

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

**IN-CUSTODY DEATH – 012-19**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Van Nuys	4/8/19		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	4 years, 4 months
Officer B	3 years, 3 months

**Reason for Police Contact**

Officers conducted a pedestrian stop of a man behaving erratically. Once detained, the individual became agitated and attempted to pull away from the officers. The Subject was forced to the ground where he continued to struggle. The officers utilized body weight to control the Subject's movement and applied a Hobble Restraint Device to his legs. Upon the arrival of a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) the Subject began to struggle and officers used body weight to control the Subject in a prone position. The Subject went into cardiac arrest and was transported to hospital, where he died six days later

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 50 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the 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 March 31, 2020.

## **Incident Summary**

Officers A and B were traveling in their police vehicle when they observed the Subject, seated on the driveway of a gas station

According to Officers A and B, they observed the Subject waving his arms in the air and yelling unintelligibly, and also observed a vehicle nearly run the Subject over as he lay on his back in the driveway.

According to Officer A, he/she and Officer B discussed the Subject's behavior and were unable to tell if he was in distress, attempting to flag them down, or trying to kill himself. The officers communicated their observations to one another and decided to check on the Subject's wellbeing. Officer A broadcast that they had stopped the Subject.

According to Officers A and B, as they exited their vehicle and approached on foot, they observed the Subject displaying behavior consistent with being under the influence of narcotics, including rapid and jerking movements of his head and body, incoherent speech, heavy breathing, repetitive licking of his lips, and muscle rigidity.

Without direction to do so, the Subject placed his hands behind the back of his head and then to the small of his back. Both officers believed the Subject was assuming a handcuffing position, which indicated to them he had prior contacts with law enforcement. Officer A characterized the Subject's actions as inconsistent with the behavior of an average citizen and was concerned that he might have been in possession of something that could have harmed them. Officer A also believed the Subject was possibly looking for an opportunity to hurt himself by lying in the driveway in the path of moving vehicles. Officer A indicated that to prevent the situation from escalating, he/she and Officer B approached the Subject to handcuff him and begin a narcotics investigation.

As the officers walked up to the Subject from opposite sides, Officer A grabbed the Subject's left arm by the wrist and elbow. Officer B grabbed the Subject's right wrist and handcuffed his hands behind his back. Officer A then advised CD that the Subject was in custody.

As the Subject remained seated, Officer B asked him what was wrong and why he was sitting in the driveway. The Subject replied that he did not have a problem, was homeless, and that he wanted to go to work the next day. When questioned by both officers as to whether the Subject was on probation or parole, he responded, that he had court. The officers interpreted his response to mean he had a future court date, which further supported their belief that he had prior contacts with law enforcement. Officer A attempted to determine the Subject's identity at that point by asking his name. Officer A did not understand his response, because it sounded to him/her that the Subject was repeating one name over and over as if it were both his first and last name.

Officer A observed several bulges in the Subject's pockets and was concerned he possibly was in possession of a weapon or hypodermic needles. Officer A indicated that in an effort to protect the Subject from potentially harming himself or them, he/she

attempted to conduct a pat-down search of the Subject's clothing. The Subject prevented this from occurring, and immediately pulled away from Officer A.

Body Worn Video (BWV) shows Officer A reach down with his/her right hand and attempt to feel the outside of the Subject's left front pants pocket. As that occurred, the Subject turned his left leg and foot inward away from Officer A. When asked by Officer A what he had in his pockets, the Subject replied he had a phone and money.

Officer A asked the Subject to stand so they could move him over to their police vehicle. The Subject agreed and allowed the officers to assist him to his feet. Officers A and B then held the Subject by his left and right arms respectively and walked him to the front of their vehicle. Officer A told the Subject to spread his feet and stated he/she was going to pat him down to ensure he did not possess any weapons. The Subject complied but moved his body and head from side to side in what Officer A interpreted as an attempt to pull away. The officers continued to verbalize with the Subject by telling him to relax and asking him what was wrong.

Officer A explained to the Subject that he/she wanted to remove his wallet from his pocket; however, the Subject denied being in possession of one. When questioned as to what he did have in his pocket, the Subject gave an unintelligible response. According to Officer A, the Subject continued to move around and his behavior became more erratic. BWV depicted Officer A having to tell the Subject a second time to spread his feet.

