

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

**IN-CUSTODY DEATH – 044-14**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	24 years, 3 months
Sergeant B	19 year, 9 months
Officer A	9 years, 10 months
Officer B	12 years, 2 months
Officer C	9 years
Officer D	6 years, 2 months

**Reason for Police Contact**

Sergeants A and B initiated a traffic stop on an impaired motorist (the Subject). The motorist became combative, leading to a non-lethal use of force. The motorist later succumbed to his injuries upon being admitted to the hospital.

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 37 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.

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

The following incident was adjudicated by the BOPC on July 21, 2015.

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## Incident Summary

Sergeants A and B were riding together in a marked police vehicle. They had just finished eating, and decided to check on known gang locations in the area for signs of activity.

Sergeants A and B were traveling north on a major thoroughfare. Sergeant A stopped for a red traffic signal, and a vehicle containing several occupants pulled along the driver's side of the police vehicle.

An unidentified female passenger advised Sergeant A of a suspicious vehicle in a nearby alley. She pointed in a southeasterly direction and described the suspicious vehicle as a white vehicle with no license plates. The female passenger did not provide any additional information and drove away from the scene. Sergeant A then discussed with Sergeant B about checking on the suspicious vehicle.

Sergeant A negotiated a U-turn to investigate the reported suspicious vehicle and began to travel south. Suddenly, Sergeants A and B observed a white 2012 commercial van, approaching from a side street.

The van failed to stop or slow down for a clearly posted stop sign and nearly struck a pedestrian who was preparing to cross the street.

The van made a northbound turn onto the major thoroughfare, accelerated, and began to travel north in the No. 1 lane. Sergeant B stated as the van passed the police vehicle, Sergeant B looked at the driver, later identified as the Subject, and observed he had a strange look on his face and appeared panicked. Based on the Subject's erratic driving and appearance, Sergeant B believed the Subject had just committed a crime.

**Note:** Both sergeants believed that the vehicle may have been fleeing from a crime. According to Sergeant A, he was trying to figure out if the subjects had just committed a burglary or kidnapping. Sergeant B recalled believing that the Subject was involved in some kind of criminal activity based on his erratic driving, his appearance to flee the area quickly, and the look on his face. Sergeant B stated when the van made the turn onto the thoroughfare, he estimated the van was travelling 25 to 30 miles per hour (mph).

The investigation did not establish any connection between the suspicious vehicle that was reported in the alley and the Subject's vehicle, or any other crime in the area.

Sergeant A negotiated a U-turn on the thoroughfare in order to catch up to the van and conduct a license plate query. The van stopped on the thoroughfare in the No. 1 northbound lane at the intersection of another side street. Once Sergeant A completed the U-turn and began to travel north on the thoroughfare, the van suddenly made an

abrupt right turn from the No. 1 lane and began to travel east on the side street, in violation of 22107 California Vehicle Code (CVC). Sergeant A stated when the van made the right turn from the No. 1 lane, he crossed over the No. 2 lane and cut off vehicles that were travelling north on the thoroughfare.

When Sergeant A turned onto the side street, the van was traveling eastbound in the west lanes of traffic. The van was travelling at approximately 35 to 45 mph in front of a school as the Subject was passing vehicles that were also traveling east.

As the sergeants caught up to the van, it suddenly stopped in the eastbound lane of traffic, west of another major north/south thoroughfare. Sergeant A stopped his police vehicle behind the van. Sergeant B then ran a records check on the van's license plate.

According to Sergeant A, as Sergeant B was on the police radio, the van accelerated away again continuing east. The van negotiated a right turn and began to travel south on the north/south thoroughfare.

**Note:** Sergeant A stated he was about to activate the rear emergency lighting but did not have an opportunity prior to the van accelerating. Sergeant A stated the van was stopped for approximately three seconds before it accelerated.

