed the Subject lying face down on the ground with Witness E on top of him. Witness G observed the Subject deliberately rub his face on the pavement multiple times and noted he was “foaming” at the mouth. Based on those observations, he believed the Subject was under the influence of narcotics. In an effort to control the Subject and prevent him from getting up, Witness G momentarily placed his right foot on one of the Subject’s hands and removed his foot within seconds.

According to Witness H, he observed three construction workers restraining the Subject, who was lying face down on the pavement. Witness H heard the Subject say, “Let me up” as he was being held down. Witness H observed a fourth construction worker, described as a male, kick the Subject once on the crown of his head.

According to Victim B as well as Witnesses E, F, and G, the Subject did not speak during the incident.

CD broadcast the “Battery in progress” Code-Three call.

Officers C and D advised CD that they would handle the call and responded Code Three to the location.

Sergeant A advised CD that he/she was en route to the radio call and responded with emergency lights and siren (Code Three) to the location. While the officers were en route to the call, CD broadcast additional information advising that citizens had detained the Subject.

Officers C and D arrived at scene, as captured by BWV. According to Officer C, as the officers approached, he/she observed citizens wearing orange safety vests flagging them down. Officer D broadcast that the officers were Code Six, as Officer C parked the police vehicle on the corner. Upon their arrival, the officers observed the Subject lying on his stomach with multiple citizens holding him down. According to Officer C, the citizens appeared to be using their body weight to control the Subject’s movements.

As the officers exited their vehicle and approached the scene, their BWVs captured a male voice state, “You guys need to...he’s super fucking strong alright.” Officer D removed his/her handcuffs and used his/her left hand to grab the Subject’s right forearm in preparation to begin handcuffing him. Officer C immediately noticed that the Subject was sweating profusely and had his hands clenched under his body. Based on his/her training and experience, Officer C believed the Subject might be under the influence of Phencyclidine (PCP) or methamphetamine.

According to Officer C, the Subject was bleeding from multiple locations on his body and there was blood on the ground. Based on those observations, Officer C advised his/her partner to hold off on handcuffing the Subject and directed the citizens to

continue holding him down. Officer C broadcast a request for a back-up unit and then directed Officer D to don protective gloves, which he/she (Officer D) did.

Officer C ordered the Subject to put his arms out to his sides, tapped the Subject's upper back with his/her right index finger, and then repeated the order. The Subject did not comply. While standing just north of the Subject's head, Officer C unholstered his/her TASER with his/her left hand and transitioned it into his/her right hand. Officer C then placed the TASER against the Subject's upper back and advised the Subject that he/she would tase the Subject if he moved. Witnesses E and F, and the two unidentified citizens released their grip on the Subject at that point and backed away from him.

According to Officer C, he/she did not place his/her TASER against the Subject's back until the citizens released the Subject and stepped away.

Officer C was unsure if the Subject comprehended his/her commands and placed his/her TASER against the Subject's back so he could physically feel the device.

Officer C again ordered the Subject to put his arms out to his sides and to spread his legs; however, he did not comply. The Subject responded by placing his forearms on the ground and lifting his upper torso off the pavement. In response, Officer C placed his/her left hand on the Subject's right shoulder and continued to give him commands to place his arms out to his side and to spread his legs. Officer C then placed his/her left hand in a cupped position on the back of the Subject's neck as he laid face down on the pavement.

Officer C directed Officer D to grab the Subject's arm and place it behind his back. Officer D straddled the Subject, placed his/her left knee against the Subject's left lower back area, and grabbed his (the Subject's) right wrist. According to Officer D, the Subject was very strong. Officer D felt the Subject's body tense up and observed foam coming out of his mouth. Officer D believed the Subject was under the influence of an unknown substance and ordered him to stop tensing up, but he did not comply. While continuing to straddle the Subject, Officer D removed his/her left knee from his back, pulled the Subject's right hand behind his back, and applied a handcuff to his right wrist.

Officer C positioned him/herself on the Subject's left side and placed his/her right knee on the Subject's back. Officer C believed he/she might utilize his/her TASER in drive-stun mode and removed the cartridge from the device. Using his/her right hand, Officer C placed the TASER between the Subject's shoulder blades and advised the Subject that he/she was going to tase him. Approximately three seconds later, Officer C placed the cartridge back in the TASER and grabbed the Subject's left wrist with his/her left hand. Officer C then momentarily placed his/her right hand, which was holding the TASER, against the back of the Subject's head.

