

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

**CATEGORICAL USE OF FORCE – 043-21**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Topanga	7/28/21		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	31 years, 5 months
Officer A	1 year, 5 months
Officer B	22 years, 1 month

**Reason for Police Contact**

On July 28, 2021, uniformed officers and a sergeant responded to a radio call of a domestic dispute. When the officers arrived, they encountered the Subject in the driveway of the residence and advised him that they needed to meet with the victim. As the officers and supervisor walked toward the front door, they directed the Subject to remain outside while they conducted their investigation. The Subject questioned the officers' legal authority to enter his residence and insisted that they needed a warrant. The officers gave the Subject numerous commands to remain outside; however, he refused to comply and repeatedly demanded to enter the residence.

Due to his interference, the officers attempted to detain the Subject; but he resisted and a use of force ensued. The officers utilized a takedown, bodyweight, physical force, and a TASER to control him, and then he was handcuffed. The Subject was transported by ambulance to a local hospital for removal of a TASER dart, and he was subsequently arrested and booked for Resisting or Obstructing an Officer.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 21 years of age.

**Board of Police Commissioners' Review**

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

materials of the involved officers; the Use of Force Review Board recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on July 12, 2022.

### **Incident Summary**

On Wednesday, July 28, 2021, at approximately 0246 hours, Communications Division (CD) received a 911 call from Witness A reporting that she had received a series of disturbing text messages from her cousin (Witness B). Witness B asked Witness A to call the police due to an active domestic violence incident. Witness A advised CD that the text messages indicated that the Subject was becoming violent and that Witness B was scared and could not call the police herself.

At 0253:46 hours, CD broadcast the call, including the type, location, and Subject's description. Additional information was sent as "comments" on officers' Mobile Data Computer (MDC).

At 0254:36 hours, uniformed Police Officers A (passenger) and B (driver) were assigned the radio call. They responded Code-Two.

Officer A was a probationary officer who had been out of the Academy for approximately ten months. This was the fourth time in a two-month period the officers were working together.

Since the Subject was a professional athlete and, therefore, a high-profile individual, CD notified the Department Operations Center (DOC) and the Valley Communications Watch Commander of the call. Additionally, CD called Watch Commander Lieutenant A and notified him/her that the officers were responding to a domestic dispute radio call involving a professional athlete.

According to Lieutenant A, based on the information provided by CD, he/she determined the radio call required a sergeant to respond, manage, and oversee the incident. He/she, therefore, called uniformed Sergeant A, advised him/her of the incident, and directed him/her to respond with the officers. Lieutenant A then called Officer B to inform him/her of the high-profile individual involved in the radio call. Lieutenant A directed the officers to await Sergeant A's arrival and reminded them to activate their BWV cameras.

At approximately 0306 hours, Officers A and B arrived in the area, broadcast they were at scene, parked their vehicle east of Witness B's residence, and waited for Sergeant A to arrive. Before exiting their vehicle, they activated their BWV cameras. Officer B read the comments of the call out loud and verified they were at the correct address.

At 0307:52 hours, Sergeant A arrived, notified CD he/she was at scene, parked directly behind the officers' vehicle, and activated his/her BWV camera. He/she met with the officers and asked if they had read the comments of the call and if they were aware the incident involved a professional athlete. Officer B indicated they were aware of that information. The officers then walked toward the house, which was significantly recessed from the street with a long driveway. The driveway had a recessed metal security gate with an electronic intercom system and a pedestrian door.

Officer A was in the lead followed by Officer B and Sergeant A. Officer A arrived at the metal security gate and found the door was unlocked. As the officers entered, the electronic door buzzer sounded, indicative that someone inside the residence was aware of the officers' presence. The officers then proceeded forward and walked the remainder of the driveway, which measured approximately 200 feet in length, toward the front of the residence.

At approximately 0309 hours, the Subject exited the residence and met the officers in the driveway. Officer B asked the Subject what was going on between him and Witness B. The Subject replied, "We just had a little argument; she was throwing some stuff at me." According to Officer B and Sergeant A, they noticed his slurred speech and believed that the Subject was possibly under the influence of drugs or alcohol. Moments later, the Subject's cousin, Witness C, exited the residence and told the officers everything was fine. Officer B informed them that they needed to speak with Witness B. According to Officer B, his/her immediate concern was to locate Witness B to ensure she was safe. Officer B then walked to the front door and directed the Subject to remain outside.

The incident began to escalate with the Subject insistent that he be allowed to enter the house while the officers conducted their investigation.

**The following describes each individual officer's actions during the UOF. It does not however reflect the order in which each officer applied force.**

According to Sergeant A's BWV, Sergeant A directed the Subject and Witness C to remain outside. The Subject ignored the officers and followed Officer B, asking, "I can't go inside my own house?" Sergeant A placed him/herself in front of the Subject's path to prevent him from continuing forward. The Subject attempted to sidestep around Sergeant A, at which point Sergeant A raised his/her right arm and placed his/her hand on the Subject's chest to block him from continuing forward, stating, "Step back please." The Subject replied, "I'll just walk around the back door then." Sergeant A stated to the Subject they were investigating, and he could not enter the residence. The Subject insisted that he knew his rights and the officers needed a warrant to enter, to which Sergeant A informed the Subject he was mistaken.