**Note:** Witness A was driving south on north/south thoroughfare, in the No. 2 lane (closest to the curb). He was stopped at a red traffic signal at the intersection of the side street the van and sergeants had been traveling on. He witnessed the approach of the Subject's van just west of him, traveling eastbound on the side street, toward him. According to Witness A, the Subject's van was traveling "just a normal little 10, 15 miles an hour" as if he were slowing to "turn [right] on a green light." Witness A continued, "It was more like that. It didn't look wrong to me until I saw the police car come right around it with him. And [...] I think they had their lights on [...] They had those on. And so soon as he came to [the major north/south thoroughfare], he pulls over."

As Sergeant A negotiated a right turn onto the thoroughfare, the van pulled over to the west curb and abruptly stopped. The van stopped at an angle, facing south, with the right front tire on the driveway apron and left rear tire on the street.

**Note:** Sergeant B stated just prior to the van stopping, he believed they were about to go in pursuit, based on the van's erratic driving and speed, and was about to advise Communications Division (CD).

According to Sergeant A, as he drove toward the van, he was unable to see inside the van through the rear windows due to the windows being covered by company graphics.

Sergeant A offset his police vehicle to the left of the van, with the front bumper of the police vehicle approximately 3 to 5 feet behind the left front driver's door facing south. Sergeant A indicated this position gave him a better view of the interior of the cabin.

**Note:** According to Sergeant A, he wanted to get a visual on the Subject and find out how many people were inside the van.

Sergeant B stated from his vantage point, utilizing the van's driver's side view mirror, he observed the Subject quickly get out of the driver's seat and move toward the passenger seat. Sergeant B stated he advised Sergeant A of the Subject's actions.

Sergeant A exited the driver's door of his police vehicle and unholstered his service pistol because of his inability to see inside the vehicle and due to the possibility of encountering an armed subject. Sergeant A then assumed a low-ready position.

**Note:** As described by Sergeant A, "I don't know if there was an armed [subject] lying and waiting inside the van so I drew my weapon in order to [...] clear the [...] van." Sergeant A added, "So I was expecting [...] an armed [subject] inside the van."

Sergeant B exited the front passenger door of his police vehicle, moved to the right rear passenger side of the van for cover, and unholstered his service pistol. Sergeant B stated he unholstered his service pistol because he believed the situation had the likelihood to escalate to the use of deadly force based on the citizen's report of a suspicious vehicle, the van's erratic driving, and his belief the Subject had just committed a crime. Sergeant B then assumed a low-ready position with his finger along the frame.

Once out of the police vehicle, Sergeant A was unable to see the Subject. Sergeant A walked south along the driver's side of his police vehicle to the front of the police vehicle and did not see the Subject in the van. From this vantage point, Sergeant A could see the inside of the cabin. In the meantime, Sergeant B was at the rear of the van when he heard the door handles to the rear doors being manipulated and re-positioned himself by backing away from the van creating some distance between himself and the rear of the van.

**Note:** Sergeant B reported that he retreated and did not have any cover or concealment as the Subject came out of the rear of the van. As described by Sergeant B, "I was in the open. I didn't have any cover or anything else, any cover or concealment at that point so I [...] gave myself distance by backing away from the vehicle."

**Note:** According to Witness A, after the traffic stop, the sergeants exited their police vehicle. He described one sergeant (Sergeant A) approaching the van from the driver-side and the other sergeant (Sergeant B) approaching the van from the passenger-side. As described by Witness

A, he saw the rear doors of the van open and saw the Subject climbing out. Witness A began to honk his horn to warn the sergeants.

Some of Witness A's observations are corroborated by video footage obtained from a location directly across the street; however, Sergeant B cannot be seen in the video. Witness A's vehicle is seen in the video.

Suddenly, the rear doors to the van opened and the Subject jumped out of the van.

**Note:** As described by Sergeant A, he noticed that the driver of the vehicle was no longer sitting there and so he came around his vehicle to get a better view and all of a sudden seemed like the back doors of the van popped open. Sergeant A took a quick peek inside to see if there was anybody else in the front cabin of the van.

Sergeant A later indicated that almost immediately the rear doors to the van popped open. At that point, he walked all the way around the front of his car. He took a quick peek inside the cabin of the van and then went to the rear of the van to assist with taking the subject into custody.