In an effort to gain better control of the Subject, the officers moved him a few feet closer to the hood of their vehicle. As Officer A attempted to resume a pat-down search, the Subject appeared to tense his upper body and try to pull his right arm from Officer B's grasp. Officer B believed the Subject was attempting to lean his bodyweight backward. In response to this action, Officer B broadcast a request for an additional unit.

According to Officer A, because the Subject was becoming more erratic, he/she used his/her right hand to apply a wrist-lock to the Subject's left wrist, while maintaining a grip on the Subject's left biceps with his/her other hand. As that occurred, Officer B used his/her left hand to grip the back of the Subject's right arm above the elbow. BWV recorded the officers tell the Subject to relax as he moved his body from side to side. The officers applied forward pressure to the Subject's body and pressed him against the hood of their police vehicle. The Subject repeatedly stated that he did not have anything as he appeared to continue to breathe rapidly.

According to Officers A and B, the Subject kicked his feet backward in an attempt to strike them in the legs. The Subject then shifted his weight to the left and tried to break free from their grasp. Officer A utilized the Subject's momentum to spin him by his left arm and took him to the ground. Officer A was mindful that the Subject was handcuffed and unable to brace his fall. To avoid the Subject striking his head on the curb, Officer A spun him away from the curb edge to ensure he landed on a flat surface.

The officers' BWV cameras dislodged from their uniforms as they went to the ground with the Subject. Although their cameras remained activated and recorded sound, no additional footage of this incident was captured by their BWV cameras.

Based on a review of security video from the gas station, the Subject appeared to land on his right side in a semi-prone position on the apron of the gas station driveway and struck the front of his head on the flat portion of the concrete gutter. Officer B ended up in a kneeling position near the Subject's legs and used his/her hands to apply bodyweight to the Subject's lower back. Officer A knelt near the Subject's left side and applied his/her bodyweight against the Subject's left upper torso area. Within approximately three to five seconds of taking the Subject to the ground, Officer A utilized his/her police radio and broadcast a request for a backup.

According to Officer A, the Subject actively resisted by writhing his body and kicking his legs. Officer A maintained a wrist lock on the Subject and used his/her bodyweight to press his/her chest against the Subject's back to control his upper body. Simultaneously, Officer B wrapped both of his/her arms around the Subject's legs and pulled them toward his/her chest.

According to Officer B, they struggled to control the Subject's legs and body and repeatedly instructed him to relax and stop resisting. They maintained their positions as the Subject lifted them upward by thrusting his body. Officer A added that he/she spread his/her legs outward and placed his/her toes on the ground to stabilize him/herself. Depending on the Subject's level of resistance, Officer A adjusted the amount of weight he/she placed on the Subject's back by alternating between supporting his/her weight on his/her toes and placing his/her knees on the ground.

Officers C and D responded to the backup request. Upon their arrival at approximately 0418:00 hours they approached Officers A and B and were directed to utilize a Hobble Restraint Device (HRD). Officer C immediately removed his/her HRD from his/her left rear pants pocket and applied it around the Subject's ankles. In an effort to better control the Subject, Officer B adjusted his/her position by placing his/her left knee across the back of the Subject's left thigh and his/her right knee across the back of the Subject's left calf, while using his/her hands to apply body weight to the Subject's right leg.

Officer C's BWV at 0418:46 hours captures him complete the hobble application and inform his/her colleagues that the Subject's legs were hobbled.

Upon exiting his/her vehicle, Officer D deployed a beanbag shotgun and loaded one round in the chamber. Officer D deployed this weapon system due to the nature of the backup request and to provide a less-lethal option in the event the situation escalated. Officer D provided cover and instructed the Subject to calm down. Moments later, he/she slung the shotgun over his/her right shoulder as additional units arrived at scene. As the Subject continued to yell, Officer C advised him that if he continued to resist, he could be tased and that it could cause injury. Officer D gave a similar warning involving the use of the bean bag shotgun.

According to Officer A, despite being handcuffed, the Subject continued to reach with his right hand toward his rear waistband, as well as the area of his front right pocket. That action lead Officer A to believe the Subject was possibly armed. Officer A felt that if he/she had released his/her body weight from the Subject's back, the situation might

have escalated to the need for a higher level of force. Body Worn Video recorded Officer A tell responding officers as they approached that the Subject had something in his pockets that the Subject did not want removed.