Meanwhile, Officer B approached the front door and attempted to open it, found it locked, so he/she door knocked. According to Officer B, as he/she knocked on the

door, he/she observed the Subject still advancing in his/her direction until Sergeant A intervened and stepped in front of him. Observing that the Subject was getting physically close to Sergeant A, Officer B approached and grabbed the Subject by the arms and attempted to guide him back. The Subject broke away and stated, "Get your hands off me, don't touch me, don't touch me."

Witness C attempted to intervene and calm the Subject down by telling him to stop and wrapped his arms around the Subject. Witness C stated to the Subject, "Stop, stop, [...] please bro, I'm begging you, I'm begging you."

At approximately 0311 hours, Sergeant A directed Officers A and B to remove the Subject. Sergeant A stated, "Take him out of here." The Subject heard Sergeant A's direction and responded, "No, don't take me out of here."

According to Officer B, to prevent the Subject from advancing to the front door, Officer B attempted for a second time to gain control of the Subject's left arm. Officer B grabbed the Subject's left wrist with his/her right hand. The Subject pulled his left wrist away from Officer B's grip in an upward motion. Witness C's left hand made physical contact with Officer B's right forearm as Witness C stated to Officer B, "Don't touch him." While holding the Subject's left arm, Officer B placed his/her right hand on Witness C's chest and verbalized to Witness C to back away. The Subject replied, "Get the [expletive] out of my property [expletive]."

At approximately 0310:56 hours, Officer A broadcast a back-up request over. CD acknowledged the broadcast and requested any Topanga unit to respond.

Officer B stated he/she maintained a firm grip on the Subject's left arm as he/she attempted to pull it behind the Subject's back. As he/she did so, the Subject spun around counter clock-wise to break Officer B's grip. Officer A approached the Subject's right side, grabbed the Subject's right wrist with his/her right hand, and placed his/her left hand on the Subject's right forearm. Officer A released his/her left hand briefly from the Subject's right forearm and placed it behind his back. Officers A and B attempted to place the Subject's arms behind his back using physical force.

At 0311:24 hours, Sergeant A stated to the Subject, "Alright, at this moment, you're being detained," as Sergeant A grabbed the Subject's left elbow with his/her left hand. According to Officer A, he/she was attempting to place the Subject's right arm behind his back when the Subject jerked his arm free of his/her grip. As Officer B attempted to maintain control of the Subject's left arm, the Subject turned toward Officer B and pulled his left arm toward the front of his torso. The Subject then thrust his left elbow forward, striking Officer B in the right side of his/her face, knocking off his/her glasses. The Subject struck Officer B in the chest with his left-hand, causing Officer B to stumble backward. The Subject then used his right fist to punch Officer B in the left side of his/her face. The Subject's violent assault caused Officer B to fall backward against the stucco wall and front door.

Officer B lowered his/her center of gravity, used both his/her arms, wrapped them around the Subject's legs, and lifted him up to get him off balance. Officer B then took a step forward, placed his/her head and right shoulder near the center of the Subject's stomach, and took the Subject to the ground, onto his back. According to Officer B, he/she believed that his/her elbows struck the stucco wall which resulted in an injury to his/her elbow.

At 0311:30 hours, Sergeant A directed the officers to request help, as he/she also struggled to control the Subject's right arm. A review of the CD radio frequency did not capture Officer A's help call; however, at 0311:26 hours, a garbled broadcast was recorded and heard over the radio frequency. A review of the BWV determined that from the moment Officer B first attempted to grab the Subject's arm, to the time he/she took the Subject to the ground, approximately 33 seconds had elapsed.

According to Officer A's BWV, the Subject was now lying face-up on the ground, with Sergeant A maintaining control of the Subject's right forearm and wrist with both hands. Officer B placed him/herself on top of the Subject, straddling him. The Subject bucked his hips and torso upward, attempting to get Officer B off him. Officer B remained lying on top of the Subject's torso while simultaneously holding the Subject's left arm.

Meanwhile, Officer A unholstered his/her TASER with his/her right hand, approached the Subject, and told him to stop resisting. Officer A then warned the Subject multiple times that if he did not stop resisting, he would be Tased. Officer A knelt to the right of the Subject and used his/her left hand to pin the Subject's right arm to the ground. Officer B assisted Officer A by using his/her left hand to keep the Subject's right arm pinned down.

Sergeant A positioned him/herself on the left side of the Subject's head, with his/her right knee on the ground next to the top of the Subject's head. He/she had his/her right hand on the ground for balance, as he/she placed his/her left hand over the Subject's forehead using physical force to keep the Subject on the ground. The Subject continued to resist by attempting to get up by lifting his upper body. Sergeant A placed his/her left knee on top of the Subject left shoulder area and applied bodyweight to control the Subject and prevent him from getting up.