Sergeant A additionally reported that as he saw the doors popping open, he heard Sergeant B start giving the subject commands.

Sergeant B immediately began to give the Subject verbal commands and told the Subject to get on the ground and get his hands up.

**Note:** Sergeants A and B stated they did not have an opportunity to broadcast their Code Six location because of the rapidly occurring events.

Sergeant A observed the van's back doors open and he walked north toward the rear of the van to assist Sergeant B.

Once Sergeant A reached the left rear portion of the van, he observed the Subject outside of the van and Sergeant B giving the Subject commands to get on the ground. Sergeant A noticed the Subject was sweating, his eyes were wide open and bouncing, he appeared agitated, and did not seem to comprehend Sergeant B's commands. Sergeant A formed the opinion the Subject was possibly under the influence of Phencyclidine (PCP).

**Note:** A review of the video footage obtained from a location across the street depicts Sergeant A walk north toward the rear of his police vehicle along the driver's side of his vehicle to assist Sergeant B. Some of the footage from the residence across the street was obstructed by obstacles. There was also DICVS video footage from police vehicles that subsequently arrived to assist.

In addition to the information pointed out above, it was noted that video footage from the residence across the street depicted the Subject's van come to a complete stop before moving forward a few more feet. The sergeants' police vehicle then approached approximately one second later with its emergency light bar activated in a steady red and blue light configuration. The police vehicle also came to a complete stop on the driver-side of the Subject's van, before moving forward a few feet. The video showed the police vehicle's front bumper just past the leading edge of the van's left rear wheel well. Sergeant A exited the police vehicle approximately three seconds later and began to approach the driver's side of the van. Due to obstructions in the video, it could not be determined at what point he drew his pistol.

The video further showed that Sergeant A walked to the front of the police vehicle toward the van; however, before he had reached the driver door of the Subject's van he could be seen retreating toward the rear of the police vehicle on its driver's side. Shadows could be seen on the ground near the passenger side of the van, moving rapidly southbound, consistent with the Subject running and Sergeant B chasing him.

Based on the video, approximately 14 seconds elapsed from the time Sergeant A started to move toward the back of the police vehicle, to the time the shadows can be seen. Sergeant B's actions and the use of force were not captured.

Sergeants A and B were now in a triangulated position with the Subject; Sergeant A to the east and Sergeant B to the west of the Subject. Sergeant A began to give the Subject commands to get on the ground. Both sergeants gave the Subject commands to get on the ground, with Sergeant A giving the commands in an alternate language in case there was a language barrier. Sergeant A stated the Subject placed himself on the ground, put both forearms on the pavement, and laid on the right side of his torso with his legs curled at the knees as the Subject appeared to scan the area.

**Note:** Sergeant B stated when the Subject was halfway down to the ground in a crouched position, he looked up with a frantic look on his face. Sergeant B stated he did not believe the Subject got on his knees.

The Subject suddenly stood up, turned west, and began to run south along the passenger side of the van. Sergeant B holstered his service pistol as Sergeant A took a quick peek of the interior of the van through the rear cabin doors and cleared the van for any additional occupants. After verifying there were no additional occupants inside the van, Sergeant A holstered his service pistol.

Sergeant B stated he chased the Subject approximately 10 to 15 feet and as he caught up to him toward the front of the van, the Subject stopped and began to turn toward Sergeant B. Sergeant B stated he wrapped his arms around the Subject's upper body

along the outer portion of his biceps and attempted to hold onto the Subject. The Subject immediately began to resist and was twisting his torso back and forth and pulling his elbows away from Sergeant B. Sergeant B stated the Subject was very rigid and strong.

The Subject was ultimately able to overpower and break free from Sergeant B and then swung at Sergeant B with a clenched fist. Sergeant B stated the Subject struck him one to two times in the chest. Sergeant B stated the strike was more of a graze and was not a full contact hit. Simultaneously, Sergeant B punched the Subject one time in the face utilizing his right fist. The Subject turned his head away from Sergeant B but came back up with his fists raised and clenched as if he wanted to continue fighting.