Officer A stated that even after the HRD was applied around the Subject's legs, he continued to resist by kicking his legs. Officer A indicated they were unable to roll or move him to a different position.

The Subject was 50 years of age, 5 feet 5 inches tall, approximately 146 pounds. Officer A was 30 years of age, 6 feet 4 inches tall, approximately 250 pounds. Officer B was 24 years of age, 6 feet 3 inches tall, approximately 210 pounds.

Officers E and F arrived at scene as Officer C applied the HRD. Officer E parked his/her police vehicle facing the Subject and the officers. The Digital In-Car Video System (DICVS) from their vehicle captured a view of the incident as it continued to unfold.

Officer F approached and was advised by Officer A that the Subject was actively preventing access to his pockets and that he needed to be searched. Officer F knelt beside the Subject and began to search his pockets and waistband area. Officer A stated that as soon as that occurred, the Subject attempted to reach for his right front pants pocket. Officer A stated out loud that the Subject was attempting to reach toward his pocket as he/she pulled the Subject's hands away with his/her right hand.

At approximately 0418:31 hours, Sergeant A, arrived at scene and began monitoring the situation as Officer F searched the Subject. According to Sergeant A, he/she observed the Subject grunting, yelling and thrashing his body. Sergeant A also noted that Officers A and B were applying their body weight to the Subject's legs and upper body, and that Officer C was controlling the tethered end of the HRD around the Subject's ankles. Regarding his/her observations, Sergeant A stated, that on his/her arrival the Subject was resisting the officers' actions with violent force and thrashing. The Subject was unsuccessful in breaking free of the officers' actions because of their maintenance of a body weight control of the Subject.

Although not verbally declared, Sergeant A assumed the role of Incident Commander and assessed the situation, ensuring that only the minimum number of officers were applying force. Officers A and B explained to Sergeant A the nature of their stop and the Subject's erratic behavior. Based on that description, Sergeant A formed the opinion that the Subject was possibly under the influence of a stimulant.

At approximately 0420:22 hours, Officer F completed his/her search and stood up. The Subject appeared to have stopped resisting and was unresponsive to Officer A's attempts to gain his attention. Officers A and B removed their body weight from the Subject and rolled him on to his right side. Officer A repositioned himself/herself behind the Subject and placed his/her hands on the Subject's left shoulder to steady him and prevent him from rolling over. Similarly, Officer B stood up and knelt over the Subject, while holding his legs to balance him/her.

Officers A and B were questioned as to why they chose to roll the Subject onto his right side rather than to his left or to a seated position as is required by the LAPD Policy when a Subject is hobbled. Officer B stated that because the Subject was already lying partially in the gutter, rolling him onto his left side would have caused his head to hang further off the curb. Officer B believed that pushing the Subject onto his right side allowed them to have better control over him. Similarly, Officer A stated that had he/she rolled the Subject onto his left side, he/she believed the Subject's head would have been hanging off the driveway apron. Officer A felt that given the slant in the driveway, it was more natural to roll him to his right. Both officers believed attempting to place the Subject into a seated position was not a viable option, because it would have allowed him the ability to kick his legs.

Based on the available video footage of this incident, it was determined that Officers A and B applied body weight to the Subject for approximately four minutes and 13 seconds while he was in a prone position. Approximately one minute and 37 seconds of that time occurred after the HRD was applied and while the Subject was being searched. Sergeant A was on scene for approximately one minute and 25 seconds before the Subject was rolled to his right side.

Based on the officers' statements regarding the Subject's unpredictability and violent behavior, Sergeant A believed it was tactically appropriate to leave the Subject in a right lateral position, rather than risk him becoming agitated or violent again if moved to a left lateral recumbent position.

Upon rolling the Subject onto his side, Officer A indicated he verified the Subject was breathing and observed a small laceration to his forehead. Sergeant A noted the same injury and directed that a Rescue Ambulance (RA) be requested. Officer E broadcast a request for a RA at approximately 0420:40 hours.

According to Sergeant A, he/she ensured that the proper resources were being utilized, including the HRD and the presence of a less lethal force option (beanbag shotgun). Sergeant A also verified that the Subject was being held on his side and monitored.