At 0311:43 hours, Sergeant A's left knee was on the left side of the Subject's neck and jaw area for approximately four seconds. At 0311:46 hours, the Subject stated, "I can't breathe," and a second later, the Subject turned his head upward. Sergeant A's knee was no longer on his neck area. At 0311:47 hours, Sergeant A's left hand moved to the left side of the Subject's neck for approximately two seconds, and the Subject's head was moved to the right against the ground.

At 0311:51 hours, Sergeant A's left knee appeared to be placed on the left side of the Subject's neck for approximately eleven seconds. Sergeant A's right hand appeared on the area of the Subject's left temple area as Sergeant A stated, "Quit resisting, quit resisting."

Sergeant A's left arm was now in front of him/her, reaching across the Subject's head and neck area, with his/her left hand on the Subject's left side of his face and neck. At 0311:55 hours, Officer A's BWV captured the Subject repeatedly stating for the next four seconds, "I can't breathe." According to Officer A, he/she recalled the Subject stating three times that he could not breathe. According to Sergeant A, he/she recalled the Subject stating only once that he could not breathe.

According to Officer A, he/she looked up toward the Subject's head and observed Sergeant A in a kneeling position, with Sergeant A's knee pressed upon the Subject's left cheek, neck, and throat area.

Officer A articulated that when he/she referred to the "throat area" (as mentioned above,) he/she was referring to the "left side [of the] cheek/neck area," which he/she considered to be "part of the throat," as opposed to the neck/throat area "beneath the Adam's Apple." Officer A further articulated that the area he/she was referring to was, "Just underneath the -- the ear and the left cheek." Officer A believed Sergeant A's right knee was on the Subject's neck area.

According to Officer B, he/she did not hear the Subject state that he could not breathe, did not hear Officer A tell Sergeant A to move his/her knee from the Subject's neck, and did not observe Sergeant A's knee on the Subject's neck, due to his/her (Officer B's) positioning.

The Subject's statement that he could not breathe, as well as Officer A requesting Sergeant A to move his/her knee, could be heard on all three officers' BWVs, along with a variety of ambient noise. The ambient noise included, but was not limited to, officers yelling commands, radio traffic from the police radios, and both witnesses yelling.

At 0312:02 hours, Officer A tapped Sergeant A's knee three times as he/she stated to him/her, "Get your knee off." According to Sergeant A, he/she did not recall Officer A making that statement or the knee tap due to the continual movements and struggle with the Subject.

According to Sergeant A, his/her attention was diverted toward Witness B and Witness C, who were standing close to them.

At 0312:04 hours, Officer A's BWV depicts the Subject turning his head as he raised his upper body, stating, "Give me your [expletive] badge numbers." Officer B furnished a business card to Witness B upon completion of their investigation.

According to Officer A, as soon as the Subject was able to lift himself, he/she believed that he/she and Officer B were losing physical control of the Subject. Officer A was unable to hold the Subject down and the Subject was overpowering them and continuing his active resistance to their commands. Officer A further believed that the

Subject had not followed repeated commands to stop resisting, and that the Subject intended to stand up to continue to fight with them.

At 03:12:08 hours, Officer A pointed his/her TASER toward the center of the Subject's chest and deployed the Taser for a complete five-second activation.

Just prior to the discharge of the TASER, Officer A held on to the Subject's right wrist and forearm against the ground and used it as a controlling agent, while Officer B held onto the Subject's left arm. As the tasing was occurring, the Subject lifted himself up to a seated position and rolled onto his left side. As the officers struggled to control him, the Subject continued to resist them.

According to Officer A, as the Subject rolled his body, his/her TASER moved down toward the Subject's right hip area. Officer A applied bodyweight on the Subject's legs to control him on the ground as he/she holstered his/her Taser. The Subject tensed his legs and attempted to kick his legs in an attempt to throw Officer A off. Officer A continued to apply his/her bodyweight on the Subject, as Officer B placed his/her bodyweight on the Subject's upper body and right arm.

According to Officer A, he/she recalled only activating his/her Taser once. However, the TASER's data download determined he/she activated the TASER a second time at 0312:10 hours, with a five-second duration.

At 0312:16 hours, the Subject's hips appeared to lift off the ground. Officer B placed his/her left hand on the Subject back, as he/she placed his/her right hand over the Subject's left wrist behind his back.

At 0312:42 hours, the Subject attempted to move and strike Officer B's forearm with his right hand, while stating, "I want to see the warrant." The Subject appeared to lift his head off the ground as the officers continued to apply bodyweight and give him commands to stop moving.

At 0312:57 hours, Officer A stated to the Subject, "Stop resisting or I'm going to tase you again."

The officers and the Subject continued in this position for approximately 25 seconds, until Officer B directed the Subject to roll over to his right side. At 0313:30 hours, Officer B rolled the Subject onto his right side while holding the Subject's left arm and wrist behind his back.

Officer A positioned him/herself above the Subject's legs and removed his/her handcuffs with his/her right hand. Officer A's BWV captured Officer B using both his/her hands to hold the handcuff that was attached to the Subject's left wrist. While holding his/her handcuffs in his/her right hand, Officer A used his/her right hand to grab the Subject's right wrist. The Subject initially began to pull against Officer A's grip, and Officer A was unable to handcuff the Subject's right wrist. Officer A removed a second

pair of handcuffs from his/her belt, moved the Subject's right arm behind his back, and applied the second pair of handcuffs on the Subject's right wrist.