At this point, Sergeant A ran up and grabbed the Subject's left arm by placing his right hand on the Subject's left bicep and left hand on his left wrist. The Subject was now in between Sergeants A and B and had his right arm free. The Subject then reared his right arm back as if he was going to strike one of the sergeants. Fearing the Subject was going to strike him or Sergeant A, Sergeant B struck the Subject a second time with two punches to the right side of his face with a right hand clenched fist while telling the Subject, "Get down. Get down. Stop." Sergeant B stated the Subject buckled over and was struggling, attempting to break free, as Sergeant A told the Subject in another language, to "Get down on the ground. Stop fighting."

**Note:** Sergeant B stated he punched the Subject a total of three times. According to Sergeant B, he believed the Subject sustained a laceration to the left eyebrow after the first strike to the face.

**Note:** According to Witness A, after the Subject jumped out of the van, it appeared Sergeant B was talking to him. The Subject appeared to reach toward his left rear pocket, as if he was retrieving his wallet. The Subject suddenly bolted and ran south on the sidewalk. Sergeant B caught up to him and appeared to be dragging him down by the rear of his (the Subject's) shirt. As described by Witness A, he saw Sergeant A come around the front of the van to assist Sergeant B. Witness A started to drive his vehicle toward the front of the van and monitor a gathering crowd. He lost sight of the sergeants and the Subject for approximately 30 seconds during that time.

Sergeant B then applied a firm grip on the Subject's right arm as Sergeant A maintained his hold on the Subject's left arm. At this point, the Subject and Sergeants A and B were now at the front portion of the van. The Subject continued to struggle and attempted to get away while the sergeants attempted to control the Subject. Sergeant A continued to give the Subject commands in an alternate language to stop resisting and to get on the ground.

As the Subject continued to struggle, Sergeant A told Sergeant B to force the Subject to the ground. Sergeants A and B utilized their body weight and pushed the Subject

forward, causing the Subject to lose his balance and land on the ground with his chest on the driveway apron in front of a residence.

While the Subject was on the ground, he continued to violently struggle and attempted to get up while kicking his feet. Sergeant A maintained a firm grip on the Subject's left arm by placing his left hand on the Subject's left wrist and his right hand on the Subject's left bicep while verbalizing in an alternate language, "Stop resisting. Put your arm back." Sergeant B maintained control of the Subject's right arm, which was now behind the Subject's back and very rigid.

**Note:** According to Witness B, he observed a sergeant and the Subject on the ground next to a curb. Witness B stated the Subject appeared to be under the front portion of a white van. Witness B stated the sergeant was attempting to pull the Subject from underneath the van as the Subject struggled, as if attempting to get away.

**Note:** The investigation later determined that Witness B's statements were unsupported by other evidence. As described by Witness B, he saw a lone sergeant who "looked like he was in need of assistance," as he tried to get the Subject out from under the van. Witness B approached the sergeant, identified himself as an EMT and offered him assistance. Other unsupported claims included hearing the sergeant telling the Subject to "drop the weapon," as the Subject "reached into his waistband." Witness B also claimed the Subject was "unconscious and not breathing," and saw the "deceased" Subject with a sheet covering his entire body. Finally, Witness B told investigators that as assisting officers arrived on scene, the sergeant punched the Subject twice in the face, while lying on top of him.

As the altercation continued, Sergeants A and B attempted to handcuff the Subject as several pedestrians began to gather around them and videotape the incident. According to Sergeant A, Sergeant B told him he was now going to request assistance. As the struggle continued, Sergeant B broadcast, a request for "assistance or backup."

In response to the back-up request, numerous units responded.

**Note:** A total of 52 officers and sergeants were identified as having responded to the scene. Of those, 39 officers and eight sergeants are documented as having arrived after a Code-Four was broadcast.