Sergeant B responded to the scene due to the initial backup request and arrived at approximately 0420:30 hours. Upon meeting with Sergeant A, Sergeant B learned that a use of force had occurred and began assisting him/her with the investigation by canvassing for witnesses and video of the incident.

At approximately 0431:30 hours the RA arrived at scene. According to Firefighters A and B, the Subject appeared conscious upon their arrival. Firefighter A recalled that as he began asking the Subject questions, he did not initially respond. The Subject then became agitated and appeared to be trying to free himself from being restrained.

At approximately 0432:57 hours, Firefighters A and B tried to interact with the Subject. As Firefighter A bent down next to the Subject, he tried to communicate with him and placed his hand on the Subject's left shoulder/upper chest area. The Subject reacted by screaming, kicking his legs and arching his body. Officer A immediately rolled the Subject to his stomach and applied a two-hand firm grip to his left arm. Officer A then used his/her bodyweight by placing his/her right knee across the Subject's right

shoulder blade and his/her left knee across the Subject's lower back. Simultaneously, Officer B held the Subject's right leg with his/her hands and placed his/her left knee on the Subject's left buttock and his/her right knee across the back of the Subject's left calf area. Both officers indicated they placed the Subject back into a prone position, because they believed they would have been unable to control him had they tried to maintain him on his side.

Despite the officers' efforts to restrain the Subject, he was still able to move his legs and torso. Firefighter B noted that the officers had a difficult time restraining the Subject and concluded he was probably under the influence of narcotics.

Due to the Subject's increased level of agitation, Firefighter B requested an Advanced Life Support RA, staffed by paramedics in order to administer medication to calm him. He also believed it was best to let the officers continue restraining the Subject until that medication could be administered.

Officer A repeatedly told the Subject to relax and stop resisting. Officer D tried to communicate with the Subject in Spanish and told him to calm down and that they were trying to help him. According to Officer D, most of what was being yelled by the Subject was unintelligible.

Officer A maintained his/her body weight on the Subject, because he was actively resisting and feared the situation would escalate if they released him.

Similarly, Officer B believed if he/she and his/her partner had removed their weight from the Subject, they would have lost control of him and that the Subject would have attempted to escape. Officer B stated the Subject continued to struggle and attempt to push him/her and his/her partner away throughout each application of body weight.

Sergeant A described the Subject's behavior as violently resisting. It was his/her opinion that the bodyweight applied by Officers A and B was reasonable to protect themselves from being kicked, limit injury to the Subject, and to prevent additional applications of force. Sergeant A opined that the best way for the Subject to receive medical attention was for the officers to continue to control the Subject's actions by maintaining their body weight on him until they could place him on to a gurney.

According to Sergeant A, his/her understanding of the LAPD Use of Force Tactics Directive regarding hobble restraints, was that if a Subject is continually violent towards an officer, he or she should use the physical force hold that is approved. And that use of force directive indicates the approved use of force, which would be applying direct weight to the Subject's back for as long as reasonable to control and secure the individual.

As Firefighters A and B removed a gurney from the rear of the RA, the Subject appeared to stop resisting. To coordinate the Subject's transition of care to LAFD personnel, Sergeant A suggested the Firefighters position the gurney parallel to the Subject so that he could be rolled onto it.

At approximately 0435:56 hours, Officers A and B removed their bodyweight from the Subject and assisted the Firefighters in lifting him onto the gurney.

Officer A's second application of body weight to the Subject's upper body lasted approximately two minutes and 46 seconds. The Subject's voice can be heard on BWV up to the time that Sergeant A instructed the Firefighter's to reposition their gurney.

Based on a review of BWV, the Subject had stopped communicating at this point; his eyes were closed, and he appeared unconscious. Sergeant A asked Officer A if the Subject was breathing. Officer A replied that he/she could hear the Subject breathing and see and feel his chest moving. Firefighter B indicated he made similar observations. The Firefighters then adjusted the gurney and placed the Subject in an upright seated position, while Officers A and B adjusted his handcuffs. The officers momentarily unhandcuffed the Subject hands from behind his back and secured them to the railings of the gurney.

