

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

CHOKER HOLD – 048-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck	9/3/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	16 years, 4 months
Officer B	31 years, 5 months
Officer C	13 years, 4 months
Officer E	19 years, 5 months
Officer F	15 years, 7 months

Reason for Police Contact

Officers observed a named Subject wanted for an Assault with a Deadly Weapon (ADW) crime report, driving his vehicle. The officers conducted a traffic stop on the Subject. The officers ordered the Subject to exit his vehicle, but he did not comply. The Subject resisted officers as they attempted to take him into custody, which resulted in a Choke Hold being applied by Officer C.

Subject(s)	Deceased ()	Wounded ()	Non-Hit ()
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Subject: Male, 32 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General (OIG). 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 August 16, 2022.

Incident Summary

The incident began on September 2, 2021, at approximately 0240 hours, when the Subject committed an Assault with a Deadly Weapon (ADW) in the City of Los Angeles. After the Subject committed the ADW, he fled the scene. The victim identified in the incident was the Subject's girlfriend, Victim A, and an Investigative Report (IR) titled, "ADW," was completed.

On September 3, 2021, at approximately 1507 hours, Officers A (driver) and B (passenger) were conducting patrol in a marked black and white police sport utility vehicle (SUV) equipped with a Digital In-Car Video System (DICVS).

According to Officer A, he/she received information regarding the Subject who was wanted for an ADW with a firearm from the Senior Lead Officer. According to Officer A, he/she was familiar with the Subject and had arrested him on previous occasions. Officer A knew the area where the Subject lived and knew what type of vehicle he drove.

According to Officer A, he/she had known the Subject for approximately 10 years and drove to the area where he lived to possibly locate him. As Officer A was driving west, he/she observed a vehicle matching the Subject's approaching him/her in the opposite direction. According to Officer A, he/she told his/her partner that the Subject was wanted for an ADW and believed the vehicle heading toward them was the Subject's. As the vehicle passed by them, Officer A observed the Subject was the driver and negotiated a U-turn for a traffic stop. According to Officer A, he/she made a U-turn and began to drive behind the Subject, who quickly pulled over to the south curb, which caused Officer A to jump out of his/her vehicle and turn on his/her Body Worn Video, (BWV).

Although Officer A indicated that he/she had "chirped" his/her siren prior to the traffic stop, a review of his/her BWV by FID detectives was unable to determine if/when the siren was chirped because the BWV was in the "buffer mode," without audio. In addition, a review of the DICVS did not indicate if either the siren or lightbar was activated before they stopped the Subject.

Officer A positioned his/her police vehicle behind the Subject's vehicle. Officer A stated that he/she wanted to have the Subject believe that this was a normal traffic stop due to the condition of his vehicle. According to Officer A, he/she conducted the traffic stop to de-escalate the situation and gain the Subject's compliance. Officer A stated that he/she was hoping to get the Subject peacefully out of his vehicle.

At 1507:56 hours, Officer B's BWV captured him/her open the passenger door of the police vehicle. As Officer B exited the vehicle, he/she unholstered his/her service pistol with his/her right hand, in a one-handed grip, in a downward position. According to Officer B, he/she knew the Subject was wanted for an ADW with a firearm and the

Subject was not turning off his vehicle. As such, Officer B felt that situation could have risen to one involving deadly force.

At 1508:06 hours, Officer B's BWV captured him/her broadcast to Communications Division (CD) that he/she was on a traffic stop, and the broadcast provided the location and license plate number. According to Officer B, after his/her broadcast to CD, he/she assessed the situation and did not observe the Subject make any "furtive movements." At that time, he/she holstered his/her service pistol. According to Officer A's BWV, he/she approached the Subject's vehicle and stood beside the driver's door and stated, "Let me see the keys, sir," as Officer B approached the passenger door. Officer A told the Subject that he/she did not want him to "take off" and repeatedly asked for his vehicle keys. Officer A asked for the Subject's identification and told him his vehicle was not in a condition to drive. The Subject refused to comply with Officer A's commands and repeatedly questioned him/her.

At 1508:45 hours, Officer A confirmed his/her traffic stop location with CD and requested an additional unit. Officer A obtained the Subject's information and birthdate as he/she waited for the additional unit. At 1509:25 hours, Officer A's BWV captured him/her motion with his/her hands to his/her partner. According to Officer A, he/she was giving Officer B a signal that they were going to handcuff the Subject. According to Officer A's BWV, Officer B redeployed to the driver-side door. Officer A opened the Subject's driver-side door and ordered him to step out of his vehicle. The Subject refused to exit and continued to question Officer A.

According to Officer A, his/her intentions were to place the Subject under arrest and handcuff him. Officer A stated that he/she wanted the Subject out of the vehicle because he/she did not know if there were any weapons in the vehicle and because of his actions. Officer A stated that the Subject was being defiant and not complying with any of his/her commands. Officer A stated he/she did not want the Subject to reach for any weapons, and the Subject would not relinquish the vehicle keys. Officer A did not want the Subject to drive off.

At 1509:30 hours, Officers C and D arrived at scene and activated their BWVs. Officer C walked up to the driver's side of the vehicle and positioned himself/herself beside Officer A. Officer D walked to the passenger side of the Subject's vehicle and opened the passenger door. Officer D heard Officers A and B initiate the traffic stop and knew that the Subject was wanted for an ADW with a firearm.

