

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

**IN-CUSTODY DEATH – 081-13**

**Division      Date      Duty-On (X) Off ( )      Uniform-Yes (X) No ( )**

Southwest      09/06/13

**Officer(s) Involved in Use of Force      Length of Service**

Not applicable.

**Reason for Police Contact**

Officers pursued a suspected DUI driver. Following the termination of the pursuit, a subject was taken into custody and subsequently died.

**Subject(s)      Deceased (X) Wounded ( ) Non-Hit ( )**

Subject 1: Male, 26 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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on August 19, 2014.

## **Incident Summary**

Officers A, B, C and D engaged in a pursuit of a suspected DUI driver who was later determined to be Subject 1. Subject 1 committed numerous traffic violations in an attempt to evade the officers. The pursuit terminated when the subject's vehicle traversed a center divider and drove into an alley. Subjects 1 and 2, along with an unknown subject, then exited the vehicle and ran through a park into a residential neighborhood. An air unit responded and maintained a visual on Subjects 1 and 2, but lost sight of the unknown subject, who ran in a different direction and was not apprehended. Subjects 1 and 2 ran in, around and out of an apartment complex, then into a second apartment complex. During this period, Subject 1 fell down twice and immediately got back up and continued running. The air unit broadcast that the subjects were "running out of gas." The pursuing officers eventually made a U-turn and were directed by the air unit to the subjects' location.

Sergeants A and B and Officers A through U responded to the area of the pursuit termination. Officers took positions around the apartment complex where the two subjects were located, but were unable to enter due to the gates being locked. Subject 1 was observed inside the carport area but refused requests to open the gate. Officer E climbed over the rear gate and let Officer F in. Subject 1 subsequently ran toward the front of the building.

Officers G and H observed Subject 1 running toward their location. Officer H stated Subject 1 ran east toward his direction in an aggressive manner, at which time he unholstered his TASER. Officer H ordered Subject 1 to stop as Subject 1 continued toward his direction and, when he failed to comply, Officer H pointed the TASER at him and activated the laser light, placing the light on Subject 1's front torso.

Subject 1 continued to advance and pushed on an 8 foot, 11 inch tall fence, located on the corner of the complex, causing the fence to fall to the ground. Once Subject 1 passed the fence, it returned to its original upright position. Officer H still had the laser light on Subject 1's front torso and continued to tell Subject 1 to stop as Officers A and B unholstered their service pistols and assumed a low-ready position with their fingers along the frame because they believed the situation might escalate to the use of deadly force.

Officers A and B ordered Subject 1 to get on the ground, at which time Subject 1 placed himself onto the ground with his chest on the grass and his arms and legs spread apart. Officer A holstered his service pistol and approached Subject 1, as Officer B acted as the cover officer.

Officer A positioned himself on the right side of Subject 1, grabbed his right wrist by utilizing a firm grip with his right hand, and placed his left knee on Subject 1's right shoulder blade area. Officer A placed his handcuff on Subject 1's right wrist. At this time, Officer B holstered his service pistol, approached Subject 1, and positioned himself on Subject 1's left side. In the interim, as Officers A and B were taking Subject

1 into custody, Officers G and H were still in the vicinity of Subject 1 when Officer C ran toward Officers A and B's location as Officer D followed. Officer D, who was approximately 15 to 20 feet behind Officer C, arrived shortly thereafter. Officer C indicated he observed Subject 1 face down and in a prone position.

Officer B grabbed Subject 1's left wrist with his right hand and placed his knee on Subject 1's left shoulder blade area. Officer B placed Subject 1's arm behind his back, at which time Officer A handcuffed his left wrist. Officer C placed his right hand on Subject 1's back to prevent Subject 1 from rolling over as Officer D positioned himself to the side of Subject 1, and took control of Subject 1's feet, grabbed Subject 1's left leg, and crossed Subject 1's left leg over his right leg. Officer D then utilized his right hand and applied body weight to keep Subject 1's legs secured. Officer D indicated Subject 1 was not resisting, and he held Subject 1's legs as a precautionary measure. Once Subject 1 was handcuffed, Officer H holstered his TASER.