Officer C repositioned him/herself by removing his/her right knee from the Subject's back and placing both of his/her knees on the ground. While still holding his/her TASER

in his/her right hand, Officer C attempted unsuccessfully to gain control of the Subject's left arm using only his/her (Officer C's) left hand. Officer C then momentarily placed his/her TASER on the ground in front of his/her (Officer C's) right knee, but then immediately picked it back up, because he/she did not want anyone else to take it.

Sergeant A arrived at scene, observed the officers struggling to handcuff the Subject, and approached to lend his/her assistance. As the officers attempted to complete the handcuffing of the Subject's left wrist, Officer C set his/her TASER on the ground between his/her knees, while he/she placed the Subject's left arm behind his back. Officer C retrieved the TASER approximately seven to eight seconds later once the Subject was handcuffed.

According to Sergeant A, the officers were having difficulty handcuffing the Subject's left wrist, and Sergeant A was concerned the incident would escalate if the Subject was not immediately taken into custody. In an effort to assist, Sergeant A grabbed the Subject's right arm and pushed it closer to his left arm so that Officer D could complete handcuffing process.

Officer C broadcast that the incident had been resolved (Code-Four), advised the responding units that the Subject was in custody, and then holstered his/her TASER. Once the Subject was handcuffed, Officer D searched the Subject's waistband area for weapons and attempted to assist him to a standing position. When the Subject appeared unable to stand on his own, Officer D and Sergeant A laid him back down on the ground and placed him onto his left side (left lateral recumbent position).

Officer C repeated his/her Code-Four broadcast and requested a Rescue Ambulance (RA) for both the Subject and Victim B. Officer D then completed a custodial search of the Subject's person and placed his personal belongings into a plastic bag. While waiting for the RA, Officers C and D attempted to communicate with the Subject, but he was unresponsive to their questions. The officers also attempted to keep the Subject on his left side, but he continued to roll from side to side on the sidewalk.

The officers considered placing the Subject into their police vehicle, but he (the Subject) was unable to stand on his own. Sergeant A directed the officers to leave the Subject on the pavement, because he/she was concerned that if the officers attempted to move him, they might injure themselves. As the Subject continued to roll back and forth, Officer D tried to maintain the Subject's position on one side or the another.

An LAFD Engine arrived at the scene and rendered aid to Victim B.

An LAFD RA arrived at scene and rendered aid to the Subject. Officer C adjusted the Subject's handcuffs and secured his arms to the rails of the gurney. The Subject was placed into the RA in preparation for transport to the hospital for further treatment.

While at scene, preparations were made by Sergeant B to investigate this incident as a Non-Categorical use of force. After briefing Sergeant B, Officers C and D left the scene and went to the station to dock their BWV cameras and begin their reports.

Sergeant A directed Officers E and F to escort the Subject to the hospital. Officer E entered the RA with the Subject, while Officer F prepared to follow in the police vehicle.

Just prior to leaving the scene, LAFD personnel noted that the Subject's blood pressure had dropped and that he had gone into cardiac arrest. LAFD personnel delayed transporting the Subject and began administering cardiopulmonary resuscitation (CPR). Shortly thereafter, Officer E exited the RA to give rescue personnel additional space to provide medical treatment to the Subject. As Officer E exited the RA, he/she requested that LAFD personnel notify him/her prior to their departure, so he/she could ride with them to the hospital.

After receiving an update by Officer E as to the Subject's condition, Sergeant A called the Watch Commander, Lieutenant A, and advised him/her of the Subject's status. In anticipation of this incident possibly becoming a Categorical Use of Force, Lieutenant A immediately caused Officers C and D to be separated and monitored pending the outcome of the Subject's medical treatment.

Lieutenant A believed he/she was notified telephonically by Sergeant B.

Lieutenant A responded to the scene. Upon learning that Sergeant A was also involved in the use of force, Lieutenant A ensured that he/she too was separated and monitored.

LAFD personnel transported the Subject to the closest medical facility, where he was pronounced dead shortly upon arrival.

When the RA departed the crime scene, they inadvertently left without Officer E. Lieutenant A directed other officers to respond to the hospital. These officers notified Sergeant A when the Subject was pronounced dead.

According to LAFD personnel, a hospital security guard removed the Subject's handcuffs once they arrived at the hospital. This did not create an issue in transferring care of the Subject to the hospital staff.

The Department Operations Center (DOC) was notified of the Categorical Use of Force and FID Investigators subsequently responded to the scene.

FID reviewed the documents regarding the separation, monitoring, and admonitions not to discuss the incident prior to being interviewed by FID investigators.