According to Officer A's BWV, at 1509:38 hours he/she reached into the vehicle and grabbed the Subject's left arm. The Subject's right arm was positioned upright, bent at the elbow, and he held his wallet in his right hand. As Officer A held the Subject's left arm, he/she continuously ordered him to step out of the vehicle. The Subject was uncooperative and refused to comply.

At 1510:00 hours, Officers E and F arrived at scene and activated their BWVs. Officer E positioned himself/herself at the passenger side of the vehicle by Officer D, while Officer F positioned himself/herself on the driver's side of the vehicle.

According to Officer F, he/she heard the license plate number and knew it belonged to the Subject. Officer F further knew that the Subject was a gang member, who he/she had many prior contacts with, one of which was a firearms case for which the Subject spent seven years in jail. Officer F stated that he/she and his/her partner had knowledge of the ADW from the prior day, which involved the Subject and his girlfriend (Victim A), where the Subject was armed with a firearm. According to Officer F, he/she and his/her had partner read the crime report prior to this incident.

A review of Officer F's BWV indicated that he/she activated his/her BWV as officers were already involved in a use of force. According to Officer F, he/she typically leaves his/her BWV on vibrate mode. Officer F stated that during the incident, he/she didn't feel the vibration going off, so he/she looked down and thought it was on, but it was not. At that point, Officer F activated his/her BWV.

According to Officer C's BWV, at 1510:00 hours, the officers continued to verbalize with the Subject and ordered him to exit the vehicle. As Officer A held the Subject's left arm, Officer C ordered the Subject not to reach for anything and to stop resisting. At 1510:10 hours, Officer C's BWV captured him/her grab the Subject's left bicep area with his/her left hand and momentarily place his/her right hand behind the Subject's neck area. As that occurred, Officer A continued to pull the Subject's left arm. At 1510:19 hours, Officer C's BWV captured Officer D reach into the passenger side of the vehicle and remove the Subject's wallet from his right hand. Simultaneously, Officers A and C held onto the Subject's left arm and pulled on it.

At 1510:20 hours, Officer A's BWV captured him/her state, "Taser standby, Taser standby. You're going to get tased, it's going to hurt, step out of the vehicle!" According to Officer A, he/she was asking the Subject to step out of the vehicle, but he refused. Officer A stated that he/she was pulling on the Subject's arm, but he stayed within the vehicle and kept his body rigid. Officer A stated that as a "ruse," he/she said that he/she was going to use the Taser, hoping to gain compliance. Following the taser warning, the Subject stated, "Why are you tasing me? Dude it's a traffic stop, why you pulling me over?"

At that point, Officer A redeployed toward the driver-side door. At 1510:32 hours, Officer D's BWV captured him/her unholster his/her Taser and say, "Hey, I'm going to tase you and it's going to hurt!" Officer D held his/her Taser downward and pointed it toward the Subject's passenger seat.

At 1510:32 hours, Officer A's BWV captured him/her, and Officers C and E simultaneously pull the Subject out of his vehicle and lay him on the ground onto his back. Officer C placed his/her right hand behind the Subject's neck and wrapped

his/her hand around the right side of his face, just below his ear, while simultaneously wrapping his/her left arm around the Subject's left bicep area.

According to Officer C, the Subject was trying to pull away, so he/she was positioned behind the Subject. According to Officer C, his/her arm came around the back of the Subject's neck, but his/her hand was moving towards the Subject's ear. Officer C stated he/she was trying to get the center of his head and pull him forward.

According to Officer C, he/she remembered pulling the Subject's head forward and trying to see what was in the center console and what he was reaching for. Officer C stated that he/she was trying to see the Subject's hand and observed it moving down to the center console. Officer C stated that that he/she was in fear that the Subject might be reaching for something because of his uncooperative attitude.

During Officer B's interview with FID detectives, he/she indicated that Officer C grabbed the Subject's shoulders and they both pulled him out of the vehicle.

Officer A grabbed the Subject's left hand and forearm area with his/her hands and pulled him out of the vehicle, as he/she already determined that he/she was going to arrest the Subject. Officer A stated that the Subject still had his right arm free and he/she did not want him to reach for any weapons.

Officer E positioned himself/herself near the driver's side-view mirror. Officer E reached into the vehicle and grabbed the front of the Subject's t-shirt with his/her left hand and pulled on it as Officers A and C removed the Subject from the vehicle. According to Officer E, at the time he/she watched the officers pulling the Subject out of the vehicle, he/she was standing at the driver's door ahead of Officer A. Officer E stated that he/she did not know what the Subject was going to do, because he was holding the seat with his right arm to prevent the officers from removing him from the vehicle.

While the Subject was on his back, Officer A utilized his/her hands to apply a firm grip to the Subject's left wrist. Officer A stated that he/she maintained control of the Subject's left arm during the entire incident, but while on the ground holding on to his arm, the Subject's car door was open, and it was blocking his/her view of the other officers taking control of the rest of the Subject.