From the time Subject 1 exited the vehicle and fled on foot, it took approximately 4 minutes and 24 seconds until Subject 1 was taken into custody. The distance was approximately 0.3 miles. Officers A, B, C, D, H, and G indicated Subject 1 did not resist at any time, and no force was ever used. Officers A, B, C, and D indicated Subject 1 did not appear to be in any type of medical distress. While Subject 1 was face down on the ground, Officer C lifted Subject 1's shirt and searched him for weapons or contraband. Officers A, B, C, and D indicated Subject 1 appeared tired from running and was sweating profusely.

**Note:** Five civilian witnesses alleged that there was possible force used against Subject 1 at the time of his arrest or while at the police vehicle. Upon further questioning, however, the witnesses were generally unable to provide any specific instances of reportable force that they observed, although one witness said he saw Subject 1's shoulders overextended. Another said that the Subject was slammed against the vehicle after being walked to the car, but this was determined to be inconsistent with video evidence. Five additional witnesses stated that they observed Subject 1 being handcuffed or at the police vehicle but did not observe officers use force.

The air unit broadcast that Subject 1 was being taken into custody and immediately focused its attention to the rear of the apartment complex in an attempt to locate Subject 2. The air unit advised ground units to hold the building and that Subject 2 was still inside the building when Subject 1 was taken into custody.

Once Subject 1 was handcuffed, Officer A asked Officers C and D if they could take custody of Subject 1 so they could return to the location of Subject 1's vehicle. Officer C advised Officers A and B that they would take Subject 1.

Subject 1 said, "Can't breathe." Officer C told Subject 1 to get up. Officer C asked Subject 1 a second time to get up, at which time Subject 1 said, "I can't breathe. I can't breathe. I have asthma. I have asthma." Officer C then stated, "Get up." Officer C

grabbed Subject 1's right elbow with his left hand and, while Officer B assisted, rolled Subject 1 onto his back and then into a seated position. Officer C directed Subject 1 to place his left foot under his right leg and then attempted to stand Subject 1 up to his feet while lifting up on Subject 1's right elbow. When Officer C was unsuccessful in lifting Subject 1 up to his feet, Officer B grabbed Subject 1's right arm and assisted Officer C in lifting Subject 1 to his feet.

**Note:** Officer C stated he does not recall Subject 1 saying, "I can't breathe. I can't breathe. I have asthma. I have asthma." Officer C stated it was possible he did not hear this comment because the airship was overhead, a crowd had gathered, and he had an earpiece in his ear.

Officer D stated once Subject 1 was taken into custody, he was walking Subject 1 to his police vehicle when Subject 1 stated, "I can't breathe."

As Officer B maintained his grip on Subject 1's right arm and, as Officer C maintained his grip on Subject 1's left arm, Officers B and C began walking Subject 1 toward Officer C's police vehicle. As the officers were walking Subject 1 to the police vehicle, Officer B noticed Subject 1 was walking unsteadily and believed he was walking in this manner because he was fatigued.

Simultaneously, Officer D noticed Officer C falling behind as Officers C and B were walking Subject 1 to the police vehicle. Officer D relieved Officer C, grabbed Subject 1's left elbow with his right hand, and continued walking Subject 1 toward the police vehicle. Officer D indicated as he and Officer B walked Subject 1 to the police vehicle, he heard Subject 1 say, "I can't breathe," one or two times as they were walking. Officer D stated Subject 1 was walking on his own and did not need any assistance with walking.

**Note:** Officers A and B stated they never heard Subject 1 mention he could not breathe. Officers A and B stated they did not observe any injuries on Subject 1.

When Officer C was interviewed by FID investigators, he stated, as they walked Subject 1 to the police vehicle, he heard Subject 1 say for the first time, "I can't breathe." Officer C indicated he thought Subject 1 was out of breath because of the heavy clothing he was wearing and the long distance he had just run.

Officers B and D placed Subject 1 against the left rear trunk area of Officers C and D's police vehicle. Once Subject 1 was placed against the vehicle, Officer A approached Officer B and told him they needed to leave to search for the subjects' vehicle. Officer B had custody of Subject 1 at the trunk of the police vehicle for approximately five seconds before he released his hold on Subject 1 and walked toward his police vehicle. Officers A and B responded to their police vehicle, at which time Officer C arrived at his police vehicle and took custody of Subject 1. Officer B indicated they walked Subject 1

approximately 30 to 40 feet to the left rear trunk area of Officers C and D's police vehicle.

