

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

**Use of Deadly Force – 030-19**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Devonshire	01/16/19		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	29 years, 6 months
Officer B	30 years, 4 months
Officer C	3 years, 7 months
Officer D	1 year, 1 month

**Reason for Police Contact**

Sergeant A responded to a radio call of a Vandalism Subject there now. After making contact with the Subjects, a Use of Force (UOF) occurred, which was later determined to be a Lethal Use of Force, thereby invoking Categorical Use of Force protocols.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject 1: Female, 23 years of age.  
Subject 2: Male, 24 years of age.

**Board of Police Commissioners' Review**

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

The following incident was adjudicated by the BOPC on November 19, 2019.

## **Incident Summary**

On Sunday, January 6, 2019, at 1407 hours, a Los Angeles Police Department (LAPD) Communications Division (CD) Police Service Representative received an emergency call for service from the Person Reporting (PR), identified as Witness A. Witness A stated that he was the assistant manager at the Mobile Home Park. He reported that a female resident had broken out all the windows to one of the mobile homes and was threatening neighbors.

CD broadcast the call and details. Officer A advised CD that Officers A and B would handle the call. Officer A was the driver and Officer B was the passenger.

Sergeant A advised CD to show that he/she was responding to the incident. Sergeant A was in uniform and driving a marked LAPD vehicle.

Sergeant A was the first unit to arrive and broadcast that he/she was at the location (Code Six).

Sergeant A met with Witness A near the front entrance to the Mobile Home Park. According to Sergeant A's BWV, Witness A stated, "[Subject 1] is walking in the street right now with her boyfriend, she is carrying a red jug." Witness A indicated Subject 1 had been evicted, but she refused to leave. The Mobile Home Park staff were waiting for her to move out, but they needed to wait a number of days for Sheriff's Department representatives to respond and evict her. Sergeant A advised Witness A that he/she would wait for another unit to respond and then go look for Subject 1.

According to Sergeant A's BWV, at 14:25:40 hours, Sergeant A observed Subject 1, and her boyfriend, Subject 2, walking toward him/her and Witness A. Sergeant A stated "Alright, I see her," and Witness A said, "You see her coming?"

When Sergeant A initially observed Subject 1 and Subject 2, they were approximately 500 feet away from him/her. According to Sergeant A, he/she decided he/she would make contact with Subject 1 without waiting for back-up "because of her size."

Sergeant A drove his/her vehicle toward Subjects 1 and 2 at a slow speed. At 14:26:12 hours, Sergeant A broadcast to CD, "[...] be advised, I will be out on two possible felony vandalism subjects. I will be halfway through the park, south of the entrance."

Sergeant A exited his/her police vehicle and stood behind his/her open driver's door. Subject 1 walked toward Sergeant A as Subject 2 walked a few steps behind her.

Sergeant A's BWV revealed that Subject 1 did not walk directly toward Sergeant A, but instead continued to walk in the direction of the passenger side of Sergeant A's stationary police vehicle and the front of the adjacent mobile homes. According to

Sergeant A, Subject 2 was walking behind her “like he didn’t want to be with her.” Sergeant A added, “He [Subject 2] was not becoming involved.”

Sergeant A asked, “What’s happening?” Subject 1 responded, “I was just going to my daughter...[inaudible.]”

Subject 1 did not initially appear agitated or distressed and began to answer Sergeant A in an apparently calm tone of voice. As Subject 1 began to answer, Sergeant A interrupted her, telling her to have a seat on the ground.

Subject 1 responded by saying, “I’m not going to sit down.” Sergeant A stated, “Have a seat or you will get sprayed.”

Approximately three seconds elapsed from the time Sergeant A first contacted Subject 1 and Subject 2 to the time he/she interrupted Subject 1 and ordered her to “have a seat right there.” Two seconds elapsed from the time Sergeant A gave the command, to the time he/she threatened to spray her with OC spray if she did not comply. In the meantime, while continuing to walk toward the passenger side of Sergeant A’s police vehicle, Subject 1 suddenly stopped, crossed her arms and became non-compliant and verbally confrontational. Sergeant A stayed behind the cover of his/her open police vehicle door.

Subject 1 stated, “Oh yeah, you’re going to spray me?” Sergeant A told Subject 1, “Yes, have a seat.” Subject 1 stated, “Why don’t you shut the [expletive] up?”

At 14:26:35 hours, Sergeant A requested a “back-up” unit. Sergeant A moved toward Subject 1 and ordered her to sit down. Subject 1 stated, “You don’t [expletive] come at me like that [expletive].” Sergeant A ordered Subject 1 on two occasions to turn around, and Subject 1 stated, “Shut the [expletive] up, you turn around.” Sergeant A told Subject 1 that she was going to get arrested for, “Something stupid.” Subject 1 responded, “You’re going to get arrested for [expletive] coming at me like that.” Sergeant A again ordered Subject 1 to turn around. Subject 1 stated, “I have done nothing wrong.” Sergeant A stated, “Yes you have, you have been threatening the neighbors.” Subject 1 stated, “I didn’t threaten no [expletive] neighbors, you little [expletive].” Subject 1 had her arms folded across her chest.

Sergeant A stated, “She seemed extremely agitated. The muscles in her throat were tightening up. Wasn’t going to work. Trying to [...] de-escalate was not working at the time. I advised Communication[s] to give me a backup based on her demeanor and the way she was behaving. I believed that she was not only extremely agitated, but possibly under the influence of meth based on my training and experience in dealing with meth addicts.”

Subject 1 later denied being under the influence and her blood and/or urine were not tested for drugs or alcohol.