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found Sergeant A's, along with Officers C and D's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

Does Not Apply.

C. Non-Lethal Use of Force

The BOPC found Sergeant A's, along with Officers C and D'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 the suspect’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 suspect 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.)

A. Tactics

Tactical De-Escalation

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

Tactical De-Escalation Techniques

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

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.

In this case, the officers were attempting to detain a violent battery suspect whom they believed to be possibly under the influence of a controlled substance. The investigation noted that the officers had been assigned to work together for less than one month. During their time together, they had discussed tactics including Contact and Cover responsibilities. Prior to responding to this incident, the officers discussed tactics and debriefed the traffic stop they had just completed. Although the location of their Code Three radio call was close in proximity to their starting point, the officers continually communicated while en route to the radio call. Officer D read the comments of the radio call aloud and assisted with clearing intersections. Upon arrival, Officer C directed Officer D to place them Code Six, ensuring additional resources had knowledge of their location. The officers then utilized several tactical de-escalation techniques including planning, assessment, time, other resources, and lines of communication.

Having worked the downtown area for several years, Officer C immediately recognized that the Subject was exhibiting the signs and symptomology of someone that was possibly under the influence of a controlled substance. The officers assessed the situation and utilized lines of communication between themselves and the witnesses by directing them to continue to hold the Subject in place, which allowed the officers additional time to request other resources, don personal protective equipment and formulate a plan to take the Subject safely into custody.

During the incident, the officers communicated with the Subject by giving him clear verbal instructions to comply with their directions. Additionally, in hopes of gaining the Subject's compliance, Officer C utilized a tactile means of communication by placing his/her TASER between the Subject's shoulder blades while providing the Subject with a warning and clear orders to spread his limbs and lay down. When the Subject failed to comply, the officers feared he would get to his feet and continue his

attack on the citizens or the officers. The officers assessed the Subject's actions and determined the need to quickly contain the Subject in order to de-escalate the situation.

The officers did not resort to using less-lethal force to take the Subject into custody despite reports that he was violent and extremely strong and seeing that it took four larger-statured male witnesses to control the Subject. By immediately controlling the Subject through the use of non-lethal force options, the officers demonstrated tremendous restraint to effect the arrest of a violent suspect that was obviously in an altered state.

During its review of this incident the BOPC considered the following:

1. Maintaining Control of TASER

According to Officer C, he/she placed his/her TASER on the ground twice while assisting Officer D in physically controlling the Subject.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, as Officer C maintained a firm grip on the Subject, he/she did not secure his/her TASER in its canvas drop-leg holster. In order to control the Subject, Officer C momentarily placed the TASER on the ground next to him/herself and then had the state of mind to quickly recover the TASER once he/she was able to gain control of the Subject's left arm. Sergeant A arrived and assisted Officers C and D by lifting the Subject's right arm and guiding it toward his left arm to facilitate the Subject's handcuffing. Officer C then placed his/her TASER on the ground between his/her knees for approximately eight seconds while he/she placed the Subject's left arm behind the Subject's back in order to handcuff him. According to Officer C, while he/she held the TASER in his/her right hand, he/she could not secure the TASER in its holster, which was on the left side of his/her duty belt because he/she would have been required to transition the TASER to his/her left hand to do so. Doing so would have required Officer C to let go of the Subject's left wrist. The BOPC evaluated the two circumstances of the TASER being placed on the ground and determined that during each occurrence it was momentary, occurred during times that the Subject was well-controlled, and necessary in order for Officer C to assist in controlling the Subject.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Officer Cs' actions were reasonable and not a substantial deviation from approved Department tactical training.

2. Tactical Communication

The investigation revealed that Officer C broadcast the incorrect unit designation twice while at scene. The BOPC noted that Officer C is regularly assigned to work patrol in an "A car," but on the day of the incident had volunteered to work a crime suppression detail. While it is understandable that under stress, officers resort to what their regularly assigned unit designations are, Officer C was reminded of the importance of broadcasting the correct unit designation in order to avoid confusion or delay to responding units.