At 1510:38 hours, Officer A's BWV captured him/her momentarily lose control of the Subject's left arm. Officer A stated that once the Subject was pulled out of the vehicle, he/she maintained control of his left arm. Officer A stated when the Subject was on the ground, he/she kept the Subject's left arm on the ground with both of his/her hands. Simultaneously, at 1510:37 hours, Officer C's BWV captured him/her place his/her right hand on the Subject's neck just underneath his jawline and chin area while Officer C left hand was on the right side of the Subject's face. Officer C placed his/her right hand on the Subject's neck for 0.579 seconds. Officer C then transitioned his/her left hand to the Subject's upper chest area and utilized his/her right hand to apply a firm grip to the Subject's right wrist.

Officer C reviewed this portion of his/her BWV with FID detectives and indicated that he/she did not recall placing his/her hand on the Subject's neck or this application of force. According to Officer C, the incident happened so quickly, and he/she indicated he/she may have tripped or fallen to the ground as he/she removed the Subject from the vehicle. Officer C stated that he/she was sure he/she probably removed his/her hand within a second because he/she would not do something like that.

Officer C stated that he/she was trying to get the Subject's hands behind his back. At no time was he/she thinking that he/she was going to put his/her hands on the Subject's neck or choke him. Officer C stated that he/she was trying to control his head, because he was moving back and forth, and he/she was just trying to move his head away because he/she did not want the Subject to bite him/her. Officer C also stated that if the Subject had a gun, he was going to be desperate and was going to fight for his life. Officer C stated that he/she was thinking the worst, and he/she wanted to handcuff the Subject. Officer C stated that he/she was still holding the Subject's hand, and the Subject kept moving his hand to get away from Officer C, so he/she kept trying to hold on to the Subject's wrist.

As Officers A and C attempted to control the Subject's upper body, Officers B and E positioned themselves on the inside of the open driver's door. Officer B grabbed the Subject's legs between his calf and ankle area with his/her hands. According to Officer B, he/she held onto his legs to make sure he didn't kick any of the officers while they were trying to handcuff him. As that occurred, according to Officer E, he/she observed the Subject's feet on the floorboard of the vehicle, which he/she believed he/she used as leverage to lift his hips up off the ground. Officer E placed his/her left knee onto the Subject's stomach and his/her right knee onto his pelvis/belt line area.

According to Officer E, his/her intention was to keep the Subject's body on the ground to gain compliance and to assist Officers A and C gain control of the Subject's upper body.

Officers A, B, C, and E continued their attempt to control the Subject as he laid on his back. At 1510:40 hours, Officer C's BWV captured him/her place his/her left forearm on the Subject's upper neck/jaw line for 6.515 seconds.

According to Officer C, officers were still trying to get control of the Subject's hands. Officer C stated that he/she believed he/she still had control of his right hand. Officer C stated that the vehicle door was right in between them and across the Subject's body and everything was happening fast. Officer C knew it was a very awkward position with his/her knee and other officers on him. Officer C stated that he/she was trying to control the Subject's head, and he/she was also trying to control that hand, and everything happened very quickly.

According to Officer C, he/she was placing his/her forearm towards the Subject's jaw area, across his face to push him down and get better control of his hand.

At 1510:47 hours, Officer D broadcast, "Let me get a back-up!" This request was acknowledged and repeated by CD.

Officer A's BWV captured him/her request a back-up unit, although this request was not received by CD. According to Officer A, when the Subject was on the ground, he/she kept the Subject's left arm on the ground with both his/her hands. Officer A then used his/her knees on the Subject's arm while he/she was on the ground, so he/she could utilize his/her radio to put out a backup. Once Officer A put out a backup request, he/she removed his/her knees and placed his/her hands back on the Subject's left arm.

At 1510:51 hours, Officer C's BWV captured him/her applying body weight with his/her right leg to the Subject's torso and simultaneously utilizing his/her left hand to control the Subject's right hand. The Subject was still positioned on his back and lifted his head from the ground as if he was trying to sit up and stated, "What the [expletive] wrong with you fools?" At that time, Officer C utilized his/her right hand and placed it on the front of the Subject's neck just underneath his jaw for 1.593 seconds. Officer C placed the Subject's head back down to the ground and then transitioned the back of his/her right hand to the Subject's jawline area to move his head away from his/her direction.

According to Officer C, at that moment, when the Subject made the above statement, he/she could not see the Subject's hand and he/she thought that the Subject might have a gun in his hand and be about to shoot some rounds. Officer C stated that he/she tried to push the Subject's head back and tried to look over to see what was happening. Officer C stated that as soon as he/she saw the Subject's other hand, he/she was just trying to control his head so that the Subject would not bite him/her, so he/she pushed his head to the side. Officer C believes that he/she used the back of his/her hand and it was just a slight push with the back part of his/her hand.

According to Officer C, he/she was trying to apply pressure on the Subject's upper body and chest area, but was also trying to put his head back, because Officer C did not want to get his/her fingers bit. Officer C stated that he/she kept his/her fingers away from the Subject's mouth and was trying to put the back of his/her palm/hand against the side of his face and tried to put pressure on the Subject.

At 1510:57 hours, Officer C's BWV captured Officer C telling Officer E multiple times to get off of the Subject, and that he/she was placing his/her weight on him. According to Officer C, he/she was telling the other officer multiple times to get off of the Subject. Officer C indicated in his/her FID interview that he/she had pain/bruising to his/her right knee and pain to his/her lower back.