Sergeant A stated, "Her fists were pumping up in her armpits. When she would bring her hands down, she would clench one up, clench it down."

According to Sergeant A's BWV, at 14:26:52 hours, Subject 1 could be heard on Sergeant A's BWV saying, "How about you shut the [expletive] up!" Subject 1 pointed her left index finger toward Sergeant A and said, "You're not even a cop [expletive], I'm walking away." Subject 1 walked two steps to her right as she said, "You better get the [expletive] out of my face!"

Subject 1 then attempted to walk past Sergeant A. As described by Sergeant A, "She immediately started walking at me when I grabbed my mic. She had her hands up. One finger was pointing, one was in a fist." He/she added, "But due to her closing distance, I immediately let go of [the mic], and I told her, "Stop, back up or she gets sprayed." Sergeant A later explained to Sergeant B that before the use of force, Subject 1 told Sergeant A she was leaving. As described by Sergeant A, Subject 1 stated, "Oh I'm leaving, [expletive] you. So I put my hand on her shoulder 'bam' she starts swinging. It's on."

Sergeant A removed his/her Oleoresin Capsicum Spray (OC) from its pouch with his/her left hand and held it out in front. Sergeant A pointed his/her OC spray at Subject 1 as he/she ordered her to, "Get on the ground." Subject 1 extended her left hand toward Sergeant A's left hand, which was holding the OC spray. Subject 1 turned to her right and began to walk away from Sergeant A.

According to Sergeant A, "She at that point walked toward me, and then suddenly turned and walked away. Thinking she's walking toward me, I extended my left arm, as you can see in the video, with my OC. She takes a slap at my left hand with her arm."

According to Sergeant A's BWV, at 14:26:58 hours, Sergeant A placed a firm grip to Subject 1's left arm, above her elbow, with his/her left hand that was also holding his/her OC spray. Sergeant A used his/her right hand and applied a firm grip to the back of Subject 1's neck area. Subject 1 turned to her left and began swinging her right arm toward Sergeant A.

According to Sergeant A, "I grabbed her rear collar and I believe I had a handful of her hair. I tried to pull her back because she was turning to her left and attacking me." According to Sergeant A, he/she was wearing his/her sunglasses on his/her forehead when Subject 1 punched him/her on the forehead causing the sunglasses to break. Shrapnel from the sunglasses caused a laceration to Sergeant A's forehead. Sergeant A stated, "At the video when you see [my] like hand on her shoulder, and she turns, around and swings at me, I try and take my right foot and do a foot sweep. But she, instead of trying to pull away from me, is actually charging at me, which causes me to lose my balance. I go and I land on my back. I'm pulling her down."

According to Sergeant A's BWV, Sergeant A and Subject 1 fell to the ground. Sergeant A appeared to be lying on his/her right side, and his/her right hand was grabbing Subject 1's hair directly behind her neck. Subject 1 lay on her back and rolled to her left side toward Sergeant A. Sergeant A broadcast to CD, "I need help." Subject 1 said, "Get the [expletive] off of me," as she kicked Sergeant A on his/her left side with her right foot. According to Sergeant A, when he/she hit the ground, he/she felt as if he/she had the wind knocked out of him/her and felt like he/she was in a daze.

Sergeant A stated, "At that point, she's trying to spin up on top of me, but she's taking her left ankle, lying on her back, she's hooking her left foot, and she's trying to kick me in the groin area. She struck me in the inner right thigh area multiple times causing me to roll to my right to try to keep her off."

According to Sergeant A's BWV, Subject 2 approached Sergeant A and Subject 1 while they were fighting on the ground. Sergeant A held his/her OC spray in his/her left hand, pointed it at Subject 2, and applied a one second burst, striking Subject 2 in the face. Subject 2 turned around and began to walk away from Sergeant A.

According to Sergeant A, "I notice [Subject 2] at this point is starting to approach. I grab my pepper spray off the ground. I lift the can up I believe to be three feet from her and sprayed. As I did so, I observe him coming back. He's got his right foot cocked back, and it appears that he's coming in to kick me. I was unable to give any warning. I believe I might have yelled, 'Get back,' when I gave -- applied a one to two second spray to him, which it doesn't clearly depict again in the video."

As described by Subject 2, "All I see is [Sergeant A] choking [Subject 1] and she's saying, "Stop, I have asthma," and he's still choking her and that's when I tried to go and tell him/her 'please stop.' According to Subject 2, Sergeant A then sprayed him with OC.

According to Sergeant A's BWV, Sergeant A yelled, "Don't [expletive] do it!" Subject 1 stated, "You [expletive]," as the two continued to fight on the ground.

According to Sergeant A, "She rolls her left with her right hand, [grabbed my groin area]. I again began yelling at her, "Don't [expletive] do it. Don't do this. I believe at that point I struck her twice to the left side of the face, or the right side of the face with my left hand based on belief that I was about to sustain great bodily injury."

According to Sergeant A's BWV, Sergeant A's left hand was on Subject 1's left collar bone, and his/her left thumb was under Subject 1's chin.

Subject 1's voice can be heard on the audio portion of Sergeant A's BWV. As Sergeant A placed his/her hand near her collarbone with his/her thumb on the front of her throat, Subject 1's speech became noticeably distorted and her breathing

appeared to be labored. After approximately 14 seconds her voice became clear. Sergeant A's BWV camera became dislodged from his/her shirt during this time.