At 03:14:24 hours, Officer A completed handcuffing the Subject as he/she connected the two handcuffs and double locked them. From the time Officer B was pushed by the Subject, to the time the Subject was handcuffed, two minutes and 56 seconds elapsed.

During the struggle, Officer B's BWV camera dislodged and fell to the ground next to the front door, with the lens facing up.

According to Sergeant A, while the officers were attempting to handcuff the Subject, Witness C walked toward him/her and the officers. To prevent him from advancing on the officers and interfering, Sergeant A extended his/her left arm, placed his/her left palm to Witness C's chest and pushed him back.

Communications Division (CD) upgraded the backup request to a help call. In response to the help call, multiple uniformed Topanga Patrol Division officers responded to the location, including Sergeant B.

At 0314:26 hours, Sergeant A broadcast that the Subject was in custody.

At 0315:06 hours, Officer A assisted the Subject to a standing position, and then the Subject was seated on a chair on the porch.

The Subject was subsequently transported to the hospital for further treatment and removal of a taser dart.

Sergeant B arrived at scene and was informed by Sergeant A that a use of force had occurred involving him/herself, and Officers A and B. Based on the information known at the time, Sergeant B determined the level of force used was "non-categorical."

Sergeant B then began his/her investigation by photographing the scene and attempting to interview Witnesses B and C, but they refused to be interviewed.

A review of Sergeant B's BWV revealed that he/she arrived at the scene at 03:18:15 and departed at 03:52:11, at which point he/she deactivated his/her BWV. Shortly after Sergeant B's arrival, he/she contacted Sergeant A to ascertain the crime classification code, to which Sergeant A replied, "At minimum, 148."

Sergeant B was not interviewed in connection with this investigation. In his/her "Sergeant's Daily Report," Sergeant B noted, "After I returned to Topanga Station, during the interview with [Officer A], [he/she] disclosed a matter of concern regarding the use of force (UOF) used by [Sergeant A]. I notified Watch Commander. [The Watch Commander] notified Commanding Officer."



At approximately 0436 hours, the Subject was transported to the Topanga Area Community Police Station (Topanga station) for booking approval by Sergeant C.

Sergeants B and C conducted a review of the BWV, and the application of Sergeant A's knee and hands on the Subject's neck area was discovered. Force Investigation Division (FID) was contacted and Officers A, B, and Sergeant A were monitored in the sergeant's room of Topanga station. A team of FID detectives responded to Topanga station and assessed the incident for proper classification. Based on the assessment, it was determined that FID would assume investigative responsibility.

### **BWV and DICVS Policy Compliance**

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

### **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, and Officers A and B's tactics to warrant a finding of Tactical Debrief.

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

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

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

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

#### **D. Lethal Use of Force**

The BOPC found Sergeant A's lethal use of force to be Out of Policy.

## **Basis for Findings**

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

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

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

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

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

**Use of De-Escalation Techniques:** It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable

an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;

- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

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

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

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

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

**Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

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

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

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

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

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

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

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

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

## Definitions

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

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

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

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

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

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

**Serious Bodily Injury:** Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;

- A wound requiring extensive suturing; and,
- Serious disfigurement.

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

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

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

## A. Tactics

### Tactical De-Escalation

#### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

**Planning** – At the time of this incident, Officer A was a probationary officer and had been out of the Academy for approximately 10 months. This was the fourth time in two months that Officers A and B had worked together. During their time together, they had discussed tactics, such as de-escalation, contact/cover roles, less-lethal, and designated cover officer responsibilities. They also discussed how their roles could change based on the situation. Sergeant A responded to this incident with Officers A and B. Sergeant A verified they had read the comments of the call and knew it involved a professional athlete. The officers then proceeded to walk toward the house where they contacted the Subject. According to Officer B, he/she and Officer A had previously briefed and handled domestic incidents. Officer B stated that the plan in domestic disputes was to separate both parties and speak to them individually. He/she advised that domestic calls vary and range from no action to arrest.

**Assessment** – Based on the nature of the call, Lieutenant A determined that a sergeant needed to respond, manage, and oversee the incident. In response, he/she directed Sergeant A to respond with the officers. Approaching Witness B's house, officers were met outside by the Subject. The Subject advised that he and Witness B had an argument and that she had thrown items at him. According to

Officer B and Sergeant A, the Subject had slurred speech and they believed he was possibly under the influence of drugs or alcohol. Based on their assessment, the officers determined that they needed to keep the Subject separated while they spoke to Witness B.

**Time** – Lieutenant A told Officers A and B to wait for Sergeant A before contacting the Subject. When Sergeant A arrived, he/she ensured Officers A and B had read the comments of the call before approaching the house. Officers attempted to create time by keeping Witness B and the Subject separated; however, the Subject refused to remain outside. The Subject’s subsequent actions limited the officers’ ability to use time as a de-escalation technique.