Meanwhile, as the Subject was on the ground on his stomach, Sergeant A placed his right forearm on the Subject's left shoulder blade area and while maintaining a firm grip on the Subject's left arm, and utilized his body weight to keep the Subject from getting up. As Sergeant A held the Subject's left arm, he noticed the Subject was rigid. Sergeant A was then able to place the Subject's left arm behind the Subject's back. Sergeant A stated since he had control of the Subject's left arm and did not want to lose control of the arm, he told Sergeant B to give him his set of handcuffs.

**Note:** Sergeant B stated the Subject was on his stomach rolling from left to right. Sergeant B stated the Subject placed his weight on the right side of his torso and had the left side of his torso partially facing up.

Sergeant B retrieved his handcuffs and handed them to Sergeant A, who then handcuffed the Subject's left wrist. The Digital In-Car Video System (DICVS) from Officer A's police vehicle captured him arriving at scene. Sergeant B stated he told the Officer A, "Hey, he needs to be handcuffed. Help us handcuff him." Officer A placed his knee on the Subject's back across his shoulder blade and his right hand on his upper back to control the Subject. Officer A took his left hand and proceeded down to the Subject's right wrist and raised the Subject's shirt sleeve, at which time his right wrist was handcuffed. Officer A stated the Subject was yelling incoherently but he was unable to decipher what he was saying. Sergeant A stated once the Subject was handcuffed, Sergeants A and B utilized their body weight to keep the Subject on the ground to prevent the Subject from thrashing about.

**Note:** Sergeant A stated he handcuffed the Subject's left wrist, reached over and grabbed the Subject's right arm, and then handcuffed the Subject's right wrist as the Subject continued to resist. Sergeant A stated the Subject was still kicking his feet attempting to get up and had already handcuffed the Subject when Officer A arrived on scene.

The DICVS of Officer B captured him arriving at the scene. Officer B stated he observed the Subject on the ground handcuffed, kicking his feet, and pushing his body up and down from the ground. According to Sergeant A, Officer B tapped his shoulder and relieved him taking control of the Subject. Officer B placed his left knee on the Subject's rear waistband area and left hand on his rear shoulder to prevent the Subject from pivoting or pushing his body up, and to control him.

**Note:** Officer B was the second officer to arrive on scene and assist the sergeants. Officers C and D were the third and fourth officers to arrive on scene and assist the sergeants. Officer C stated he took control of the Subject's right arm and relieved Sergeant A. Officer D stated he grabbed the Subject's feet.

Video footage of the Subject on the ground was posted on YouTube. An unidentified male captured the Subject on the ground, on his chest, with his head pointed west and feet pointed east. The Subject is heard grunting while his left arm is observed behind his back.

The video captured Sergeant A on the left side of the Subject's lower body and Sergeant B on the right side of the Subject's lower body. Sergeant A is then heard telling the Subject, in an alternate language, "Stop resisting," and shortly thereafter tells the Subject in the same language, "Let go. Let go." Throughout the video, the Subject is heard moaning and depicts additional uniformed and plainclothes officers arriving at scene.

Officer B broadcast that the incident had been resolved and that the Subject had been taken into custody.

The DICVS of another assisting unit captured the Subject grunting and moaning, at which time an unknown officer is heard saying, "Don't move buddy." At this point, Sergeant A immediately felt pain to his knees and noticed Sergeant B was grabbing his hand which was now swollen.

**Note:** According to Sergeant A, the Subject did not make any statements throughout this incident.

An additional assisting officer broadcast, "[...], can you roll out two RA's for two male [sergeants] both conscious and breathing, one of them is suffering from a possible broken arm and the other one is suffering from injuries to his arm."

**Note:** The additional assisting unit stated Sergeant A advised him to request a rescue ambulance (RA) for the Subject. He stated he requested an additional RA for Sergeant B because he (Sergeant B) stated his arm was broken.

The DICVS microphone to yet another assisting officer, captured him requesting a Hobble Restraint Device (HRD) because the Subject was combative, kicking his legs, and rotating his body back and forth in attempt to get up. An officer retrieved an HRD from his rear pants pocket and gave it to the requesting officer, who then got on one knee, grabbed the Subject's legs, wrapped it around the Subject's ankles, and tightened it. Once the HRD was secure around the Subject's legs, another officer grabbed the slack of the HRD and held it to prevent the Subject from kicking.