At 14:27:20 hours, Sergeant A's left thumb was under Subject 1's chin. At 14:27:21 hours, Sergeant A's left hand was on the right side of Subject 1's neck, and his/her left thumb was not within the camera's view. At 14:27:27 Sergeant A said, "Get back or I will shoot you." According to Sergeant A, he/she was yelling at Subject 2 who was approaching him/her again. Subject 2 complied, went to his knees, and faced the wall near Sergeant A's police vehicle. At 14:27:34 hours, Sergeant A's left hand was on the right side of Subject 1's neck with the left thumb extended underneath her chin.

According to Sergeant A's BWV, at 14:27:34 hours, Sergeant A's BWV was knocked off his/her chest and fell facedown to the ground.

According to Sergeant A, "I am able to pull [Subject 1] back, and she's, like I said, she kept trying to crawl up on me, kick on me, grab hold of me. I'm able to pull her off and basically pull her reverse, so I'm trying to get up on top of her and straddle her to hold her down and control her. While I'm doing that, at some point, she's -- she's trying to gouge out my right eye by reaching up. And I feel her dig her nails into my cheek, and she pulls down like she's trying to get to my eye. Then at some point, I get on top of her, finally. I think she tries to go for the eye right after the punches, the first punches, first two, I believe. And then as I climbed up on top of her, I apply my left hand down trying to hold her down. She reaches up with, I believe it was her right hand, because that's where the cuts in my throat came from, puts a 'C-grip' on me, and begins digging her nails in, and in order to make her let go, I punch her one time on the left side of the face.

She continues to pull on my throat and try and squeeze, so I punched her a second time trying to get her to release her grip and to be able to gain control of her by where I'm going to place my body. I then strike her a third time. And the third time is, she just let go of my throat, but I believe she might have a hold of my throat with my -- her left hand at that point. I'm not sure what goes on, but I know she's still down there, but she also starts digging into my right arm and tearing the flesh of my right arm. So I applied a third punch to get her to let go, which had the desired effect because she's able to -- I was able to get her to let go of all of my body parts. And I was able to push her hands down and bring my knees up to her shoulders to straddle her to control her so she would be unable to continue her attack."

Sergeant A indicated he/she delivered a total of five punches to Subject 1's face to defend him/herself from Subject 1 and overcome her resistance. The first two were with his/her left fist to the right side of Subject 1's face, and the final three were with his/her right fist to the left side of Subject 1's face.

According to Officer A's BWV, Officer A and Officer B arrived on scene at 14:27:40 hours. Officer A stopped his/her vehicle, exited the vehicle, and ran toward Sergeant

A and Subject 1. Sergeant A yelled, "Don't move, take him into custody." Officer A turned right and ran toward Subject 2, who was on his knees next to Sergeant A's vehicle. Officer A's BWV captured Subject 2 being detained by Officer B.

Officer B stated, "Take him," as he/she ran toward Sergeant A. According to Officer A, he/she took Subject 2 into custody without incident.

Officer A stated, "I got out of the car, I [saw] the female subject and Sergeant A. The female subject was actively resisting. I [saw] her hands near Sergeant A -- Sergeant A's face, like in a scratching motion. I [saw] Sergeant A punch the Subject with a closed fist approximately once in the facial area."

According to Sergeant A's BWV, at 14:27:50 hours, Sergeant A told Officer B, "Get your car [...], get your car." Sergeant A indicated he/she observed Officer B's unoccupied police vehicle moving backward. Officer B ran and took control of the vehicle.

According to Officer B's BWV, Officer B approached Sergeant A, who was straddling Subject 1's torso, with his/her knees on the ground. Subject 1 was lying on her left side with her right arm extended out. Sergeant A told Subject 1, "You are going to roll on your front, do you hear me?" Subject 1 responded and said, "Yes." At 14:28:20 hours, Officer B handcuffed Subject 1's right wrist. Subject 1 was rolled onto her stomach, and Officer B brought Subject 1's right arm behind her back while Sergeant A remained on top of her with his/her right knee on her upper right shoulder and his/her right-hand placing bodyweight on the back of her neck. Subject 1 attempted to pull her right arm away from Officer B. Sergeant A told Subject 1, "Put your hands behind your back, stop fighting!" Sergeant A used his/her right hand and applied a twist lock to Subject 1's left wrist, while Officer B handcuffed Subject 1's left wrist. Sergeant A attempted to stand up but was unable because the cord to his/her hand-held radio microphone was wrapped underneath and around Subject 1's body. Subject 1 detached the cord from his/her hand-held radio and stood up.

Officer B assisted Subject 1 to her feet and walked her to his/her police vehicle. Officer B activated the rear seat Digital In-Car Video System (DICVS), opened the rear passenger door and began to place Subject 1 in the back seat while telling her to, "Get in." Subject 1 refused to enter the vehicle, stood up, and leaned toward Officer B. Officer B repeatedly ordered Subject 1 to get in the car again, but she refused. Officer B used his/her left hand to apply a firm grip to the back of Subject 1's right bicep. Officer B used his/her right hand and applied pressure to the center of Subject 1's chest to push her inside the vehicle. Subject 1 lifted her right foot toward Officer B, and Officer B pushed her right leg into the vehicle and closed the door.

According to CD, Sergeant A requested two Rescue Ambulances (RA), one for Subject 1 and one for him/herself.

Numerous officers from several Divisions responded to assist, including Sergeant C and Officers C and D.

According to Officer B's DICVS, a few seconds after Officer B placed Subject 1 in the rear seat of his/her vehicle, Subject 1 moved her arms from behind her back, down and around her feet to the front of her body. Subject 1 yelled that she couldn't breathe, knocked on the door window, and yelled for help. Subject 1 complained that she had asthma and that her throat hurt.