According to Firefighter A, once the Subject was in a seated position, he observed that his respiratory rate had decreased and that he was unconscious. After loading the gurney into the RA, Firefighters A and B were unable to detect the Subject's heart rate and determined he was not breathing. At approximately 0440 hours, they immediately began administering cardiopulmonary resuscitation (CPR).

Upon observing the firefighters performing CPR, Sergeant A believed the incident might become a Categorical Use of Force and ensured that a crime scene was established and that the involved and witnessing officers were separated and monitored.

At approximately 0442 hours, the Advanced Life Support RA arrived at scene. The Subject was immediately transferred into their RA as CPR efforts continued. Officer D removed the handcuffs and HRD from the Subject's wrists and ankles as requested by LAFD personnel and rode in the RA as the Subject was transported to hospital

On April 13, 2019, LAPD was notified that the Subject had died.

### **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 Sergeants A and B, along with Officers A, B, C, and F's Tactics to warrant a Tactical Debrief.

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

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

### **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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

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

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

Law enforcement officers are authorized to use deadly force to:

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

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

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

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

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his/her or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

### **Tactical De-Escalation**

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

#### *Tactical De-Escalation 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 or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers A and B had been regular partners for approximately ten months. The officers discussed tactics daily throughout their shift and while en route to radio calls. The officers routinely assigned contact and cover roles at the start of their shift. On the day of the incident, the officers coordinated and pre-designated their roles as Officer A was assigned as the cover officer, while Officer B was the contact officer. Officers A and B encountered the Subject as they were en route to

another call and due to their observations, opined that the Subject was in need of some type of assistance that could not be disregarded. The officers had not planned for this specific encounter but were faced with a rapidly developing situation that they believed based on their training and experience needed immediate police attention. Officers A and B understood their obligation to stop, approach the Subject and to ensure he was safe. Officers determined that the Subject was not injured, but became aware that he was possibly under the influence of narcotics. As the officer's approached the Subject, they coordinated a plan to detain him. During the incident, Sergeant A coordinated with the officers and with LAFD personnel to control the Subject and to get him placed onto the gurney.

**Assessment** – Officer A and B were faced with an uncertain encounter with the Subject. The officers initially observed the Subject's behavior and determined that the Subject was either in need some type of assistance or was attempting to harm himself. Before the officers could take any action to provide assistance to the Subject, they witnessed a vehicle exit the gas station and believed that the Subject may have been struck as he sat in the driveway. Officers A and B assessed the need to provide immediate assistance and made contact with the Subject. Once the officers contacted the Subject, their assessment of his condition, based on their training and experience, was that the Subject was possibly under the influence of narcotics. the Subject was initially detained without incident.

As Officers A and B attempted to provide assistance to the Subject, he continually resisted the officers. As a result of the Subject's continued resistance and actions, bodyweight was utilized to control the Subject. The officers used the lowest level of force that they determined to be necessary and continuously assessed their actions in an attempt to safely control the Subject. As the Subject attempted to spin and flee from the officers, he was taken to the ground. As both Officers A and B and the Subject were falling to the ground, the officers turned the Subject away from the edge of the curb to prevent the Subject from striking his head on it. Throughout the entire contact with the Subject, Officers A and B attempted to de-escalate with the Subject. Officers A and B continually assessed the Subject's actions and did not resort to a greater application of force, such as kicks or strikes.

Upon the application of the HRD, officers continued to monitor the Subject as he continued to resist. Officers A and B continued to use a minimal level of force to control the Subject. Every time the Subject ceased his physical resistance to the officers, Officer A and B placed the Subject in a lateral recumbent position and monitored his breathing while lying on the ground. When the Subject was placed on the gurney officers monitored and confirmed that the Subject was breathing.

Personnel from the LAFD assessed the Subject's condition after their arrival. They provided timely medical treatment once the Subject went into medical distress.

**Time** – Officers A and B were faced with seconds to react which limited their options when they first encountered the Subject sitting in a driveway; however, when the officers believed the Subject had possibly been struck by a vehicle they acted quickly to confirm the Subject was not injured. Officers A and B demonstrated patience and took time to assess the Subject's behavior in an attempt to deescalate

their contact with him. The contact with the Subject escalated due to the Subject's sudden, unprovoked and agitated behavior as the officers made contact with the Subject. The Subject was not injured, but the officers opined the he was possibly under the influence of narcotics or wanted to harm himself.