**Redeployment and/or Containment** – Officers attempted to contain the Subject outside of the residence while they contacted Witness B. The situation escalated when the Subject refused to remain outside. The Subject’s subsequent actions limited the officers’ ability to contain him/her. Also, had the officers redeployed, the Subject would have entered Witness B’s home.

**Other Resources** – Sergeant A was directed by Lieutenant A to respond to this incident. When the Subject physically resisted being detained, Officer A requested backup units. During the struggle, CD upgraded Officer A’s backup request to an officer “help” call. As the Subject continued to resist, Officer A used his/her TASER to overcome his resistance.

**Lines of Communication** – Lieutenant A directed Sergeant A to respond to this incident and told Officers A and B to wait for him/her before contacting the Subject. Speaking with the Subject, officers told him they needed to speak to Witness B alone and asked him to wait outside. When the Subject refused to wait outside, Sergeant A told the officers to detain the Subject. During the UOF, Officers A, B, and Sergeant A told the Subject to stop resisting. Observing Sergeant A’s knee on the Subject’s neck/cheek during the use of force, Officer A advised him/her to move his/her knee. Before deploying the TASER, Officer A warned the Subject that if he did not comply, he would be tased. The Subject continued to resist. After the initial deployment, Officer A warned the Subject that he would be tased again if he continued to resist. The Subject was subsequently apprehended.

Although the BOPC found that the officers did not substantially deviate from Department de-escalation training, the BOPC would have preferred that the officers had made further efforts to de-escalate the situation during their encounter with the Subject.

During the BOPC’s review, no formal debriefing points were noted.

- The BOPC also considered the following:



**Tactical Planning** – Officers A and B had previously discussed tactics, such as de-escalation and roles, and had previously briefed and handled domestic incidents. Officer B stated that the plan in domestic disputes was to separate both parties and speak to them individually. Before approaching the location, Sergeant A verified that Officers A and B had read the comments of the call and knew it involved a professional athlete. Alternatively, before approaching the location, officers could have designated roles and discussed how they planned to handle this call.

**Initiating Physical Contact While Holding a TASER** – Officer A was holding his/her TASER when he/she grabbed the Subject's right arm. Alternatively, Officer A could have holstered his/her TASER before making physical contact, allowing him/her to use two hands to control the Subject.

**Medical Treatment/Rendering Aid** – At 0314:24 hours, Officer A and B handcuffed the Subject. The Subject was placed on his side after he was handcuffed. He was then assisted to his feet and sat in a chair. At 0319:35 hours, a Rescue Ambulance (RA) was requested for the Subject because a TASER had been used on him during the UOF. At approximately 0326 hours, LAFD arrived at the scene. They provided the Subject emergency medical treatment for a penetrating TASER dart to his chest and abrasions to his elbows. The Subject was subsequently transported to the hospital where he was treated by removing the TASER dart from his chest and medically cleared him for booking.

Witness B declined medical treatment at the scene. On December 9, 2021, Witness B's attorney provided FID investigators with photographs of her injuries. According to Witness B, the photographs, which showed bruising to her right shin and calf, upper lip, and upper arms were taken approximately one day after the incident. Officer B sustained abrasions and contusions to his/her elbows during the UOF. Sergeant A transported Officer B to the hospital. Officer B was treated and released for a contusion to his/her right elbow. Officer A and Sergeant A were not injured during the incident.

**Protocols Subsequent to a Use of Force Investigation** – During the UOF, Sergeant A heard the Subject say he could not breathe and observed his/her knee on the Subject's face. While Sergeant A later advised Sergeant B that Officers A, B, and he/she had been involved in a UOF, he/she did not advise Sergeant B that his/her knee had contacted the Subject's face or that the Subject stated he/she could not breathe. A more thorough description of the UOF would have assisted in properly classifying the incident sooner.

**Non-Medical Face Coverings** – Department personnel at the scene were not wearing non-medical face coverings.

These topics were to be discussed at the Tactical Debrief.

## Command and Control

- Based on the nature of the call, Lieutenant A determined that a sergeant needed to respond, manage, and oversee the incident. In response, he/she directed Sergeant A to respond with the officers. Lieutenant A then called Officers A and B to inform them that their call involved a high-profile individual and directed them to wait for Sergeant A before contacting the Subject. Arriving at the scene, Sergeant A met with the officers and verified that they had read the comments of the call and knew it involved a professional athlete. After the Subject refused to remain outside Witness B's residence, Sergeant A directed Officers A and B to move the Subject away from the front porch. When the Subject attacked Officer B, Sergeant A became physically involved in the UOF. During the UOF, Sergeant A monitored Witnesses B and C and directed the officers to broadcast an officer "help" call. Once the Subject was taken into custody, Sergeant A made notifications of the incident to the Watch Commander. While the BOPC understood why Sergeant A intervened, specifically that his/her officers were attempting to control a much larger professional athlete, they would have preferred that he/she had not become physically involved and focused solely on command and control. Alternatively, Sergeant A could have disengaged once Officer A physically engaged the Subject.