According to Officer B's BWV, at 14:32:20 hours, Officer B walked to the rear driver's side door of his police vehicle and observed Subject 1's hands in front of her body. Subject 1 was seated behind the driver's side. Sergeant A approached the open front passenger window of the police vehicle and briefly spoke to Subject 1. Sergeant A directed Officer B to remove Subject 1 from the police vehicle, re-position her handcuffs behind her, and hobble her.

Officer B opened the rear driver's side door and stated, "Okay, we're going to put your handcuffs behind your back again." Subject 1 responded, "Stop because you're being too [expletive] rough." Officer B responded, "Okay then, if you just cooperate, then I won't be rough." Officer B grabbed Subject 1's sweatshirt on the right shoulder area with his/her left hand and assisted Subject 1 out of the back seat. Officer B immediately turned Subject 1 away from him/her to face the vehicle. Officer B stood behind Subject 1 and grabbed her right wrist with his/her right hand and her left wrist with his/her left hand.

According to Officer B, he/she removed Subject 1 from the vehicle to adjust the handcuffs and other officers assisted him/her to hold Subject 1 against the vehicle to keep her from moving because she attempted to turn around and walk away.

According to Officer C's BWV, Subject 1 ignored the officers' commands and continued to resist. Officer C grabbed Subject 1's right forearm with his/her left hand and moved his/her left hand and placed a firm grip on Subject 1's right hand. Officer C used his/her right hand to unlock the handcuffs and guided Subject 1's right arm to her lower back.

According to Officer D's BWV, Officer D approached Subject 1 from behind as Officers B and C were attempting to unhandcuff her. Officer D placed a firm grip on Subject 1's right forearm with his/her right hand and placed his/her left open hand on Subject 1's right shoulder blade. Once Officer C unlocked the handcuffs, Officers B, C, and D guided Subject 1's right arm behind her back.

According to Officer B's DICVS, Officer B placed a firm grip on Subject 1's left wrist and guided Subject 1's left arm behind her back to be handcuffed.

According to Officer C's BWV, Officer C used his/her left hand and applied a firm on Subject 1's left wrist. Officer C completed handcuffing Subject 1's wrist behind her back and double-locked the handcuffs.

According to Officer B's BWV, once Subject 1 was handcuffed, Officer B returned Subject 1 to the rear seat of his/her police vehicle while holding Subject 1's left bicep with his/her right hand. Subject 1 stated, "Don't shove me in here." Officer B used his/her right hand to push Subject 1 into the vehicle. Subject 1 kicked her left foot in the air toward Officer B; however, she did not make contact with Officer B. Officer B closed the vehicle door.

According to Sergeant B's BWV, Sergeant B arrived at scene at 14:34:30 hours.

Sergeant A briefed Sergeant B regarding the use of force and advised him/her that he/she (Sergeant A) had officers canvassing for witnesses.

When Sergeant B approached Sergeant A, Sergeant A was using a garden hose to rinse his/her face. During this time Sergeant A stated to Sergeant B, "I don't know how many times I pushed her in the face [...]. She was scratching me and I started punching."

Sergeant B asked Officer C if Subject 1 was hobbled, and Officer C advised that she was not hobbled. Sergeant B obtained a camera from Officer D and began investigating the incident as a Non-Categorical Use of Force.

As part of Sergeant B's Non-Categorical Use of Force investigation, he/she reviewed Sergeant A's BWV footage. As described by Sergeant B, "So, trying to look at [his/her] -- the -- the video on the phone it -- it appeared that [Sergeant A] had [his/her] hand on her throat in a -- in a -- in a choking manner or -- or -- or holding her there. I specifically asked Sergeant A, hey, are you -- 'Did you choke her?' And Sergeant A said, 'No, I didn't choke her.' [He/she] goes, 'I was holding her down in a controlling manner to keep her from kicking and -- and -- and scratching me.' I said from what it looked like on the video it looked like [Sergeant A] had [his/her] hand on the upper-neck area, collar-bone area and that [his/her] thumb was across her -- I call her -- her -- her throat. But it didn't look like there was any kind of grip or -- or pressure being applied to her neck area other than just being held down. So, once I saw that and once -- once [Sergeant A] told me that 'No, I wasn't choking her,' I continued on with the investigation as far as okay, well, how bad are her injuries?"

According to Sergeant C's BWV, Sergeant C arrived on scene at 14:46:35 hours. Sergeant C walked over to the RA where Sergeant A was seated in the back. Sergeant C asked Sergeant A, "Are you alright?" Sergeant A responded, "No, I'm pissed." Sergeant C responded, "Other than being pissed?" Sergeant A replied, "I think I broke my [expletive] hand. This might be a CAT, might be FID. I don't know how many times I punched her in the face. I tried to choke her out, well, I held her

down with my hand while the other guy was trying to [expletive], I pepper-sprayed both of them. [Expletive] she kept going for my eyes so I just kept punching.”

During the interview with FID investigators, Sergeant A explained the reason he/she made the statement to Sergeant C was, “Yes. A couple things there. First is I was a little bit disorientated. I was hurt, bleeding, tired, winded.