After the HRD was placed on the Subject, Officer B attempted to sit the Subject in an upright position, at which time the Subject attempted to strike Officer B with his head. Officer B placed the Subject on the ground on the left side of his torso until paramedics arrived.

Several other officers assisted with controlling the Subject due to his agitated state. The officers held the Subject's head in place, to keep him from hitting it on the ground, due to the Subject jerking his head up and down and side to side.

While one officer was holding the Subject's head, the Subject was saying incoherent words which caused the Subject to spit out saliva and blood. The officer could be heard on the audio of a DICVS microphone requesting a "spit bag." Another officer responded to the trunk of his police vehicle and obtained a spit mask. The spit mask was eventually applied to the Subject's head. While the Subject was lying on dirt, the mask became muddy, at which time it was removed from the Subject's head.

**Note:** It was reported the spit mask was on the Subject between 3 to 5 minutes.

After the Subject was taken into custody, a witness identified the Subject's residence to officers, which was the residence in front of which the Subject stopped the van.

An assisting sergeant formed a team to search the residence for possible victims. The officers searched the interior of the Subject's residence for any family members and did not locate any victims or occupants.

Los Angeles Fire Department (LAFD) paramedics arrived at the scene, and officers lifted the Subject off the ground and placed him on the gurney. Once the Subject was on the gurney, an officer uncuffed the Subject's right wrist. Another officer released the left handcuff and, while controlling his right arm, placed the left handcuff onto the left rail of the gurney. An additional set of handcuffs were used to handcuff the Subject's right wrist onto the right rail of the gurney above the Subject's head so paramedics could treat the Subject.

**Note:** Approximately five minutes transpired between the time the Subject was taken into custody and LAFD personnel's arrival.

LAFD personnel completed an initial assessment of the Subject and noticed the Subject had a laceration above his left eyebrow and appeared to be in an altered state. After approximately 12 minutes, the Subject was transported to the hospital.

**Note:** Officer D and another assisting officer accompanied the Subject to the hospital as the rear passengers in the RA. Officer C and another assisting officer and sergeant followed in their police vehicles. Officer D reported that while en route to the hospital, the Subject was kicking, screaming, moaning, and shaking his head.

An officer riding in the RA stated that while at the hospital, the Subject was actively kicking and fighting. The Subject would stick out his tongue and move his lips back and forth as if under the influence of a controlled substance.

Approximately 43 minutes after arriving at the hospital, Force Investigation Division (FID) was notified of a Non-Categorical Use of Force (NCUOF) subject who may be admitted to the hospital. Upon the Subject being admitted to the hospital, the Categorical Use of Force protocol was activated. The Subject failed to respond to medical treatment and was pronounced dead.

**Note:** From the time the Subject was taken into custody until he was pronounced, the approximate total time that elapsed was 11 hours, 28 minutes.

## **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). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

### **A. Tactics**

The BOPC found Sergeants A and B, along with Officers A, B, C, and D's tactics to warrant a Tactical Debrief.

### **B. Drawing/Exhibiting**

The BOPC found Sergeants A and B's drawing and exhibiting of a firearm to be in policy.

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

The BOPC found Sergeants A and B, along with Officers A, B, C, and D's non-lethal use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Code Six/Situational Awareness

Sergeants A and B did not advise CD of their Code Six location. Sergeant B was able to request a want/warrant check on the vehicle license plate; however, indicated because the incident rapidly unfolded, they were unable to broadcast a Code Six location.

Sergeants and officers should always consider the balance between making a timely Code Six broadcast and officer safety, affording discretion in determining the appropriate time to make their broadcast. It would have been tactically

advantageous for either Sergeants A or B to update their status and broadcast their location.

The BOPC determined that Sergeants A and B's delay in their Code Six broadcast did not substantially deviate from approved Department tactical training, due to the rapidly evolving incident. However, Sergeants A and B will be reminded of the importance of a Code Six broadcast and the benefit of a broadcast of additional pertinent information regarding the Subject's actions and location. Consequently, this topic will be discussed during the Tactical Debrief.