Sergeant A advised CD he was at scene. He exited his vehicle and walked toward the apartment complex to assist with the search for Subject 2. Sergeant A could see Officers C and D with Subject 1 at the trunk of their police vehicle.

Officer C opened the left rear passenger door to his police vehicle as Officer D held Subject 1 and conducted a pat down search. Officer D patted the right side of Subject 1's body for weapons and contraband as Officer C patted the left side of Subject 1's body. As officers patted Subject 1 for weapons and contraband, Subject 1 twice stated he could not breathe. As Subject 1 was saying he could not breathe, a black and white police vehicle was observed by Officer D travelling towards their police vehicle. For the safety of Subject 1, Officer D moved Subject 1 from the left rear portion of the trunk to the rear trunk area of his police vehicle. When Subject 1 stated he could not breathe, Officer D told Subject 1 to breathe and indicated that because Subject 1 was talking, he was fine. Officer D indicated Subject 1 stated he could not breathe one or two more times. Officer D stated he was not concerned about Subject 1's breathing abilities because he did not hear any level of distress in his voice and did not observe any signs of labored breathing or panting. Officer D stated Subject 1 was sweating but was talking normally.

Officers A and B re-entered their police vehicle to search the area for the subjects' vehicle. As Officers A and B placed their vehicle in reverse and were driving to the last known location of the vehicle, the air unit broadcast that the vehicle was no longer at scene. Officers A and B searched the area for the subject's vehicle and were unable to locate it. Officers A and B then canvassed the path the subjects took as they fled from officers to search for any weapons or contraband. Officers A and B did not locate any weapons or contraband.

Officer C stated that as he and Officer D were standing at the trunk of their vehicle with Subject 1, he observed numerous citizens exiting their apartments. Subject 1 yelled, "I can't breathe. I can't breathe." Subject 1 then yelled, "Help me, help me, help me. I can't breathe. I can't breathe. Help me please. Help me. I can't breathe. I can't breathe."

Simultaneously, as Sergeant A walked toward the apartment complex to formulate a search team and ensure containment, he heard Subject 1 yelling toward the crowd. Believing Subject 1 was attempting to incite the crowd, Sergeant A walked back toward Subject 1's location.

Sergeant A indicated he wanted to determine what was going on and to ensure there was no use of force. As he approached, Sergeant A observed Subject 1 at the trunk of Officers C and D's police vehicle. Sergeant A stated Subject 1 would intermittently stand up, yell at the crowd, and then lean back over the trunk. Subject 1 was looking directly at the crowd, who were gathered on a curb east of the police vehicle

approximately half a traffic lane distance away, and Sergeant A believed the comments were directed toward the crowd. Sergeant A stated that as Subject 1 continued to yell, "Let me go," Sergeant A heard Subject 1 say, "I can't breathe." Subject 1 yelled, "I can't breathe," and "Let me go," several more times.

As Sergeant A reached the police vehicle, he noticed Subject 1 was sweating. Sergeant A believed Subject 1 was sweating because he had just run from the vehicle and appeared to have exhausted his adrenaline and physical reserves, and because of the hot weather and his clothing. Sergeant A indicated Subject 1 was breathing fine and was not panting, hyperventilating, choking, coughing, or breathing heavily.

**Note:** At the time of this incident, the temperature was approximately 71 degrees with 75 percent humidity and partly cloudy conditions.

Sergeant A stated he heard Officer D tell Subject 1 he was fine and to calm down and relax. Subject 1 continued to yell, "Let me go, I can't breathe." Sergeant A advised Subject 1, that if he could yell and speak, he could breathe and was fine.

Officer C stated he noticed Sergeant A to his right and then heard Subject 1 say, "I can't breathe." Officer C told Subject 1 that if he was talking, he was breathing. Subject 1 continued to yell that he could not breathe.

Sergeant B arrived at the location and parked his police vehicle behind Officers E and O's vehicle. Sergeant B exited his vehicle and met with Sergeant A.

Sergeants A and B were positioned to the left and toward the rear of Officers C and D's police vehicle. Officers C and D were at the rear trunk with Subject 1.

Sergeant A told Officers C and D to place Subject 1 in the police vehicle and to turn on the air conditioning. Sergeant A was concerned that Subject 1 was attempting to incite the crowd.