After arriving at the scene, Sergeant B met with Sergeant A. Sergeant A advised Sergeant B that Officers A, B, and he/she had been involved in a UOF. Sergeant A did not advise Sergeant B that his/her knee had contacted the Subject's face or that the Subject stated he/she could not breathe. Based on the available information, Sergeant B determined that a non-categorical UOF had occurred and began his/her investigation. Sergeant B attempted to interview Witness B and Witness C, but they refused. While reviewing BWV at Topanga station, Sergeants B and C discovered the application of Sergeant A's knee and hands to the Subject's neck. In response, FID was contacted. Officers A, B, and Sergeant A were admonished, separated, and monitored by Sergeant B while FID assessed the UOF. After it was determined that FID would assume investigative responsibility for this incident, applying categorical use of force investigative protocols, the FID lieutenant made all required notifications.

The overall actions of Sergeants A, B, and C were consistent with Department supervisory training during a critical incident.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

The BOPC found Sergeant A and Officer A and B's tactics to warrant a finding of Tactical Debrief.

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

- **Officer A** – Firm Grips, Physical Force, Bodyweight.
- **Officer B** – Firm Grips, Physical Force, Bodyweight, Takedown.
- **Sergeant A** – Firm Grip, Physical Force.

Observing that the Subject was coming close to Sergeant A, Officer B attempted to guide his arms behind his back (Firm Grip). The Subject pulled away and told Officer B not to touch him. Witness C attempted to calm the Subject and physically restrain him. Sergeant A directed Officers A and B to remove the Subject from the front porch. Using his/her handheld police radio, Officer A requested backup units. To prevent the Subject from reaching the front door, Officer B grabbed the Subject's left wrist with his/her right hand (Firm Grip). The Subject moved his wrist in an upward motion, pulling away from Officer B's grip. Witness C attempted to intercede, stating, "Don't touch him, don't touch him," as he contacted Officer B's right forearm with his left hand. In response, Officer B placed his/her right hand on Witness C's chest and told him to back away. Officer B maintained a firm grip on the Subject's left arm as he/she attempted to pull it behind his back. The Subject spun counterclockwise to break Officer B's grip. Officer A approached and grabbed the Subject's right wrist with his/her right hand and placed his/her left hand on the Subject's right forearm (Firm Grip). Officers A and B attempted to place the Subject's arms behind his back (Physical Force). Using his/her left hand, Sergeant A grabbed the Subject's left elbow and told him he was being detained (Firm Grip).

As Officer A was attempting to place the Subject's right arm behind his back, the Subject pulled his arm free. As Officer B attempted to maintain control of the Subject's left arm, the Subject turned toward Officer B and pulled his left arm toward the front of his torso. The Subject then thrust his left elbow forward, striking Officer B in the right side of his/her face, knocking the glasses off his/her head. The Subject struck Officer B in the chest with his left hand, causing Officer B to stumble backward. Using his right hand, the Subject then punched Officer B on the left side of his/her face. Officer B fell back against the stucco wall and front door. At 0311:30 hours, as he/she struggled to control the Subject's right arm, Sergeant A directed Officer A to broadcast an officer "help" call (Firm Grip). Regaining his/her footing, Officer B wrapped his/her arms around the Subject's legs, lifted him, and took him to the ground as Sergeant A attempted to control his/her right arm (Take Down). According to the FID investigation, approximately 33 seconds elapsed from when Officer B first attempted to grab the Subject's arm, to when he/she took him to the ground.

The Subject landed supine on the ground. Using both hands, Sergeant A attempted to maintain control of the Subject's right forearm and wrist while Officer B straddled the Subject (Bodyweight). To get Officer B off him, the Subject bucked his hips and torso. Officer B remained on top of the Subject, holding his left arm (Firm Grip). Meanwhile, Officer A unholstered his/her TASER, approached the Subject, and told him to stop resisting. Officer A warned the Subject multiple times that if he continued to resist, he would be tased. Officer A knelt along the Subject's right side and used his/her left hand to hold the Subject's right arm against the ground (Firm Grip). Using his/her left hand, Officer B helped Officer A control the Subject's right arm (Firm Grip).

Sergeant A positioned him/herself on the Subject's left side. Sergeant A momentarily placed his/her left hand over the Subject's neck and his/her right hand over the Subject's forehead (Physical Force). The Subject continued to resist, lifting his upper body as he attempted to get up. To prevent the Subject from getting up, Sergeant A placed his/her left knee on top of his left shoulder area (see Lethal Use of Force).

As the struggle continued, Sergeant A placed his/her right hand on the Subject's forehead and left hand on the left side of the Subject's neck/jaw area, where it remained for approximately two seconds as he/she directed the Subject's head to the right, against the ground (Physical Force). At 0311:51 hours, BWV footage depicted Sergeant A's left knee on the left side of the Subject's neck. Sergeant A's right hand was intermittently on the left side of the Subject's forehead as he/she instructed the Subject to stop resisting. Looking down, the Sergeant believed his/her knee was pressing on the Subject's face. In response, he/she immediately moved his/her knee while his/her right hand remained on the Subject's forehead.