3. Proper Use of Taser in Drive-Stun Mode

The investigation revealed that Officer C removed the cartridge from the TASER prior to placing it on the Subject's back. Though Officer C did not activate the TASER, he/she was reminded that to maximize the effectiveness of the TASER, the cartridge should remain attached to the TASER so that the recommended three-point drive stun can be utilized. In order to conduct this type of drive-stun, the officer must leave the cartridge in place, leave room for the TASER cartridge blast doors to open, then activate the TASER and move the TASER to an area of the body away from the probe impact site to maximize the effect of the Neural Muscular Incapacitation (NMI). In all other circumstances, TASER applications are most effective when discharged in probe mode from a distance of seven to 15 feet as the spread of the probe darts maximizes the effectiveness of NMI

4. Arrestee Medical Treatment

The investigation revealed that Officer C immediately requested a RA for the Subject upon taking him into custody and then requested a second RA for Victim B once Officer C realized that Victim B was injured. Officer C directed the first arriving LAFD personnel to treat Victim B because he/she believed Victim B's treatment would be quick. LAFD personnel conducted a brief visual assessment on the Subject prior to the arrival of the RA and noted the Subject was breathing, moving around, and making eye contact. LAFD personnel have advanced medical training and more experience in dealing with the analysis and treatment of persons needing medical treatment than officers. In this case, LAFD personnel were able to make their own observations of the Subject and ultimately have the responsibility to determine who they should treat and in what order. Nonetheless, the BOPC would have preferred that the officers refrain from providing direction to LAFD personnel as to who should be treated first. Rather than provide direction, officers were reminded that when feasible, it is important to communicate relevant observations (i.e.: foaming at the mouth, verbal unresponsiveness, and possible overdose), so that all involved City personnel have an optimal understanding and situational awareness of the incident.

B. Drawing and Exhibiting

Does not apply.

C. Non-Lethal Use of Force

- **Officer C – Firm Grip, Physical Force, and Bodyweight.**

According to Officer C, he/she repeatedly ordered the Subject to put his arms out to his side and spread his legs. The Subject did not comply and instead placed his forearms on the ground and lifted his upper torso off the pavement. Officer C placed the TASER on the Subject's back and ordered him not to get up or he would be tased. Officer C then utilized a firm grip to grab the Subject's left arm and directed Officer D to grab the Subject's right arm and place it behind his back. Officer C positioned him/herself on the Subject's left side and placed his/her right knee on the Subject's upper back to prevent him from escaping. While still holding onto the TASER in his/her right hand, Officer C then momentarily utilized his/her right palm to apply bodyweight to the back of the Subject's head to keep him pinned down.

- **Officer D – Firm Grip, Physical Force, and Bodyweight.**

According to Officer D, he/she positioned him/herself behind the Subject and then utilized a firm grip on the Subject's right arm and attempted to move his arm behind his back. Officer D noted that the Subject was tensing up, really strong, and had foam coming out of his mouth. Based on these observations, Officer D formed the opinion that the Subject was possibly under the influence of something. Officer D ordered the Subject to, "Stop tensing up," but the Subject did not comply or respond. Officer D utilized physical force to pull the Subject's right arm from underneath the Subject and placed it behind his back. Officer D then applied a handcuff to the Subject's right wrist. Officer D placed his/her left knee against the Subject's lower back and utilized his/her body weight to prevent the Subject from getting up.

- **Sergeant A – Firm grip and physical force right arm.**

According to Sergeant A, he/she observed that the officers had one handcuff on the Subject's wrist and realized that they needed some assistance in handcuffing him. Sergeant A, concerned that the incident would escalate if the Subject was not immediately taken into custody, utilized a firm grip and physical force to push the Subject's right arm closer to his left arm to assist the officers with handcuffing the Subject's left wrist.

In this case, the BOPC conducted a thorough review and analysis of the investigation and circumstances of the incident in determining the reasonableness of Sergeant A's and Officers C and D's use of non-lethal force. The BOPC noted that the incident involved a Subject who had already physically assaulted a victim and four witnesses and had to physically restrain him until police officers arrived. Both officers used minimal force on the Subject in their attempts to handcuff and control him. The officers continued to verbalize commands in an attempt to elicit cooperation and voluntary compliance throughout the incident. During the handcuffing of the Subject, the officers

maintained control of the Subject's arms and used the minimal amount of force necessary to handcuff him and avoid injury. Officer C exhibited his/her TASER to the Subject in an effort to gain compliance but demonstrated restraint by not utilizing it and instead coordinated with Officer D and Sergeant A to employ physical control techniques to handcuff the Subject.

The BOPC also noted that Sergeant A correctly determined that the officers were having difficulty in handcuffing the Subject and assisted the officers in handcuffing the Subject since there were no other officers at the scene at the time. Sergeant A's involvement was momentary and minimal in nature and he/she returned to a supervisory role once the Subject was in custody.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, along with Officers C and D, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Sergeant A's, along with Officers C and D's non-lethal use of force to be objectively reasonable and In Policy.