At 1511:03 hours, Officer E's BWV captured him/her state, "*Hold on, hold on, we're trying to get his legs out of the car.*" Simultaneously, Officer A continued to control the Subject's left arm, while Officer C controlled his right arm. Between 1511:05 and 1511:14 hours, Officer F's BWV captured Officer E apply downward body weight three times by utilizing his/her right knee into the Subject's belt line area, as the Subject was cursing at the officers. Officer E told the Subject to stop resisting.

According to Officer E, he/she told the Subject to stop resisting. Officer E did not believe he/she said anything else, because he/she didn't want too many people to start yelling at the Subject. Officer E believed that Officer A was still conversing with the Subject and giving him orders. Officers B and E were able to remove the Subject's legs from the vehicle, at which time Officers C and D closed the driver's door.

At 1511:33 hours, Officer F's BWV captured the officers collectively sit the Subject upright to handcuff him. Officer E utilized body weight with his/her knees and hands to control the Subject's lower legs. Officer C grabbed the Subject's left elbow while Officer A applied a firm grip to his left hand. Officer F applied a firm grip to the Subject's right hand while Officer D applied the handcuffs.

The Subject remained seated upright as Officers C and E placed their hands to the back of his neck and held it in a downward position.

At 1511:50 hours, Officer C's BWV fell off his/her chest and onto the ground.

At 1511:54 hours, Officer B's BWV captured Officer C say, "Face down." At that time, Officers A and E simultaneously applied their hands to the Subject's back area and their knees to the Subject's legs, while Officer C placed his/her hand to the back of the Subject's head and guided him to the ground. At 1511:57 hours, Officer E's BWV captured him/her recover Officer C's BWV from the ground.

The Subject was in a prone position, and Officer C began to search his person. According to Officer C, he/she did a pat down search to ensure he was not armed. Officer C believed the Subject was hiding a firearm due to his behavior and refusal to step out of the car. At 1513:10 hours, Officer C's BWV captured him/her stand the Subject up and escort him to his/her police vehicle to be secured.

During their FID interviews, the involved officers indicated they never heard the Subject complain of pain or have trouble breathing, and they never observed any injuries to him. In addition, Officers A, B, D, E, and F did not observe Officer C place his/her hand to the front of the Subject's neck area.

After the Subject was taken into custody, Officers E and F began to search the Subject's vehicle for evidence and complete an impound inventory. No weapons or evidence were located.

At approximately 1537 hours, Sergeant A was the first supervisor to arrive at scene. According to Sergeant A, he/she heard Sergeant B broadcast that he/she was responding to the scene prior to his/her arrival. According to Sergeant A, he/she responded to what he/she believed was an additional unit or back-up request and to assist the primary supervisor with any duties. According to Sergeant A, when he/she arrived, he/she was briefed by Officer E. In addition, Officer A briefly showed him/her footage of the incident on his/her city-issued cellular telephone; however, it was difficult

to view. According to Sergeant A, he/she asked if there were any punches, kicks, or chokes. Sergeant A stated that all of the officers said no. Sergeant A asked if everybody was okay and then asked if the Subject needed any medical treatment. Sergeant B still wasn't at scene, so Sergeant A made the decision to have the Subject transported to the station. Sergeant A believed that he/she told either Officer C or D to transport the Subject, knowing that he was going to be arrested for ADW and that a use of force had occurred.

Sergeant A did not activate his/her BWV during this incident. According to Sergeant A, when he/she arrived on scene, it appeared that it was just going to be administrative in nature. Sergeant A did not believe that he/she was going to be talking to any civilians and/or interviewing any Subjects; therefore he/she did not activate his/her BWV because he/she was just talking with the officers.

At 1540 hours, Officers C and D transported the Subject to Hollenbeck Division where he was checked in by Sergeant D, who was assigned as the Watch Commander. The Subject did not complain of any injuries and understood the cause for his arrest.

A Rescue Ambulance (RA) was not requested for the Subject at scene. According to Officer A, the Subject never complained of pain, and he/she did not see any physical injuries on him, so no RA was requested.

At approximately 1544 hours, Sergeant B arrived at scene and was briefed by Sergeant A.

At approximately 1511 hours, Sergeant B broadcast that he/she was responding to the incident and arrived at scene at approximately 1544 hours. Sergeant B's BWV's captured his/her response to the incident. According to Sergeant B, he/she heard a request for an additional unit and CD requested a supervisor to respond so he/she took the call. Sergeant B attempted to find the location with navigation since he/she was new to the Hollenbeck Area, but while responding with his/her lights and siren activated (Code 3), he/she became lost.

According to Sergeant B, Sergeant A advised him/her about the use of force, at which time he/she began a Non-Categorical Use of Force (NCUOF) investigation. After Sergeant B's preliminary investigation at scene, he/she responded to the station to photograph and review the BWV of the involved officers. Sergeant B initially attempted to review the BWV footage on a computer in the report writing room with the involved officers; however, the video was not playing. Sergeant B advised the involved officers to review the BWV footage with him/her on a computer in the sergeants' room.

According to Sergeant B, the officers came with him/her and were watching from behind him/her. Sergeant B stated that as they were watching the BWV, he/she noticed that one of the officers had a forearm by the Subject's neck/cheek area (per Officer C's BWV). Sergeant B watched more BWV and observed a hand on the throat area of the Subject. Sergeant B did not say anything to any of the officers and walked away.