**Redeployment and/or Containment** – Officers A and B contacted the Subject who was on the driveway of a gas station that was open for business and could be struck by a vehicle, as the officers initially believed the Subject was. The officers relocated the Subject to the front of their police vehicle, allowing a much safer environment for the Subject. This location also allowed Officers A and B to conduct an investigation and was a better position to control and search the Subject. In response to the Subject actions, Officer A conducted a takedown on the Subject. Officer A was acutely aware of the curb where they stood and ensured that as he/she turned the Subject for the takedown, the Subject would land on a flat surface and not the curb edge. Officers remained in that area on the ground until the arrival of the LAFD RA. The Subject was placed onto the gurney, affording the officers more control of the Subject's movements.

**Other Resources** – Officer B utilized his/her handheld radio to broadcast a request for an additional unit when the Subject began to pull away. Officer A requested for a backup once he/she took the Subject to the ground. These broadcasts brought additional officers to the location who could assist in maintaining control of the Subject. The HRD was later applied to the Subject in an effort to better control him in order to provide medical assistance as a result of the officer's request for a RA to respond.

**Lines of Communication** – Officers A and B communicated their observations with each other prior to making contact with the Subject. Officer A communicated with the Subject and asked for his information. When the Subject refused to answer him/her, Officer B attempted to obtain information and questioned the Subject. Prior to moving the Subject over to the police vehicle, the officers explained their intended actions to the Subject and obtained his cooperation. Officer A used clear communication to the Subject, advising him of Officer A's intent to conduct a pat down search for weapons prior to attempting to do so. Throughout the incident the officers continued to attempt to establish communications with the Subject using clear and concise commands. The officers informed Sergeant A, along with the additional officers who responded to the incident, of their situation. Upon the arrival of LAFD personnel, the officers at the location communicated effectively with them to ensure the Subject received timely medical treatment.

- During the review of the incident, the following Tactical Debriefing Points were noted:

#### **Debriefing Point No. 1 Hobble Restraint Device**

- After the HRD was applied, Officers A and B applied bodyweight to the Subject while he was in a prone position on two occasions. Additionally, Officers A and B placed the Subject in a right lateral recumbent position, instead of the left.

Officer C released the end of the HRD strap after the first application of bodyweight.

In this case, during the First Application of Non-Lethal Force, Officers A and B maintained their bodyweight on the Subject after the HRD was applied and while the Subject remained in a prone position. According to Officers A and B, the Subject had not yet been searched and his actions caused them to believe that he was possibly armed. The officers maintained their positions, controlling the Subject until a cursory pat down search for weapons was completed. At the completion of the search, the Subject was rolled into a right lateral recumbent position. According to Officers A and B, they were unable to place the Subject on his left side due to his position on the ground and the slope of the driveway. The officers requested an RA to respond to the location and continuously monitored the Subject's medical status until the arrival of the RA.

During the Second Application of Non-Lethal Force, Officers A and B maintained their bodyweight on the Subject in the prone position as he continued to physically resist. Officers A and B were concerned for the Subject's safety if they placed him in a seated position or attempted to control the Subject while he was on his side due to his continued physical resistance and their belief that he was under the influence of narcotics. Therefore, when the second application of bodyweight force was applied, Officers A and B placed the Subject back into a prone position which had already been successfully utilized to overcome his physical resistance. This position allowed the officers to utilize a minimal amount of force and the officers believed it minimized the risk of injury to the Subject. Officers A and B maintained control of the Subject until LAFD personnel assisted them in placing the Subject onto the gurney.

Additionally, after applying the HRD, Officer C held onto the HRD strap for a portion of the incident and then let it go, dropping it onto the ground. To allow for an additional method of controlling the Subject, the BOPC would have preferred that Officer C maintained control of the HRD strap for the duration that it was applied.

### **Debriefing Point No. 2 Left Lateral Recumbent (Hobble Restraint Device Position)**

- Officers A and B placed the Subject in a right lateral recumbent position, instead of the left when turned to the recovery position.

In this case, at the completion of the search, the Subject was rolled into a right lateral recumbent position. According to Officers A and B, they were unable to place the Subject on his left side due to his position on the ground and the slope of the driveway.