So I was kind of out of sequence on what I was trying to say, I think. What I was trying to relay to Sergeant C was it might be an FID call out, but that was based on me punching the Subject in the face. I felt that I might have caused serious injury. As far as choking her out, I believe what I was trying to get across was I thought I was going to have to choke her out because nothing else was working. I put my hand in an area where I could choke her, but I never applied any pressure. I never squeezed her neck. I didn't stop or try and stop any blood or air flow. So I realized immediately that I hadn't choked her out based on me running the whole scenario back through my head. So, obviously, when I say that to [him/her], I'm thinking through my -- through the actions of what I just did, did I choke her? And I realized I hadn't. I had not applied any pressure to her throat. I had not tried to limit her breathing or her -- or any blood to her head.”

Subject 1 was treated for a head injury and a left orbital floor fracture. She was medically cleared to be booked. Subject 1 was arrested for 69 PC Resisting an Executive Officer and booked at Valley Jail Section (VJS). Subject 2 was arrested for 148 (A)(1) PC Interfering with a Police Officer and booked at VJS under booking number.

According to the arrest report, Sergeant B notified Force Investigation Division Lieutenant A, and advised him/her of the use of force incident and the injuries sustained by Subject 1. Lieutenant A advised Sergeant B to investigate the incident as a Level I Non-Categorical Use of Force (NCUOF).

The investigation of the case was subsequently reclassified to a Categorical Use of Force.

### **Los Angeles Board of Police Commissioners' Findings**

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

#### **A. Tactics**

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

Administrative Disapproval. The BOPC found Officers C and D's tactics to warrant a Tactical Debrief.

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

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

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

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

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

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

## **Basis for Findings**

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

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

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments

– in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

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

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’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 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

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

#### *Tactical De-Escalation Techniques*

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

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

In this case, while it was evident that Sergeant A initially intended to await the arrival of the primary unit before contacting the Subjects, he/she was flagged down by the PR who advised that Subject 1 had vandalized property and threatened neighbors. As they discussed the situation, the PR pointed out the female subject and Subject 2, who were still several hundred feet away. Sergeant A proceeded to drive towards the Subjects without waiting for the primary unit or formulating a tactical plan and initiated contact with the Subjects.

Though he/she initially used a friendly greeting towards Subject 1, Sergeant A observed her to be upset and easily agitated. Believing Subject 1 would be non-compliant, Sergeant A determined that trying to de-escalate might not be the best option. Sergeant A quickly switched to a firm tone and issued Subject 1 a direct order to sit down in an attempt to control the situation. Additionally, it was noted that Sergeant A issued Subject 1 a partial use of force warning in an effort to gain her compliance. Sergeant A then left his/her position of cover to detain her, despite her non-compliance to his/her commands and her escalating aggressive behavior toward him/her.

The incident rapidly escalated to a physical confrontation with Subject 1, which resulted in a use of force with her and an additional use of force with Subject 2. Subject 2 became compliant after the use of force and was eventually taken into custody through the use of verbal commands without further incident. Subject 1 continued to refuse to cooperate with the officers and was eventually taken into custody with a combination of verbal commands and physical force. Subject 1 was handcuffed, other responding officers also attempted to open lines of communication with her by giving her repeated verbal commands in an attempt to gain her compliance for transportation. Subject 1 continued to physically resist the officers, which resulted in additional applications of force. Subject 1 eventually complied with officers' commands and requests during the remainder of the incident, which included medical treatment and booking procedures.

The BOPC noted that Sergeant A did not de-escalate this incident to satisfaction.

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

### **1. Body Armor** (Substantial Deviation – Sergeant A and Officer B)

Sergeant A and Officer B did not don their Department-approved body armor as required when conducting field related duties. Sergeant A stated he/she had removed his/her body armor earlier in his/her work shift due to the discomfort it caused him/her. Officer B stated he/she also removed his/her body armor earlier in his/her work shift due to the discomfort it caused him/her. Officer B did note that he/she had his/her body armor available inside of his/her police vehicle.

The BOPC determined that Sergeant A's and Officer B's decision not to don their body armor while working in the field was a substantial deviation, without justification, from Department policy and approved tactical training.

### **2. Tactical Planning and Approaching Multiple Suspects** (Substantial Deviation – Sergeant A)

In this case, Sergeant A did not wait for additional units to arrive prior to approaching Subjects 1 and 2. While at the location, Sergeant A obtained additional information from the PR regarding the crime and the presence of two Subjects. Upon observing Subjects 1 and 2, Sergeant A approached both Subjects without waiting for additional resources to arrive. At the time of Sergeant A's approach, there were no circumstances which indicated that any form of exigency existed. The BOPC also evaluated the circumstances and noted that both Subject 1 and Subject 2 appeared to be in a position to observe Sergeant A approach in his/her marked police vehicle and neither seemed to change their actions or demeanor. Once Sergeant A parked his/her police vehicle near Subject 1 and Subject 2, he/she initiated contact with them without the benefit of a cover officer or additional personnel.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's decision to not wait for the additional units to arrive prior to approaching the two Subjects was a substantial deviation, without justification, from approved Department tactical training.

### **3. Use of Force Warning** (Substantial Deviation – Sergeant A)

The BOPC determined that although Sergeant A did not provide a complete Less-Lethal Use of Force Warning, he/she did give Subject 1 numerous commands to "have a seat" and "turn around," which satisfied the "command" portion of the Use of Force Warning. Sergeant A did warn Subject 1 that she would get "sprayed." Subject 1 acknowledged Sergeant A and stated, "Oh yeah, you're going to spray me?" Sergeant A responded, "Yes, have a seat." Subject 1 stated, "Why don't you shut the [expletive] up?" This verbal exchange between Sergeant A and Subject 1 suggested that Subject 1 understood Sergeant A's advisement and intended deployment of OC spray.