Sergeant B then made a motion to Sergeant C and then went directly to the Watch Commander's office and advised Sergeant C that they needed to call FID because of his/her observation of an officer's hand on the neck of the Subject.

At the time Sergeant B reviewed the BWV with the involved officers, Sergeant C was present in the sergeants' room.

After review of the BWV, Sergeant B notified Sergeant D of a possible Categorical Use of Force (CUOF). At 1710 hours, Sergeant B notified the Department Operations Center (DOC) of a possible CUOF. At 1715 hours, Sergeant B spoke with FID for advisement. According to Sergeant B, FID Lieutenant A provided him/her with further direction. Sergeant B stated that Lieutenant A told him/her to continue viewing all the BWVs. Sergeant B also stated that Lieutenant A advised him/her to interview the officers and Subject and then get back to him/her. Sergeant B stated that he/she continued reviewing the BWVs; however, he did not interview the officers or the Subject. According to Sergeant B, approximately 15 minutes after his/her notification, he/she was advised that FID was responding.

On September 3, 2021, at approximately 1900 hours, the DOC was notified by FID Detective A that this incident was going to be handled as a CUOF.

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
Officer A	Yes	Yes	Yes	No	No
Officer B	Yes	Yes	Yes	No	No
Officer C	Yes	Yes	No	Yes	Yes
Officer D	Yes	No	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Officer F	No	Yes	No	Yes	Yes

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers C, D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officer B's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officer C's use of 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 Officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

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

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

Tactical de-escalation does not require that an officer compromise his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning

This was Officers A and B's first shift as partners. At the start of their shift, Officers A and B discussed tactics, such as contact and cover roles, de-escalation, and less-lethal options; Officer B agreed to be the less-lethal officer during their shift. Before leaving the station, Officer A learned that the Subject was wanted for assault with a firearm; however, he/she did not share this information with Officer B, nor did he/she tell him/her they were driving toward the Subject's residence to locate him. As they arrived in the area, Officer A told Officer B that the Subject was wanted for an assault with a deadly weapon. Moments later, Officer A advised Officer B that he/she believed the vehicle heading toward them was the Subject's. Officers A and B did not formulate a plan before stopping the Subject or before approaching his vehicle on foot.

Officers C and D had worked together for approximately 11 years, during which time they had discussed tactics, such as contact/cover roles and foot pursuit concepts. They also discussed the use of lethal, less-lethal, and non-lethal force. Officers E and F were partners for approximately six years, during which time they had discussed de-escalation, lethal force, cover/contact roles, and tactical scenarios.

Assessment

When Officer A initiated the traffic stop on the Subject's vehicle, Officer B unholstered his/her service pistol. Officer A had told him/her that the Subject was wanted for an assault with a firearm. Officer B assessed the situation, did not observe the Subject make any "furtive movements," and holstered his/her service pistol.

Time

After approaching the Subject's vehicle, Officers A and B used time to communicate with the Subject, de-escalate the situation, and wait for additional units to arrive. As additional units arrived, Officer A continued attempting to de-escalate the situation; however, the Subject refused to comply. The BOPC was critical of Officers A and B's decision to approach the Subject's vehicle before requesting additional units.

Redeployment and/or Containment

While the Subject was contained in his vehicle until additional units arrived, the BOPC was critical of the fact that Officers A and B did not initiate a high-risk vehicle stop.

Other Resources

Before the use of force, Officer A requested an additional unit. Two additional units arrived at the scene before the Subject was removed from his vehicle. During the

use of force, Officer A requested backup units. Two supervisors responded to the request.

Lines of Communication

Officer A attempted to establish a line of communication with the Subject upon his/her initial approach. Officer A stated that he/she wanted to de-escalate the situation by pretending this was a routine traffic stop. The Subject was uncooperative. Officers B, C, and E communicated with the Subject and attempted to gain voluntary compliance; however, he refused to exit his vehicle. The Subject's resistance limited the officers' ability to use communication as a de-escalation technique.

While the BOPC appreciated Officer A's intent to de-escalate the situation by pretending this was a routine traffic stop, when the ruse failed to gain the Subject's compliance, the BOPC would have preferred Officer A to employ the tenants of procedural justice, by informing the Subject that he was being placed under arrest in order to further demonstrate respect and neutrality.

- During its review of this incident, the BOPC noted the following tactical considerations:

1. Tactical Communication/Planning

This was Officers A and B's first shift as partners. At the start of their shift, they discussed tactics, such as contact and cover roles, de-escalation, and less-lethal options; Officer B agreed to be the less-lethal officer during their shift. Before leaving the station, Officer A learned that the Subject was wanted for assault with a firearm; however, he/she did not share this information with Officer B, nor did he/she tell him they were driving toward the Subject's residence to locate him. As they arrived in the area, Officer A told Officer B that the Subject was wanted for an assault with a deadly weapon. Moments later, Officer A advised Officer B that he/she believed the vehicle heading toward them was the Subject's. Officers A and B did not formulate a plan before driving toward the Subject's residence, stopping the Subject, or approaching his vehicle on foot. According to Officer A, there was not enough time to create a plan with his/her partner.