Officer C placed Subject 1 into the left rear passenger seat. The windows to the rear doors were up. Subject 1 immediately fell back and lay across the rear seats with his head on the right rear passenger seat. Officer C utilized his left hand, grabbed Subject 1's sweatshirt, and pulled Subject 1 into a seated position. Subject 1 stated, "I can't breathe," as Officer C directed Subject 1 to place his feet inside the police vehicle.

Officer D responded to the right rear passenger door, opened the door, and reached in and grabbed the front pocket of Subject 1's pants. Officer C grabbed the left portion of Subject 1's sweatshirt while Officer C stood outside of the left rear passenger door, and placed Subject 1 in a seated position in the left rear passenger seat. Officer C gave the left rear passenger seatbelt to Officer D and Officer D placed the tongue assembly into the latch mechanism, securing Subject 1. Once Subject 1 was secured, Officers C and D shut the left and right rear passenger doors. Subject 1 leaned toward the right rear passenger seat and shook his head, causing the hood to come off his head.

Officers A and B returned to the apartment complex, exited their vehicle, and walked north toward Officers C and D's police vehicle. Officer B walked to the right rear passenger door of Officers C and D's police vehicle. From the exterior of the vehicle, Officer B illuminated Subject 1's face with his flashlight as Subject 1 sat in the left rear passenger seat, leaning to the right toward the right rear passenger seat. Officer B stated he wanted to determine if he had prior contacts with Subject 1 and whether he was a gang member. Officer B stated Subject 1 appeared fine and was breathing as if he was catching his breath. Subject 1 did not make any comments while Officer B illuminated him.

Sergeant A responded back to the front of the apartment complex to coordinate responding officers' search for the outstanding suspect. The search team, which consisted of Officers I, J, K and L, cleared the interior of apartment complex and did not locate Subject 2. Subject 2 was later apprehended by Officers M and N. Officers A, B, C, D, E, and O, along with Sergeant B, remained in the vicinity of Officer C and D's police vehicle.

Subject 1, who was seated in the police vehicle, said, "Sir, I'm having a seizure. Sir, I'm having a seizure." Subject 1 then yelled, "I'm on drugs," and leaned toward his right. Subject 1 continued to yell and said, "I'm on one [inaudible]. I feel like I'm going to have a heart attack [inaudible]." Officers A, C, E and O and Sergeant B were in the area of the left rear quarter panel of Officers C and D's vehicle when these comments were made. Officer D was seated in the right front passenger seat.

**Note:** Officers E and O stated they never heard Subject 1 yell for help or ask for assistance. They stated they did hear Subject 1 yelling, but could not decipher what he was saying.

Officers A and B stated they did not hear Subject 1 make any statement while Subject 1 was seated in the police vehicle.

Officers C and D and Sergeant B indicated that they never heard Subject 1 make the comment, "Sir, I'm having a seizure. Sir, I'm having a seizure," or "I'm on one [inaudible]. I feel like I'm going to have a heart attack [inaudible]."

Officers E and O entered their police vehicle and left the scene.

Shortly thereafter, as Officer D was seated in the front passenger seat, Subject 1 released his seatbelt, laid across the rear passenger seat, and placed his head on the right rear passenger seat. Subject 1 then stated, "I can't breathe sir." Subject 1 lifted his feet up and placed them on the left rear passenger door area as he continued to say he could not breathe. Officer C utilized his flashlight, illuminated Subject 1, and told him to sit up. Officer C told Subject 1 to sit up several more times with negative results.

**Note:** Officer C stated that prior to leaving the scene, he heard Subject 1 say he couldn't breathe one time. Officer D stated that once Subject 1 was placed inside the police vehicle, he heard Subject 1 yell, "I can't breathe." Officer D stated he could see Subject 1 from the rear window of his police vehicle. Sergeant B stated he only heard Subject 1 say, "I can't breathe," one time and that was when Subject 1 was standing at the rear of the vehicle.

Officer C opened the left rear passenger door, reached in with his right hand, and attempted to have Subject 1 sit up as he continued to verbalize for him to sit up. Subject 1 placed his feet outside of the police vehicle. Officer C told Subject 1 to pick his feet up and placed Subject 1's feet inside the police vehicle. Officer C then closed the left rear passenger door. Subject 1 did not have his seatbelt on and was lying across the rear passenger seat with his feet up against the left rear passenger door.