At 0312:04 hours, the Subject turned his head and raised his upper body off the ground as he told the officers he wanted their badge numbers. According to Officer A, he/she and Officer B were attempting to hold the Subject against the ground. As the Subject's body rose, Officer A felt they were being overpowered and were losing control of him. Officer A believed the Subject intended to stand up and continue to violently resist. In response, Officer A activated his/her TASER in probe mode (see Less-Lethal Force). During the activation, the Subject rose to a seated position and then rolled onto his left side. The Subject continued to resist as Officers A and B struggled to control him. Officer A applied bodyweight on the Subject's legs as he/she holstered his/her TASER. The Subject tensed and attempted to kick to get Officer A off his legs. Officer A continued to apply his/her bodyweight on the Subject, as Officer B placed his/her bodyweight on the Subject's upper body and right arm.

At 0312:16 hours, the Subject's hips appeared to lift off the ground. Officer B placed his/her left hand on the Subject's back, as he/she placed his/her right hand over the Subject's left wrist (Firm Grip). At 0312:42 hours, the Subject attempted to move and strike Officer B's forearm with his right hand. The Subject appeared to lift his

head off the ground as the officers continued to apply bodyweight and give him commands to stop moving. At 0312:57 hours, Officer A told the Subject to stop resisting or he would be tased again. The officers and Subject continued in this position for approximately 25 seconds until Officer B directed the Subject to roll over to his right side. At 0313:30 hours, Officer B rolled the Subject onto his right side while holding the Subject's left arm and wrist behind his back (Physical Force). Officer A positioned him/herself above the Subject's legs. At 0314:24 hours, Officers A and B handcuffed the Subject. According to the FID investigation, two minutes and fifty-six seconds elapsed from when the Subject pushed Officer B, to when he was handcuffed.

The BOPC assessed Officers A, B, and Sergeant A's use of non-lethal force. The BOPC noted that the incident began to escalate when the Subject refused to remain outside while the officers conducted their investigation. Because this was a domestic violence incident, the BOPC opined that it was reasonable to insist that the Subject remain outside while police spoke to Witness B. The BOPC also opined that a reasonable officer would have been concerned for Witness B's safety when the Subject refused.

The BOPC noted that when the Subject threatened to access the rear door, Sergeant A directed Officers A and B to move the Subject away from the front porch/door. The BOPC opined that the officers had to act to prevent the Subject from entering Witness B's house. When Officers A and B attempted to detain the Subject, he broke free. As the UOF escalated, the Subject pushed and struck Officer B with his fist. In response Officers A, B, and Sergeant A used a takedown, firm grips, body weight, and physical force to control the Subject. The BOPC noted that despite being punched, Officer B resorted to ground tactics and avoided using strikes.

In terms of Sergeant A's involvement in the UOF, the BOPC noted that when the Subject attacked Officer B, Sergeant A became physically involved. While the BOPC understood why Sergeant A intervened, specifically that his/her officers were attempting to control a much larger professional athlete, they would have preferred that he/she had not become physically involved and focused solely on command and control. Alternatively, Sergeant A could have disengaged once Officer A physically engaged the Subject.

The BOPC noted that during the UOF, Sergeant A placed his/her hands on the Subject's forehead. By placing his/her hand on the Subject's forehead, Sergeant A was able to keep the Subject from sitting up. While the BOPC acknowledged that he/she was trying to control the Subject's movements, they noted that officers need to use caution when placing their hands on or near a suspect's head.

The BOPC also noted that during the UOF, Sergeant A placed his/her hands on the Subject's jaw/neck. The BOPC opined that while Sergeant A's right hand contacted the side of the Subject's neck, nothing indicated he/she applied pressure to the sides

of his neck, or that there was a substantial risk of restricting blood flow, rendering him unconscious. The BOPC also opined that Sergeant A did not apply direct pressure to the Subject's trachea or windpipe, at this point; any pressure applied was solely to the Subject's jawbone. As such, the BOPC opined that this was non-lethal force.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, and Sergeant A, in the same situation, would reasonably believe the application of non-lethal force was proportional and objectively reasonable.

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

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

- **Officer A**

**First TASER Activation** – One five-second activation in probe mode from approximately three inches.

According to Officer A, he/she and Officer B were attempting to hold the Subject against the ground. As the Subject's body rose off the ground, Officer A felt they were being overpowered and losing control of him. Officer A believed the Subject intended to stand up and continue to violently resist. In response, at 03:12:08 hours, Officer A pointed his/her TASER toward the center of the Subject's chest and discharged the probes, activating the TASER for five seconds.

**Second TASER Activation** – One five-second activation in probe mode.

During the first activation, the Subject rose to a seated position and then rolled onto his left side. The Subject continued to resist as Officers A and B struggled to control him. During the struggle, Officer A's TASER was reactivated at 0312:14 hours; Officer A did not recall reactivating the TASER.

The BOPC assessed Officer A's first TASER activation. The BOPC noted that Officer A unholstered his/her TASER after the Subject pushed and punched Officer B. After Officer B conducted a takedown, Officer A refrained from using the TASER and attempted to help control the Subject by holding his right arm against the ground. The BOPC noted that as the Subject's body rose off the ground, Officer A felt they were being overpowered and losing control of him. Based on the Subject's level of resistance, the BOPC opined that it was reasonable for Officer A to believe that the Subject was violently resisting. The BOPC also opined that had the Subject stood, he would have escalated this incident significantly.