The BOPC was critical of Officer A's lack of planning with his/her partner. The BOPC noted that Officer A drove toward the Subject's residence, knowing he was wanted for an assault with a firearm; however, he/she did not tell his/her partner until they were on the Subject's street, moments before Officer A saw the Subject's vehicle driving toward them. As Officer A had discovered this information before the start of their shift, he/she had time to develop a plan with Officer B before driving toward the Subject's residence. The BOPC also noted that Officers A and B failed to create a plan before stopping the Subject and approaching his vehicle on foot. Without communicating with his/her partner,

Officer A quickly exited his/her police vehicle and approached the Subject's vehicle. Based on the totality of the circumstance, the BOPC opined that Officer A's actions limited Officer B's ability to formulate a plan with his/her partner.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that the tactics employed by Officer B were a substantial deviation, with justification, from Department-approved tactical training.

2. High-Risk Vehicle Stop

As the vehicle passed, Officer A observed that the Subject was the driver. In response, Officer A made a U-turn and began to drive behind the Subject. The Subject quickly pulled to the south curb. Officer A positioned his/her police vehicle behind the Subject's vehicle. According to Officer A, he/she conducted the traffic stop to de-escalate the situation, gain the Subject's compliance, and get him "peacefully" out of the vehicle. Officer A approached the Subject's vehicle and stood beside the driver's door; Officer B approached and stood on the passenger side.

In evaluating the tactics employed by Officers A and B, the BOPC noted that the Subject was wanted for an assault with a firearm. Although the BOPC understood that Officer A intended to de-escalate the situation by pretending this was a routine traffic stop, the BOPC would have preferred that he/she had requested backup units and followed the vehicle until they arrived. When the units arrived, the BOPC would have wanted Officers A and B to have initiated a high-risk traffic stop. Had the Subject stopped before the backup units arrived, the BOPC would have wanted Officers A and B to have initiated a high-risk traffic stop, remaining behind their police vehicle's ballistic door panels as they waited for units to arrive. Additionally, the BOPC opined that by prematurely approaching the Subject's vehicle, Officers A and B placed themselves at a significant tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, without justification, from Department-approved tactical training.

- The BOPC also considered the following:
- **Incomplete Broadcast** – The BOPC was critical of Officers A and B's communication with CD. The BOPC noted that Officer B should have advised CD that they had arrived on scene ("Code Six") for an ADW Subject, and that Officer A should have advised CD of the nature of his/her additional unit request.

- **Timely Response** – Sergeant B broadcast his/her response at 1511 hours and arrived at the scene at 1544 hours. According to Sergeant B, he/she tried to use his/her navigation to find the location. This was the second incident in a little over one month that Sergeant B's response was delayed due to reliance on his/her navigation system. Alternatively, he/she could have used a more reliable method such as a Reporting District map. During incidents such as a use of force, supervisors must arrive promptly and implement command and control.

These topics were to be discussed at the Tactical Debrief.

Command and Control

Sergeant A was the first supervisor to arrive at the scene. Sergeant A had heard Sergeant B broadcast his/her response and went to support him/her. Upon Sergeant A's arrival, officers briefed him/her on the incident and advised that a use of force had occurred. Sergeant A directed the officers to transport the Subject to the station. While at the scene, Sergeant A attempted, but was unable, to view Officer A's BWV footage due to the glare on his/her cellular phone's screen. According to Sergeant A, he/she asked the officers if there were any "surprises" regarding the force used, such as punches, kicks, or chokes; all the officers indicated there were not. Sergeant A was not advised that force had been applied to the Subject's neck.

Sergeant B had broadcast his/her response at 1511 hours; he/she arrived at the scene at 1544 hours. According to Sergeant B, he/she had difficulty finding the location. Arriving at the scene, Sergeant B met with Sergeant A and was advised that a use of force had occurred. Sergeant B began his/her Non-Categorical Use of Force (NCUOF) investigation, canvassed the area for witnesses and evidence, and returned to the station. While reviewing BWV footage at the station, Sergeant B observed Officer C's forearm and hand contact the Subject's neck. In response, he/she notified Sergeant D and spoke with FID. At FID's direction, Sergeant B continued to watch BWV until he/she was advised they were assuming investigative responsibility.

As it pertains to Sergeant B's response time, the BOPC noted that he/she tried to use his/her navigation system to find the location. The BOPC also noted that this was the second incident in a little over one month when Sergeant B's response was delayed due to reliance on his/her navigation system. While Sergeant B was new to the Area at the time of both incidents, this issue was to be addressed during the Tactical Debrief, to ensure his/her timely response to future incidents.

The overall actions of Sergeants A and B were consistent with Department training and the BOPC's expectations of supervisors during a critical incident.

- In conducting an objective assessment of this case, the BOPC determined that the actions of Officers C, D, E, and F did not deviate from Department-approved tactical

training. The BOPC also determined that the actions of Officers A and B were a substantial deviation, without justification, from Department-approved tactical training.

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

Although it was determined that Sergeants A and B would not receive formal findings, the BOPC determined that they would benefit from attending the Tactical Debrief.

In summary, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers C, D, E, and F's tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

- **Officer B**

At 1507:56 hours, Officer B's BWV captured him/her open the passenger door of his/her police vehicle. As Officer B exited the vehicle, he/she unholstered his/her service pistol with his/her right hand, in a one-handed grip, in a downward position. According to Officer B, Officer A had informed him/her that the Subject was wanted for an assault with a firearm. Officer B believed the situation could rise to the point where deadly force would become necessary. Officer B assessed the situation and did not observe the Subject make any "furtive movements." Officer B then holstered his/her service pistol.