Subject 1 subsequently sat up and said "Sir." Subject 1 leaned back toward the right rear passenger seat and began kicking the left rear passenger door with his feet. Subject 1 sat back up and stated, "I can't breathe." Subject 1 then yelled, "Help me. Help me. I can't breathe." Officer C stated he believed Subject 1 was attempting to kick out the window. Officer D was toward the front of his police vehicle as Officers C, A, B, and Sergeant B were on the driver's side of Officers C and D's police vehicle.

**Note:** Officers A, B, C, D, and Sergeant B indicated they did not hear Subject 1's statement at this time.

Officer B walked away from Officers C and D's police vehicle.

Subject 1 began banging the left side of his head against the left rear door and stated he could not breathe. Subject 1 struck his head two more times against the door. Sergeant B stated he did not want Subject 1 to injure himself and directed Officer C to stop Subject 1 from banging his head. Sergeant B stated he could hear Subject 1 rambling but did not hear any clear statements because the windows were up. Officers C and D, along with Sergeant B, were on the driver's side of Officer's C and D's police vehicle.

**Note:** Officer D stated he observed Subject 1 bang his head against the window approximately three times. Officer C stated it appeared Subject 1 was attempting to kick out the window.

Officer C opened the left rear passenger door and Subject 1 leaned out the door. Subject 1 then said, "I can't breathe. I'm messed up [inaudible]." When Subject 1 exited the police vehicle, Officer C noticed Subject 1 was drenched in sweat. Officer C believed Subject 1 was sweating because he had just run from the police and had a sweatshirt on. Officer D stated he heard Subject 1 say he could not breathe but did not observe any labored breathing. Sergeant B stated he did not hear Subject 1 make any



statement while this was occurring. Officers A, C and D, along with Sergeant B, were on the driver's side of Officers C and D's police vehicle.

Once Subject 1 was out of the police vehicle Subject 1 fell to his buttocks. Sergeant B noticed Subject 1 became limp and also noticed Subject 1 was wearing a hooded sweatshirt and was sweating.

Officers C and D placed Subject 1 at the left rear portion of the trunk, stood him up, and talked with Subject 1 in an attempt to determine why Subject 1 continued to take off his seatbelt. Sergeant B stated Subject 1 was very uncooperative and began moving his body left and right as if he did not want to be detained or arrested. Sergeant B formed the opinion Subject 1 was attempting to send out a "diversion" to the gang members who were nearby.

As Subject 1 was outside police vehicle he said that he needed some air. Officer A told Subject 1 to stand up and that the officers could not help him if he did not help himself. Officer A stated that he did not hear Subject 1 make any statement about not breathing or needing air.

Officer C, while positioned on the right rear side of Subject 1, and Officer D, positioned on the left rear side of Subject 1, lifted Subject 1 up and placed his upper torso on the left rear passenger area of their vehicle. Sergeant B stated that Subject 1 was fine and to keep him propped up. According to Sergeant B, Officers C and D used their body weight and pressed their bodies against Subject 1 as they utilized the rear trunk area of the police vehicle as a controlling agent to prevent Subject 1 from escaping. Sergeant B stated the officers were not involved in a use of force incident.

Sergeant A returned to the left rear portion of Officers C and D's police vehicle. Officers I and J also arrived after completing a search of the apartment complex. Officer J stated he heard a commotion around Officers C and D's police vehicle and responded to determine what was going on. Officer J observed Subject 1 yelling and appear to be kicking. Officer J approached Subject 1 and placed his foot behind the heel of Subject 1's feet so he could not kick. As Officer J was behind Subject 1, he recalled Subject 1 saying he could not breathe. Officer J stated Subject 1 did not appear to be in medical distress and just seemed exhausted from running.

Subject 1 again stated he could not breathe. Sergeant A walked toward the rear of the trunk, approached Subject 1, and told him, "If you can talk, you can breathe. Yes you can. Hold still and quit moving around alright. You can breathe just fine. You can talk, so you can breathe." Subject 1 mumbled something unintelligible. Sergeant A then asked the Subject his name. Subject 1 replied, "Let me go." Sergeant A told Subject 1 no and again asked him his name. Subject 1 then says, "I can't breathe. Help me."

**Note:** Officer I stated he was approximately 10 feet away from Subject 1 when he heard Subject 1 scream, "Help me," one time. Officer I believed

Subject 1 was yelling toward the crowd on the east side of the location. Officer I did not believe Subject 1 was in distress.