Subject 2 was in a position to hear the same verbal warning. During the violent struggle with Subject 1, Sergeant A did not provide Subject 2 a Use of Force Warning due to the rapidly unfolding and physically violent situation. Subject 2 approached Sergeant A in what Sergeant A perceived as an apparent attempt to kick him/her while Sergeant A was still engaged in a physical struggle on the ground with Subject 1.

Based on the totality of the circumstances, the BOPC determined that Sergeant A not providing a full Use of Force Warning was a substantial deviation, with justification, from approved Department tactical training.

#### 4. **Utilization of Cover** (Substantial Deviation – Sergeant A)

In this case, Sergeant A was initially afforded cover by his/her police vehicle and its ballistic doors. Sergeant A left his/her position of cover, stepped in front of his/her police vehicle, and initiated contact with two Subjects while by him/herself. According to Sergeant A, he/she stepped out in front of his/her police vehicle so that his/her DICVS would capture the encounter. While video evidence can be invaluable for investigations, it does not take precedence over officer safety.

Based upon the totality of the circumstances, the BOPC determined that Sergeant A unnecessarily endangered his/her safety by leaving his/her cover, which placed him/herself at a significant tactical disadvantage. The BOPC determined that Sergeant A's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  - **Initiating Physical Contact While Holding an OC Canister** – The investigation revealed that Sergeant A initiated physical contact with Subject 1 while holding his/her OC canister in the same hand that he/she used to contact Subject 1.
  - **Maintaining Control of Equipment** – The investigation revealed that Sergeant A lost or gave up control of his/her OC canister while attempting to physically control Subject 1 during the incident.
  - **Punches to Bony Areas** – The investigation revealed that Sergeant A punched Subject 1 in the face multiple times with a closed fist.
  - **Situational Awareness** – The investigation revealed that Officer A exited his/her police vehicle without placing the vehicle in park.

- **Required Equipment** – The investigation revealed that Sergeant A, along with Officers A and B, left their side-handle batons in their vehicles.
- **Non-Categorical Use of Force Reporting** – The investigation revealed that Officer C did not recognize that he/she was involved in a reportable use of force even though he/she applied a firm grip during handcuffing of a Subject who was complaining of pain and actively resisting.

## **Command and Control**

- Although a primary unit had been assigned to the radio call, Sergeant A proactively responded in an effort to provide supervisory oversight. After arriving at the location, Sergeant A met with the PR and then closed the distance between him/herself and the Subjects, initiated contact, and became involved in the use of force. Although he/she was still actively engaged in the use of force, Sergeant A assumed the role of IC upon the arrival of the primary unit. As the IC, Sergeant A assessed the situation and directed Officer A to take Subject 2 into custody and Officer B to gain control of his/her police vehicle, which was rolling backwards.

After the use of force, Sergeant A assumed the role of communications and broadcast that the incident had been resolved (Code Four) followed by a request for two RA's, in line with the Department's guiding value of reverence for human life. While seated in the back seat of a police vehicle, Subject 1 moved her handcuffed hands from behind her back to in front of her. As a result, Sergeant A assessed the situation and directed Officer B to remove Subject 1 from the police vehicle and re-position the handcuffs behind her back.

Sergeant A continued to act as the IC, and as additional resources arrived, he/she provided officers with clear commands and direction to canvass for potential victims of a crime and witnesses to the use of force.

The BOPC noted that Sergeant A was directed to the Subjects by the PR and he/she did not perceive her to be a threat due to her smaller size.

The lack of command and control by Sergeant A during the initial phases of this incident was a substantial deviation from Department supervisory training.

Sergeant B was the second supervisor at scene and he/she assumed the role of IC from Sergeant A. Sergeant A informed Sergeant B that the Use of Force (UOF) might be an FID callout because Subject 1 was injured as a result of his/her punches to her face. Sergeant B reviewed Sergeant A's BWV at scene and interviewed Sergeant A.

Sergeant B notified the on-call FID Lieutenant A, that a UOF had occurred, possibly resulting in serious bodily injury to Sergeant A and an orbital fracture to Subject 1. The application of force to Subject 1's neck area was not presented to

FID at the time as a restriction of her airway. Additionally, the existence of BWV was not specifically mentioned to FID. Lieutenant A advised Sergeant B to handle the investigation as a Level 1 NCUOF Investigation, based on the information provided.

Sergeant C arrived on scene and was briefed by Sergeant A regarding the UOF. Sergeant C did not communicate Sergeant A's statements regarding the "choke" to Sergeant B, who was tasked with investigating the UOF. The BOPC determined that it would have been advantageous for Sergeant C as the Watch Commander to ensure that Sergeant B knew of Sergeant A's comment. Additionally, the BOPC discussed that it would have helped to clarify what occurred during the UOF if Sergeants B and C had watched Sergeant A's BWV on a larger monitor at the police station.

The actions of Sergeant B were consistent with Department supervisory training and met expectations of a field supervisor during a critical incident.

The actions of Sergeant C, while not a substantial deviation from Department supervisory training, did not fully meet the BOPC's expectations of a supervisor at the scene of a critical incident.

These topics were to be addressed at the Tactical Debrief.

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

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified 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.

Although, it was determined that Sergeants B and C, along with Officer A, were not substantially involved in this incident and did not receive formal findings, the BOPC determined that they would benefit from attending the Tactical Debrief.