As it pertains to Officer A's second activation, the BOPC noted that while he/she did not recall reactivating the TASER, he/she described the second activation during his/her FID interview. During his/her interview, Officer A described placing the TASER on the Subject's hip as he continued to violently resist. According to Officer A, it was at this point the Subject's resistance began to wane.

In terms of a UOF warning, the BOPC noted that Officer A did not advise the Subject that he may be injured by the TASER; however, he/she did repeatedly advise him that the TASER would be used if he continued to resist. Regardless, the BOPC opined that a UOF warning was not required as the Subject attacked Officer B before Officer A unholstered his/her TASER and was still violently resisting when the TASER was activated.

Reviewing BWV, the BOPC noted that it was in fact during the second activation that Officer A placed the TASER on the Subject's hip, performing what is known as three points of contact. While Officer A did not recall reactivating the TASER, based on the BWV footage and his/her statement, the BOPC opined that he/she was responding to the Subject's violent resistance during the second activation. As such, the BOPC opined that the second activation was justified. Additionally, while not articulated by Officer A during his/her interview, the BOPC opined that the Subject also posed an immediate threat of violence and physical harm during both activations. While the BOPC was concerned that Officer A did not recall reactivating the TASER, based on his/her tenure, his/her description of events during the second activation, and the Subject's level of resistance, the BOPC opined that it could be addressed through training.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

Therefore, the BOPC found Officer A's less-lethal use of force to be In Policy.

#### **D. Lethal Use of Force**

- **Sergeant A**

At 0311:43 hours, BWV footage depicted Sergeant A's left knee on the left side of the Subject's neck/jaw. At 0311:46 hours, BWV footage captured the Subject stating that he could not breathe. Approximately one second later, the Subject turned his head; Sergeant A's knee was no longer on his neck area. Based on the FID investigation, Sergeant A's knee was on the Subject's neck/jaw for approximately four seconds.

At 0311:51 hours, BWV footage depicted Sergeant A's left knee on the left side of the Subject's neck. The Subject kept trying to get up and continued to move around. According to Officer A, he/she heard the Subject say he couldn't breathe. Looking

up, Officer A observed Sergeant A's knee by the Subject's cheek/neck. In response, at 0312:02 hours, Officer A tapped Sergeant A's knee three times as he/she told him/her to remove it from the Subject's cheek/neck. According to Sergeant A, due to the struggle with the Subject, he/she did not recall Officer A tapping his/her knee, nor his/her statement. Also, Sergeant A was struggling to control the Subject while watching Witnesses B and C, who were moving around nearby. While he/she did not hear Officer A, Sergeant A did hear the Subject say he/she could not breathe. Looking down, Sergeant A believed his/her knee was pressing on the Subject's face. In response, Sergeant A immediately moved his/her knee, while his/her right hand remained on the Subject's forehead. Sergeant A opined his/her knee had slipped from the Subject's shoulder/chest to his face. Because he/she was trying to balance on his/her toes, Sergeant A did not believe he/she applied bodyweight to the Subject's face. Based on the FID investigation, Sergeant A's knee was on the Subject's cheek/neck for approximately 11 seconds.

The BOPC noted that the Department defines a carotid restraint as vascular neck restraint or any similar restraint, hold, or other defensive tactics, including a C-clamp, in which pressure is applied to the sides of a person's neck that involve a substantial risk of restricting blood flow and may render the person unconscious, to subdue or control the person. The BOPC also noted that a chokehold is defined as any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe.

The BOPC noted that during the use of force, Sergeant A placed his/her knee on the Subject's neck twice, the first time for four seconds, the second time for 11 seconds. The BOPC opined that while Sergeant A's knee contacted the Subject's neck, nothing indicated he/she applied bilateral pressure to the carotid arteries, or that there was a substantial risk of restricting blood flow, rendering the Subject unconscious. However, the BOPC determined that Sergeant A unintentionally applied direct pressure to the Subject's trachea or windpipe. Unlike the carotid restraint, direct pressure to the trachea or windpipe does not require a substantial risk of restricting blood flow that may render the person unconscious.

At the time of this incident, the use of carotid restraints or chokeholds was unauthorized; however, they were still evaluated as deadly force. In assessing Sergeant A's use of force, the BOPC noted the "Graham v Connor" factors, specifically the level of resistance presented by the Subject; the immediate threat he posed to the officers; the potential for injury to the officers; and the Subject's age, size, relative strength, and conditioning as a professional athlete. While the Subject was violently resisting, nothing indicated that he posed an imminent threat of death or serious bodily injury warranting the use of deadly force.

Based on the totality of the circumstances, the BOPC determined that the placement of Sergeant A's knee resulted in unintentional but direct pressure to the Subject's trachea or windpipe. The BOPC also determined that an officer with similar training and experience as Sergeant A, in the same situation, would not reasonably believe



that the applying direct pressure to the trachea or windpipe was proportional, objectively reasonable, or necessary.

Therefore, the BOPC found Sergeant A's lethal use of force to be Out of Policy.