Sergeant A closely monitored and assessed the incident and the Subject's behavior. Sergeant A ensured that Officer A was actively monitoring the Subject's condition on the ground. Sergeant A determined that it was tactically appropriate to leave the Subject on his right lateral side. Sergeant A believed that by not moving the Subject it would prevent him from becoming more agitated or possibly violent again.

The BOPC discussed the decision to leave the Subject on his right lateral recumbent position at length and the Department's tactical directive which does not prohibit such

positioning, but does not fair it to be optimal. The BOPC would have preferred that the officers and Sergeant A ensured that the Subject was placed in the left lateral recumbent position. However, the BOPC opined, that due to the slant of the driveway and the Subject's actions, it was reasonable to leave him on his right lateral recumbent position. This will be included in the Tactical Debrief of the involved officers.

Based on the totality of the circumstances, the BOPC determined, that while identified as an area for improvement, the officers' actions were reasonable and justified. The BOPC directed that this be a topic of discussion during the Tactical Debrief

### **Debriefing Point No. 3 Positional Asphyxia (Hobble Restraint Device)**

- In this case, Officers A and B placed the Subject in a prone position in an attempt to control his violent behavior on two separate occasions after the application of the HRD.

Placement of an individual in the prone position introduces the concern for positional asphyxia and the need to actively monitor breathing and signs of medical distress. An officer is responsible for monitoring the individual's condition and shall request a rescue ambulance if the individual shows signs of medical distress, such as unconsciousness or has difficulty breathing. In this case, the RA request for the Subject was not for difficulty breathing or unconsciousness, but for a facial laceration. Officers A and B actively monitored the Subject for breathing throughout their application of force with him.

Sergeant A monitored and assessed the incident and the Subject's behavior. Sergeant A ensured that Officer A was actively monitoring the Subject's condition while on the ground.

The BOPC noted that officers and supervisors were actively monitoring the Subject and were acutely aware of his breathing while in the prone position. The autopsy report identified no findings that establish asphyxia. Despite the Subject's active resistance, the BOPC would have preferred that the officers attempt to reposition the Subject to a lateral recumbent position to minimize the possibility of positional asphyxia.

Based on the totality of the circumstances, the BOPC determined, that while identified as an area for improvement, the officers' actions were reasonable and justified. The BOPC directed that this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

- **Additional Unit/Supervisor Request** –It would have been tactically advantageous to have requested a supervisor based on their initial observation of the Subject's actions and the belief by the officers that the Subject was possibly a danger to

himself. The BOPC directed that this be a topic of discussion during the Tactical Debrief.

## **Command and Control**

- In reviewing this incident, the BOPC acknowledged the responding officers' and supervisors' overall effectiveness in response to the Subject's actions.

Sergeant A arrived during the first application of non-lethal force and assumed the role of the incident commander. Sergeant A monitored the Subject's medical condition and directed the officers to request for an RA to respond. Sergeant A gave clear and concise direction to the officers and exhibited a calm demeanor. Sergeant A minimized risk by controlling the number of officers involved in the use of force. Sergeant A developed a plan to safely transfer the Subject onto the LAFD gurney and assigned two officers, who were uninvolved in the use of force, to accompany the Subject to the hospital. Upon becoming aware of the change in the Subject's medical condition to that which indicated this incident may become a Categorical Use of Force incident, Sergeant A initiated post categorical use of force protocols. Sergeant A separated and monitored Officers A and B. Additionally, Sergeant A transported Officer B to Van Nuys Community Police Station.

Sergeant B responded to the back-up request and arrived after the first application of non-lethal force had occurred. Sergeant B met with Sergeant A, who advised him that a non-categorical use of force had occurred. Sergeant B remained at the scene to assist with administrative duties, which included canvassing for witnesses and locating video surveillance. Once the incident appeared to possibly be a Categorical Use of Force incident, Sergeant B transported Officer A back to the Police Station.

The actions of these supervisors were consistent with Department supervisory training and met the BOPC's expectations of field supervisors during a critical incident.

## **Tactical Debrief**

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

Each tactical incident also 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 personnel to discuss individual actions that took place during this incident.