Officer J recalled Subject 1 saying he could not breathe, but did not recall hearing any additional statements.

Officers P and Q walked up to Officers C and D's vehicle to see if they needed assistance. Upon arrival, Officers P and Q noticed Subject 1 was sweating and yelling. Officer P stated he heard Subject 1 yelling but does not recall what he was saying. Officer Q stated he never heard Subject 1 make any statements and did not observe anything that made him believe Subject 1 was in distress.

Sergeant A subsequently stated, "Just put him in the car. [Inaudible] fire up the A/C so we can get some air and let's get him out of here [inaudible]." Officers C and D then placed Subject 1 into the left rear passenger door. Subject 1 sat on the left rear passenger seat and immediately fell toward the right rear passenger seat. Officers P, Q, and Sergeant B were toward the left rear quarter panel of Officers C and D's police vehicle.

Officer D walked to the right rear passenger door and opened the door. Officer J followed Officer D and stood behind Officer D as Officer D reached in toward the left rear passenger seat, grabbed the left portion of Subject 1's sweatshirt with his right hand as he reached across Subject 1 and pulled Subject 1 across to the right rear passenger seat area. Simultaneously, Officer C placed Subject 1's feet inside the police vehicle. Officer C handed Officer D the left rear passenger seatbelt at which time Officer D placed the tongue assembly into the latch mechanism, securing Subject 1. Officers C and D closed the rear doors of the police vehicle.

**Note:** Subject 1 was outside of the vehicle for approximately 1 minute 19 seconds. Forty three seconds after the Subject was placed in the rear seat, Officer C started his police vehicle and left the scene.

According to Sergeant A, he asked Sergeant B what the charges were against Subject 1 and Subject 2. Sergeant A asked Sergeant B if he wanted to take Subject 1 in for resisting a public officer and Sergeant B agreed.

Officers C and D left the location and began to drive Subject 1 to Southwest Station. Subject 1 was in custody for approximately 11 minutes, 16 seconds before Officers C and D left the scene.

Officer C stated as they were driving to the station he lowered at least one of the rear windows so Subject 1 could obtain some air and cool down. Officer C noticed Subject 1 was moving around in the back seat and saying something. Officer C stated he could not hear what Subject 1 was saying due to the closed window partition between the front and back seats and because he also had an ear piece in his ear.

As the vehicle drove toward the station, Subject 1 released his seatbelt, leaned toward his right, and lay across the rear passenger seat. Subject 1 said, "I can't breathe." Officer D told Subject 1, "Yes you can. You're talking." Subject 1 then lay on his stomach as he continued to move around. Subject 1 then stated, "Help me," one additional time before they arrived at the station.

The transportation time from the location to Southwest Station was 4 minutes, 58 seconds. Upon their arrival at the station, Officer D opened the right rear passenger door as Subject 1 lay across the rear passenger seat on the right side of his body. Officer D reached in and grabbed Subject 1's left arm and pulled him out of the vehicle. Subject 1 went to the ground onto his knees, at which time Officer D told Subject 1 to use his legs to stand up.

Officer D grabbed Subject 1's left arm and Officer C grabbed his right arm. Officer D stated, "1, 2, 3," at which time they lifted Subject 1 and placed him against a police vehicle parked to the right of their police vehicle. Prior to lifting Subject 1, Subject 1 stated, "I can't breathe." Subject 1 stated he could not breathe two additional times. Officer C stated to Subject 1 that he needed to act like a man and walk. Officers C and D walked Subject 1 toward the station.

**Note:** Officer D stated he heard Subject 1 say he could not breathe one to two times when they pulled Subject 1 out of the vehicle. Officer D told Subject 1 he was breathing all right and stated there was no distress in his breathing.

Officer C stated he did not hear Subject 1 say he could not breathe when they removed him from the vehicle.

Officer V exited the station and held the rear station door open for Officers C and D. Officer D was holding the left arm and left rear pant leg of Subject 1, and Officer C was holding the right arm and right rear waistband area of Subject 1 as they carried Subject 1 into the station. Subject 1's feet were dragging as the officers carried Subject 1 into the station.

Subject 1 was slumped over and continued to drag his feet as the officers brought him into the station. Officers C and D placed Subject 1 on the hallway floor, face-down, just outside of the Watch Commander's office and holding tanks. Officer C then entered the Watch Commander's office and notified the Watch Commander, Sergeant C, that they had an arrestee in custody.