The BOPC evaluated Officer B's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer A had told Officer B that the Subject was wanted for an assault with a firearm. Based on this information, the BOPC opined that it was reasonable for Officer B to believe the situation may escalate to the point where deadly force may be necessary. The BOPC also noted that after assessing the situation, Officer B determined he/she did not need his/her firearm drawn and holstered his/her service pistol. The BOPC opined that Office B's actions conformed to his/her training and Department policy.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer B's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Force

- **Officer A** – Firm Grips, Physical Force, and Bodyweight
- **Officer B** – Firm Grips
- **Officer C** – Firm Grips, Physical Force, and Bodyweight
- **Officer E** – Bodyweight and Physical Force
- **Officer F** – Firm Grip

When the Subject refused to step out of his vehicle, Officer A reached in and used his/her left hand to apply a firm grip on the Subject's left arm. Officer A continued to tell the Subject to step out of the vehicle, but he refused. To assist Officer A, Officer C used his/her left hand to apply a firm grip on the Subject's left bicep and his/her right hand to apply a firm grip on the back of the Subject's neck. As the Subject pulled away, Officer C released his/her grip. Officer C then used his/her right hand to apply a firm grip on the right side of the Subject's face, below his ear, while simultaneously wrapping his/her left arm around the Subject's left bicep and pulling him (Physical Force). Using his/her left hand, Officer A maintained his/her firm grip on the Subject's left arm. Officer A then used his/her right hand to apply an additional firm grip to the Subject's left arm and pull him (Physical Force). Using his/her hands, Officer E applied firm grips to the front of the Subject's shirt and pulled him (Physical Force). Officers A, C, and E pulled the Subject from the vehicle and placed him on the ground, on his back. Officers A and E were positioned in front of the open driver's door while the remaining officers were behind the door. Although Officer A believed that he/she maintained his/her firm grip on the Subject's left hand and forearm, according to the FID investigation, he/she lost, but quickly reacquired, his/her grips.

On the ground, Officer C placed his/her left hand on the right side of the Subject's face (Physical Force). The Subject placed his hands down by his sides and was stiffening his arms. Using his/her left hand, Officer C applied bodyweight to the Subject's upper chest. Using his/her right hand, Officer C applied a firm grip on the Subject's right wrist. Observing the Subject's legs moving, Officer B believed the Subject would be able to kick the officers. In response, Officer B used his/her hands to apply firm grips to the Subject's legs and placed them between his/her (Officer B's) calf and ankle area. Observing that the Subject's feet were on the vehicle's floorboard/rocker panel, Officer E believed the Subject was using it as leverage to lift his hips from the ground. To prevent the Subject from bucking the officers off, Officer E joined Officer B behind the driver's door and placed his/her knees on the Subject, applying bodyweight to his pelvis/stomach. To push the Subject back down and hold him against the ground, Officer C placed his/her left forearm across the Subject's jaw/neck for approximately 6.515 seconds (Physical Force). Using his/her right leg, Officer C applied bodyweight to the Subject's torso while simultaneously using his/her left hand to apply a firm grip on the Subject's right hand. Officer A replaced his/her hands with his/her knees, applying bodyweight to the Subject's left

arm while broadcasting a backup request. After the broadcast, Officer A removed his/her knees and reacquired his/her firm grips on the Subject's left arm.

Officer C placed the back of his/her right hand on the Subject's jaw (Physical Force). According to Officer C, he/she was attempting to control the Subject's head by pushing it away from him/her. Observing that the Subject was trying to hold his body up off the ground, Officer E ordered him to stop resisting; the Subject refused. To prevent the Subject from bucking the officers, Officer E applied downward force three times with his/her knees to the Subject's pelvis/stomach (Physical Force). Officers B and E then removed the Subject's legs from the vehicle, placed them on the ground, and Officer E used his/her knees and hands to apply bodyweight to the Subject's lower legs. To place the Subject in a seated position, Officer C used his/her right hand to apply a firm grip on the Subject's left elbow. Officer A maintained a firm grip on the Subject's left arm as he/she assisted Officer C in placing the Subject in an upright seated position. According to Officer F, the Subject continued to resist. Using his/her left hand, Officer F applied a firm grip to the Subject's right hand as Officer D applied the handcuffs. According to Officers A and C, while the Subject was in a seated position, they placed their hands on the back of the Subject's head to place it in a downward position (Physical Force). Officer C used his/her hand on the back of the Subject's neck to guide him to the ground (Physical Force). The Subject was then placed on his stomach to be searched. Officer A placed his/her hands on the Subject's back and his/her knees on the Subject's legs until the search was completed (Bodyweight).

The BOPC assessed Officers A, B, C, E, and F's use of non-lethal force. The BOPC noted that before the use of force, Officers A and B had attempted to de-escalate the situation by pretending this was a routine traffic stop. Officers had hoped to have the Subject step out of the vehicle willingly, at which point they would have arrested him without incident; however, the Subject refused. Officers A and C then removed the Subject from his vehicle using minimal force. As the incident progressed, Officers A, B, C, E, and F used firm grips, bodyweight, and physical force to overcome the Subject's resistance and effect his arrest. While the BOPC was concerned about Officer C's contact with the front of the Subject's neck, the BOPC opined that the remaining force used was proportional to the Subject's level of resistance.