Therefore, the BOPC directed that Sergeants A and B, along with Officers A, B, C, and F attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

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

### **First Application of Non-Lethal Force**

**Officer A – Wristlock, Physical Force, Takedown and Bodyweight.**

According to Officer A, the Subject became erratic and moved his body around. the Subject pulled away from Officer A. In order to gain greater control over the Subject, Officer A applied a wristlock to the Subject's left wrist. Simultaneously, Officer A used physical force and pressed the Subject against the police vehicle, using it as a controlling agent. The Subject then began kicking and attempted to run away. The Subject spun and Officer A used the momentum to take the Subject to the ground. The Subject kicked and attempted to roll out of Officer A's grasp. While on the ground, to overcome the Subject's resistance and prevent his escape, Officer A maintained his/her wristlock on the Subject's left wrist and applied bodyweight with his/her chest against the Subject's back.

**Officer B – Firm Grip, Physical Force and Bodyweight.**

According to Officer B, Officer A attempted to search the Subject for weapons, and the Subject jerked around side to side. Officer B held the Subject's right bicep with his/her right hand and the Subject's left forearm with his/her left hand. The Subject pushed his weight back towards Officer B and Officer B used physical force to push the Subject against the hood of the police vehicle. The Subject started to kick his/her legs back at Officer A and tried to run away. Officer B released his/her firm grip on the Subject's arm as Officer A took him to the ground. Officer B then wrapped both of his/her arms around the Subject's legs and applied bodyweight with his/her chest to overcome his resistance. Additional units arrived and Officer B raised the Subject's legs while another officer applied the HRD. the Subject continued to push up against Officers A and B. Officer B then used his/her knees and applied bodyweight to the back of the Subject's legs. Officer B placed his/her right hand on the Subject's ankles and his/her left hand on the Subject's thighs.

### **Second Application of Non-Lethal Force**

**Officer A – Bodyweight.**

According to Officer A, the Subject awoke agitated and started jerking around upon contact with LAFD personnel as they attempted to gain information from him. Officers A and B rolled the Subject onto his stomach. Officer A applied bodyweight to the Subject's back utilizing his/her knees. The Subject continued to rock, and push his body up which resulted in moving both Officers A and B up and down.

When the Subject stopped resisting, Officers A and B, with the help of the LAFD personnel, placed the Subject onto the gurney.

**Officer B – Bodyweight.**

According to Officer B, the RA arrived and LAFD personnel spoke with the Subject. The Subject became agitated and started jerking around. Officers A and B placed the Subject onto his stomach. To prevent the Subject from harming LAFD personnel, Officer B applied body weight utilizing his/her knees to the back of the Subject's legs. The Subject pushed up and lifted Officer B off of the ground.

The BOPC closely examined both applications of non-lethal force and the total duration of time bodyweight was applied in each instance. The BOPC noted that although the Subject was smaller in stature than Officers A and B, the Subject's level of physical resistance and demonstrated strength was so great that he was able to move his body even as the officers attempted to restrain him. The BOPC also noted that throughout the incident both Officers A and B remained calm and exhibited great patience and concern for the Subject's well-being and safety. Throughout the incident, the officers repeatedly verbalized with the Subject and attempted to de-escalate the situation. The officers utilized the minimal level of force to protect themselves and LAFD personnel from the Subject and to prevent his escape by using several different techniques of physical force. The officers demonstrated restraint and did not utilize less-lethal force options even though the Subject physically resisted them.

The BOPC noted, the autopsy report ascribed the cause of the Subject's death six days after the incident to anoxic encephalopathy, due to cardiopulmonary arrest from the effects of methamphetamine. During the autopsy, no fatal traumatic injuries or findings that established asphyxia were identified. Determination of the amount of force used by the officers and the physical effects of the restraint could not be established at autopsy resulting in the Subject's death being listed as undetermined.

The BOPC reviewed the BWV of the officers during the application of bodyweight force. The BWV depicted the Subject actively resisting and yelling during both applications. Officers also ensured the Subject was breathing after each application of force as he was placed in the right lateral recovery position. However, when officers placed the Subject in the recovery position the BOPC would have preferred that the Subject was placed in the left lateral recovery position as this is the recommended placement delineated and discussed in the Department's Hobble Restraint Device training bulletin.

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

Therefore, the BOPC found Officers A and B's Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.