As he lay on the floor, Subject 1 said, "I can't breathe. I need some air." Officer D replied that he was breathing and was all right. Sergeant C entered the hallway along with Officer C. Officer C told Subject 1 to get up because they had to ask some questions. As Subject 1 was on the floor, he was moving and kicking his legs.

Officer D obtained the Adult Detention sign-in log from the wall, opened the door to a holding cell, and placed the detention log on a bench in the hallway.

Officers C and D carried Subject 1 into the holding cell and placed him on the floor, on his stomach. Shortly after Officers C and D had entered the holding cell, Officer W entered the cell to assist the officers. Officer F arrived later and briefly entered the holding cell as well.

**Note:** The station surveillance camera system did not show the interior of the holding tank.

Sergeant C entered the holding cell. Sergeant C stated that at some point Subject 1 stood up and stated he could not breathe. Sergeant C stated that Subject 1 made the statement about not breathing more than once. Sergeant C noticed Subject 1 was acting a little bizarre and attempted to determine why he was behaving this way. Sergeant C stated Subject 1 appeared to be breathing fine and did not appear to be in any physical distress. Officers D and C began to search Subject 1 and remove his property from his pockets. The officers placed Subject 1's property on the floor several feet from him.

Officer W stood by as Subject 1's property was removed. Officer W stated that he noticed Subject 1 was fidgeting, moving around, and appeared conscious. Officer W received Subject 1's property, exited the holding cell, and placed Subject 1's property on a bench in the hallway and began removing the shoe laces from Subject 1's shoes. Officer W stated that when he was inside the holding cell with Subject 1, he never heard Subject 1 ask for help or indicate he was having difficulty breathing. Officer W stated Subject 1 did not appear to have problems breathing and did not appear to need medical attention.

Sergeant C stated that he asked Subject 1 if he understood why he was arrested or detained. Sergeant C stated it appeared Subject 1 nodded in the affirmative. Sergeant C checked "yes" to the first question on the adult detention sign-in log. Sergeant C stated that when he asked Subject 1 if he was sick, ill, or injured, Subject 1 did not respond. Sergeant C wrote, "Not responsive."

Sergeant C then directed the officers to remove the handcuffs. Officers C and D removed the handcuffs. Once the handcuffs were removed, Subject 1 was directed to stay on the ground until the officers exited the cell.

Sergeant C exited the holding cell and completed the adult detention sign-in log. Shortly thereafter, Officers C, D, and W exited the holding cell and closed the door. Officer D obtained the sign-in log from Sergeant C and completed the log.

Once outside the holding cell, Sergeant C monitored Subject 1's behavior for approximately one minute and thirty seconds before he left and entered the Watch Commander's office. According to Sergeant C, Subject 1 was very animated. Sergeant

C stated Subject 1 would sit down and then stand up. Subject 1 finally lay down on the floor and began removing articles of clothing. Subject 1 removed his sweatshirt and pulled his trousers down to his knees. Sergeant C stated he did not want to have a crowd of officers gathering and watching Subject 1 because he believed it might provoke more of this type of behavior if Subject 1 had an audience.

Officer D stated at one point he looked inside the cell and observed Subject 1 seated on the bench. Subject 1 stood up and placed his back against the holding cell door.

Sergeant C stated he told Officer D to maintain visual contact of Subject 1 and then returned to the Watch Commander's office. Sergeant C subsequently broadcast a request to have any supervisor at the scene call his landline. Sergeant B responded. Sergeant C advised he was inquiring as to what happened in the field and gather information to determine if a Rescue Ambulance (RA) was needed.

Officers M and N subsequently arrived at the station with Subject 2, who had been taken into custody. Subject 2 was placed on a bench and later placed inside a different holding cell. Sergeant C was advised of the arrestee, completed the adult detention log, briefly monitored Subject 1, and then reentered the Watch Commander's office. He subsequently reentered the hallway and began monitoring Subject 1 with Officer X.

Officer X utilized his Department issued flashlight and illuminated the dimly lit holding tank. Sergeant C stated Subject 1 appeared to be breathing very shallowly, at which time he and Officer X had a brief conversation as to whether Subject 1 was actually breathing. Sergeant C stated Officer X told him Subject 1's chest was moving and that he was breathing. Sergeant C left the hallway and entered the Watch Commander's Office as Officer X continued to monitor Subject 1.