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

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

- **Sergeant A** – (Firm Grip, Leg Sweep, Physical Force, Strikes, Twist Lock)

According to Sergeant A, Subject 1 used her left arm and slapped at his/her left hand, which was holding the OC spray. Subject 1 then suddenly turned and walked away. As Subject 1 started to walk away from him/her, Sergeant A immediately placed his/her hands on her shoulder. Subject 1 turned to her left and punched Sergeant A on his/her forehead causing his/her sunglasses to break. As a result, Sergeant A sustained a laceration to his/her forehead. Using his/her right hand, Sergeant A grabbed Subject 1's rear collar area and a handful of her hair.

According to Sergeant A, he/she attempted a foot sweep on Subject 1's right leg to prevent her from attacking him/her and trying to gouge out his/her right eye. Sergeant A was unsuccessful in completing the foot sweep and instead lost his/her balance and fell backwards onto the ground because Subject 1 was charging and physically attacking him/her. As he/she fell to the ground, he/she placed his/her hand on Subject 1's shoulder to keep control of her.

According to Sergeant A, while he/she was struggling on the ground with Subject 1, she grabbed a hold of his/her [...] and began to squeeze and pull with her right hand. Sergeant A then ordered Subject 1, "Don't [expletive] do it," but she would not let go. In an attempt to break her grip on his/her [...] and prevent great bodily injury to him/herself, Sergeant A used his/her left fist to punch Subject 1 twice on the right side of her face causing her to release her grip, which allowed Sergeant A to pull Subject 1 slightly away from him/her.

According to Sergeant A, Subject 1 reached up with her right hand, applied a C-grip on Sergeant A's neck and began digging her nails into his/her throat. Additionally, Subject 1 began digging into Sergeant A's right arm and started to tear his/her flesh. Simultaneously, Subject 1 attempted to gouge Sergeant A's eye as he/she attempted to climb on top of her. Sergeant A then used his/her right fist to punch Subject 1 three times on the left side of her face in an attempt to get Subject 1 to release her grip on his/her neck and arm.

According to Sergeant A, he/she was finally able to gain control of Subject 1 with the assistance of Officer B. Sergeant A gained control of one of her hands while Officer B applied the handcuffs on Subject 1.

A review of Officer B' BWV by FID investigators determined that Sergeant A applied a twist lock to Subject 1's left wrist.

- **Officer B** – (Firm Grips, Physical Force, Body Weight)

According to Officer B, he/she approached Sergeant A, who was still straddling Subject 1's back with his/her knees on the ground. Officer B bent over and used both of his/her hands to apply firm grips to Subject 1's right arm in order to handcuff her right wrist and bring her right arm behind her back.

According to Officer B, he/she assisted Subject 1 to her feet and walked her to his/her police vehicle. Officer B observed that Subject 1 was agitated and she stated she could not breathe. While at his/her police vehicle, Officer B activated the rear seat DICVS, opened the rear passenger door and asked Subject 1 to enter the vehicle. Subject 1 refused to enter the rear passenger seat of the police vehicle and attempted to walk away. In order to avoid something happening, Officer B used his/her hand to hold on to Subject 1's arm and used his/her right hand to apply pressure to Subject 1's upper body as he/she pushed her inside of the vehicle to prevent her escape.

According to Officer B, he/she opened the rear driver's side door of his/her police vehicle and placed a firm grip on Subject 1's left upper bicep and tricep area to get her out of the car. Officer B then used both hands to apply firm grips on both of Subject 1's arms while he/she and two other officers pushed her up against the police vehicle to use as leverage. While attempting to re-handcuff Subject 1, she continued to resist by attempting to turn and face the officers and walk away. Officer B grabbed both of Subject 1's triceps while Officer C reapplied the handcuffs behind her back. Officer B held her tight enough to keep her from moving while the officers handcuffed Subject 1 with her hands behind her back.

According to Officer B, after Subject 1 was re-handcuffed, she once again refused to cooperate with the officers and attempted to escape from custody. While at the vehicle, Officer B used his/her right hand to push Subject 1 into the rear passenger seat of his/her police vehicle to prevent her from walking away. As she fell backwards, Subject 1 kicked her left foot in the air towards Officer B; however, she did not make contact and Officer B closed the door of the police vehicle.

- **Officer C – (Firm Grip)**

According to Officer C, he/she observed Officer B taking Subject 1 out of the police vehicle. When Officer C approached Officer B and Subject 1, Officer C used his/her left hand to grab Subject 1's right wrist and his/her right hand to unlock the handcuff. Other officers then guided Subject 1's arms behind her back allowing Officer C to re-apply the handcuff.

- **Officer D – (Body Weight, Firm Grip)**

According to Officer D, he/she observed Officers B and C struggling to handcuff Subject 1, so he/she decided to assist. Subject 1 was screaming, moving around, tense, and uncooperative. Officer D used his/her right hand to hold Subject 1's right forearm and placed his/her left hand on Subject 1's back holding her against the police vehicle, which the officers used as a controlling agent. Officer D then applied a firm grip with his/her right hand to Subject 1's right hand to place it behind her back and to assist Officer C in re-applying the handcuffs.

The BOPC reviewed each application of non-lethal force by the involved officers in this case and determined that the force used by the officers was reasonable based on Subject 1's physical resistance. Subject 1 escalated the incident by being non-compliant with Sergeant A's lawful orders and continued to escalate the incident when she attempted to walk away from Sergeant A as he/she attempted to conduct his/her investigation. Subject 1 then initiated a physical assault on Sergeant A, which caused him/her injury. The incident continued with Subject 1 continuing to physically resist and assault Sergeant A. Throughout the incident, Subject 1 continued to physically resist the efforts of Officers B, C, and D to handcuff and control her.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, along with Officers B, C, and D, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome Subject 1's resistance and to defend themselves from physical injury.