As it pertains to Officer C's use of his/her forearm on the Subject's jaw/neck, the BOPC noted that after the Subject was removed from his vehicle, he continued to resist and attempted to sit up. In response, Officer C placed his/her left forearm on the Subject's jaw/neck and held him down while attempting to control his right arm. Although Officer C managed to keep the Subject down, because his/her forearm inadvertently contacted the side of the Subject's neck, the BOPC would have preferred that he/she had used a different method to control the Subject. While Officer C's forearm did contact the Subject's neck, the BOPC determined that he/she did not apply direct pressure to the Subject's trachea, nor did he/she apply pressure

to the sides of the Subject's neck that involved a substantial risk of restricting blood flow which may have rendered the Subject unconscious.

In terms of Officer E's decision to place his/her knees on the Subject's pelvis/stomach, the BOPC noted that he/she was applying physical force to prevent the Subject from bucking the officers as they attempted to gain control. While it may have appeared that Officer E was striking the Subject with his/her knees, the BOPC determined that he/she was repositioning himself/herself as the Subject attempted to buck him off. The BOPC also noted that the Department has an approved technique called "knee on belly." While the technique only uses one knee on a Subject's midsection, it is used to control the Subject's on the ground and is similar to what Officer A was doing here.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, E, and F, 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, C, E, and F's non-lethal use of force to be In Policy.

Carotid Restraints/Choke Holds

- A carotid restraint is defined "as a vascular neck restraint or any similar restraint, hold, or other defensive tactic, including a c-clamp in which pressure is applied to the sides of a person's neck that involves a substantial risk or restricting blood flow and may render the person unconscious in order to subdue or control the person." A choke hold is defined as "any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe."

The Department does not authorize the use of carotid restraints or choke holds; therefore, any use is unauthorized and shall be investigated as a Categorical Use of Force.

D. Lethal Use of Force

- **Officer C** – 1st Occurrence

At 1510:37 hours, Officer C's BWV captured him/her place his/her right hand on the Subject's neck just underneath his jawline and chin area while his/her left hand was on the right side of the Subject's face. Officer C placed his/her right hand on the Subject's neck for 0.579 seconds. Officer C reviewed this portion of his/her BWV with FID detectives and indicated that he/she did not recall placing his/her hand on the Subject's neck or this application of force. According to Officer C, the incident happened quickly, and he/she indicated he/she may have tripped or fallen to the ground as he/she removed the Subject from the vehicle.

- **Officer C – 2nd Occurrence**

At 1510:51 hours, Officer C's BWV captured him/her applying body weight with his/her right leg to the Subject's torso and simultaneously utilizing his/her left hand to control the Subject's right hand. The Subject was still positioned on his back and lifted his head from the ground as if he was trying to sit up, and stated, "What the [expletive] wrong with you fools?" At that time, Officer C utilized his/her right hand and placed it on the front of the Subject's neck just underneath his jaw for 1.593 seconds. Officer C placed the Subject's head back down to the ground and then transitioned the back of his/her right hand to the Subject's jawline area to move his head away from his/her direction. According to Officer C, he/she was attempting to push the Subject's head down while trying to see if he had a firearm in his left hand. Officer C's view of the Subject's left hand was blocked by the vehicle driver's door. Officer C believed that he/she had placed his/her right hand on the Subject's upper body/chest.

The BOPC evaluated Officer C's use of lethal force. Based on its evaluation, the BOPC determined that Officer C applied direct pressure to the Subject's trachea during both occurrences.

In terms of the first occurrence, the BOPC noted that Officer C was unaware that he/she had placed his/her hand on the front of the Subject's neck. As such, the BOPC determined that this contact was accidental. Regardless, the BOPC noted that there was no exception in the policy for accidental contact that results in direct pressure to the trachea. The BOPC also noted that Officer C's hand was on the Subject's neck for approximately 0.579 seconds. However, the BOPC further noted that the policy on "choke holds" does not differentiate based on time or duration.

As it pertains to the second occurrence, the BOPC noted that based on the BWV footage, it appeared that Officer C intended to grip the front of the Subject's neck. However, the BOPC also noted that fights are dynamic and according to Officer C, he/she believed he/she had placed his/her right hand on the Subject's upper body/chest. As such, the same analysis as the first occurrence applies to the second. The BOPC also noted that Officer C expressed concern that the Subject may have been armed and was about to shoot. Although Officer C indicated his/her concern was based on the fact that he/she could not see the Subject's left hand, the BOPC opined that his/her concern was based largely on a prior incident that he/she described during his/her FID interview. Regardless, the BOPC opined that based on the totality of the circumstances, there was no indication that the Subject posed an imminent deadly threat during the second occurrence. The Subject was on his back, on the ground, and several officers were attempting to control him, specifically Officer A, who was controlling his left arm. While Officer C believed the Subject was reaching toward the center console before being removed from the vehicle, there was no indication that he had armed himself. Additionally, Officer C did not indicate that he/she intended to use lethal force or believed lethal force was justified.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officer C, in the same situation, would not reasonably believe that the use of deadly force was necessary, proportional, and objectively reasonable.

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