Officer N stated that he walked to the cell holding Subject 1 and observed Subject 1 seated on the ground. According to Officer N, he appeared to be conscious and breathing. Officer N noticed Subject 1's pants were lowered to his knees and was lifting his shirt up as if he was going to remove his shirt.

Sergeant C again exited the Watch Commander's Office, entered the hallway, and looked into Subject 1's cell as Officers N and X monitored Subject 1. Sergeant C noted that Subject 1 was lying on the floor and appeared to be passed out. According to Sergeant C, he did not observe any problems with Subject 1's breathing.

According to Officer N, Officer X told him within a minute of his arriving at the cell that Subject 1 was not looking good. Officer N looked into the cell and noticed Subject 1 was now on his back with his hands up, palms open, and fingers cupped. Officer N noticed Subject 1's eyes were blinking but his eyelids appeared stiff as he blinked. Officer N stated Subject 1 appeared rigid. Sergeant C decided that, as a precautionary measure, he would have a Rescue Ambulance (RA) respond and have Subject 1 checked out. Sergeant C then told Officer N to request an RA.

Officer N, based on his observations and at the direction of Sergeant C, broadcast a request for an RA for a male, approximately 25 years of age, conscious and breathing, suffering from a possible overdose. Sergeant C continued to monitor Subject 1 who was on the floor on his back. Sergeant C stated Subject 1 appeared to be breathing but was either passed out or sleeping.

Approximately two and a half minutes later, Sergeant C, along with Officer W, entered the holding tank. Sergeant C stated he entered to check Subject 1's condition. Sergeant C grabbed Subject 1's right wrist, checked for a pulse, and was unable to ascertain if he had a pulse. Sergeant C stated as he checked for a pulse, he was unsure if he was feeling his own pulse or Subject 1's pulse.

Officer Y broadcast an update on the RA request, stating that the person was not breathing and was unconscious. Officer Y stated that Officer X directed him to update the RA request. According to Officer X, he had a concern whether Subject 1 was breathing because his eyes were partially open and his body appeared rigid. According to Sergeant C, as they waited for paramedics to respond, he assessed the situation as to whether Cardio Pulmonary Resuscitation (CPR) would be beneficial. He stated that he came to the conclusion he was not current with CPR training and did not know if it would be beneficial or harmful to administer CPR to him. Sergeant C indicated he had not been trained in CPR in several years.

Approximately 39 minutes after Subject 1 was taken into custody, and approximately 9 minutes after the RA was requested, LAFD personnel arrived on scene and began emergency medical treatment to Subject 1.

LAFD personnel treated Subject 1 for approximately 26 minutes before he was transported to the hospital. At the hospital, medical personnel initiated advanced cardiac life support protocols. The subject was pronounced dead approximately 4 hours and 3 minutes after he was taken into custody.

A subsequent autopsy examination found a small number of superficial contusions or abrasions but no internal injuries. The autopsy determined that death was due to "probable asthma in this 26-year-old male with methamphetamine effect." The manner of death was classified as "accident."

### **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). The BOPC does not adjudicate allegations of misconduct, which are reviewed through the personnel complaint process with oversight by the Inspector General. All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing

to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC made the following findings.

The BOPC found that there was no Use of Force involved in Subject 1's arrest or detention - therefore, the BOPC made no individual findings in this case.

**A. Tactics**

Does not apply.

**B. Drawing/Exhibiting**

Does not apply.

**C. Lethal Use of Force**

Does not apply.

**D. Additional**

The BOPC determined that there was no reportable use of force involved in Subject 1's detention and or arrest. However, because of the numerous concerns identified during the investigation and review process, Internal Affairs Group has initiated a thorough investigation of the incident, to include the actions of all involved personnel.

The BOPC noted that several allegations of misconduct have been framed in connection with this case. These include a failure to provide supervisory oversight during Subject 1's detention, a failure to request a Rescue Ambulance (RA) in a timely manner, potentially false and/or misleading statements, and a failure to accurately complete the adult detention sign-in log. As the BOPC does not adjudicate personnel complaints, these issues will be handled through the Department's personnel complaint process. The BOPC's Inspector General will monitor the progress of the personnel complaints to their final adjudications.