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

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

- **Sergeant A – Oleoresin Capsicum (OC)**

First OC Application – One to two second application from a distance of less than three feet aimed at Subject 1.

According to Sergeant A, Subject 1 kicked Sergeant A multiple times on his/her inner thigh area as she attempted to strike his/her groin area. Sergeant A then tried to lift the OC canister three feet away from Subject 1's face so it would not cause serious injury. Sergeant A then deployed a one to two second burst of OC, aiming at Subject 1's forehead between her eyes to stop her violent actions. Subject 1 then began to yell, "I can't breathe."

Second OC Application – One to two second application from a distance of approximately five to six feet aimed at Subject 2.

According to Sergeant A, as he/she and Subject 1 were involved in the physical altercation on the ground, he/she observed Subject 2 rapidly approaching while appearing to have his foot cocked back in a position to kick him/her. Sergeant A ordered Subject 2 to, "Get back," and from a distance of approximately five to six feet, deployed a one to two second burst of OC at Subject 2's face to stop his actions.

The BOPC reviewed each application of less-lethal force by Sergeant A and determined that the force used was reasonable based on Subject 1's violent

actions and the perceived violent intent exhibited by Subject 2.

Based on the totality of the circumstances, the BOPC determined that an officer or sergeant with similar training and experience as Sergeant A, while faced with similar circumstances, would believe that the same applications of less-lethal force would be reasonable to protect themselves and to effect the arrest of Subject 1.

Therefore, the BOPC found Sergeant A's less-lethal use of force to be objectively reasonable and In Policy.

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

- **Sergeant A – Physical Force**

According to Sergeant A, following his/her final punch to Subject 1's face, he/she was able to place his/her knees on Subject 1's shoulders to gain control of her upper body. While attempting to mount Subject 1 and prior to gaining control of her hands, Sergeant A placed his/her left hand down on Subject 1's collarbone in an attempt to control her upper body and arms to prevent her from inflicting further injury to him/her. While Sergeant A continued to mount Subject 1, she continued her assault by clawing at Sergeant A, striking him/her and attempting to bite his/her wrist. With his/her knees on Subject 1's shoulders, Sergeant A continued to push down and forward on her right collarbone with his/her left hand to hold her head to the left. Sergeant A put his/her hand in an area where he/she could "choke" Subject 1 but stated he/she never applied any pressure and never squeezed her neck.

The BOPC determined that Sergeant A's Lethal Use of Force was not objectively reasonable.

The BOPC considered the totality of the circumstances and the available evidence and deliberated at length over several questions:

- Did Sergeant A apply direct pressure to Subject 1's neck/throat;
- Was there a restriction of Subject 1's airway;
- Did Subject 1's physical resistance justify the use of lethal force; and
- Was the technique utilized by Sergeant A an approved, taught, or authorized physical force technique?

The BOPC determined that Sergeant A applied physical force to Subject 1's neck and that force had a substantial risk of causing death or serious bodily injury, which would constitute an application of Lethal Force. The BOPC opined that Subject 1 was physically resisting Sergeant A and in order for him/her to

physically force her to remain on the ground, he/she would have had to apply downward physical force onto Subject 1 and that during part of that time, his/her hand was on Subject 1's neck/throat. In reviewing the force used by Sergeant A, the BOPC also opined that while Sergeant A was not utilizing a Carotid Restraint Control Hold (CRCH) technique as taught by the Department, the physical pressure on Subject 1's neck resulted in a similar effect, in that her airway was restricted at certain points during the incident. The BOPC determined that the physical force and application of pressure to Subject 1's neck by Sergeant A, was not an approved physical force technique and caused a restriction of Subject 1's airway, which has the substantial risk of causing serious bodily injury or death. The BOPC's determination that Subject 1's airway was being obstructed by Sergeant A's physical force was based in part on a review of Sergeant A's BWV that captured sounds and utterances by Subject 1 that were consistent with having difficulty breathing, such as gurgling sounds and statements to the effect that she could not breathe. Additionally, the BOPC found Subject 1's statement to officers in the hospital that Sergeant A had tried to "choke" her to be unsolicited and spontaneous and therefore compelling. The BOPC also considered Sergeant A's spontaneous statement to Sergeant C that he/she "tried to choke her (Subject 1) out" but also factored into their thought process that Sergeant A immediately retracted the statement as being incorrect.

Furthermore, the BOPC determined that at the time of the application of physical force to Subject 1's neck, Subject 1's actions did not pose an imminent threat of serious bodily injury or death to Sergeant A. It was noted that FID investigators determined that Sergeant A's BWV depicted his/her hand was on Subject 1's neck for approximately 15 seconds before the BWV camera became dislodged from its mount and not able to capture any additional relevant video. The BOPC noted that there were times during the incident where Subject 1's actions could reasonably pose an imminent threat of serious bodily injury, such as grabbing and squeezing Sergeant A's groin and attempting to gouge his/her eyes. However, the BOPC reviewed Sergeant A's BWV and observed that during the application of force to Subject 1's throat, her arms can be seen moving around and at times, moving away from Sergeant A's body, indicating that the threat of serious bodily injury was not present during the application of force to her neck.

Based on the totality of the circumstances and the available evidence, the BOPC determined that an officer with similar training and experience as Sergeant A, while faced with similar circumstances, would find that while Subject 1's actions were combative, they did not present an imminent threat of death or serious bodily injury at the time that the lethal force was used. As a result, the BOPC determined that the Use of Lethal Force would not be objectively reasonable.

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