## 2. Tactical Vehicle Deployment

After the Subject stopped, Sergeant A positioned the police vehicle at an approximate 45-degree angle alongside the driver's side of the van. Sergeant A indicated that he had purposely positioned the police vehicle at an angle toward the driver's side door to have a better view of the driver's side compartment.

However, it would have been tactically prudent for Sergeant A to position the police vehicle behind the van, thus affording both sergeants the opportunity to view three sides of the van (right, left, and rear). Deploying the police vehicle in this manner would have also provided Sergeants A and B cover behind the police vehicle doors.

The BOPC took into consideration that sergeants commonly work single-officer units, wherein police vehicle deployment during vehicle stops is optionally conducted differently, based on the specific circumstances presented before them, such as in this situation.

In evaluating the sergeants' actions, the BOPC determined that based on the totality of the circumstances, although improvement could be made, Sergeant A's police vehicle positioning alongside the subject vehicle driver's side door, did not represent a substantial deviation from approved Department tactical training, as officers/sergeants are afforded discretion based on the specific circumstances presented before them. However, Sergeants A and B should be reminded of the various types of vehicle stops. Consequently, in an effort to enhance future tactical performance, this topic will be discussed during the Tactical Debrief.

## 3. Contact and Cover

Sergeants A and B had limited to no cover once the Subject exited the rear doors of the van.

Sergeant A did not observe the Subject in the driver's side area of the van. When Sergeant A heard the rear doors being opened, he walked around the front of his police vehicle and approached the driver's side door of the van and conducted a quick peek of the interior, seeing no one inside.

At approximately the same time, Sergeant B was at the rear of the van near the passenger side when he heard the Subject opening the rear doors. Sergeant B moved rearward to create distance between himself and the Subject, as the Subject exited.

Due to the inherent dangers associated with remaining inside the police vehicle, officers are trained to exit and seek cover, rather than remain in the vehicle. The BOPC determined that Sergeant A's decision to forgo cover was primarily due to him hearing the rear doors open, and therefore Sergeant A's actions did not substantially deviate from approved Department tactical training. Realizing that the Subject was exiting the rear of the van, Sergeant A went to assist Sergeant B. As the Subject exited the van, Sergeant B created distance, which afforded time to tactically assess the Subject's actions.

Based on the totality of the circumstances and facts surrounding this portion of the incident, the BOPC determined that Sergeants A and B's actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, this topic will be discussed during the Tactical Debrief.

#### 4. Back-Up Request versus Help Call

Sergeant B broadcast a Back-up request and subsequently "Assistance." As officers were responding, the call was upgraded to a "Help" call.

The BOPC considered that officers are afforded some discretion in determining the appropriate time to broadcast a Back-up or Help request. The BOPC also took into account Sergeants A and B's observations as they continued to monitor and deploy upon the Subject.

While policy dictates that officers should request a Back-up as soon as possible, officers are required to balance officer safety concerns with the evolving tactical situation presented to them. Although Sergeant B broadcast a Back-up request, as the sergeants' physical altercation continued, a request for Help would have been tactically prudent to ensure that responding units were aware of the urgency of the request. Additionally, the Assistance request is no longer a Department approved request option. However, Sergeants A and B's actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance during similar situations, this topic will be discussed during the Tactical Debrief.

#### 5. Possible Agitated Delirium/Under the Influence

The BOPC took into consideration the totality of the circumstances regarding this incident and the involvement of the sergeants. It also took into consideration that after the Back-up request was made, the Subject continued to fight with

Sergeants A and B, and continued to struggle with additional personnel once they arrived on scene. Furthermore, the BOPC appreciated the sergeants' and officers' ability to react quickly and effectively to the Subject's aggressiveness and unpredictable behavior, ultimately placing handcuffs on him.

Officers should continuously assess the tactical situation before, during, and after their encounter with a violent and aggressive subject, in particular one believed to possibly be under the influence of an intoxicant. Additionally, an officer's effectiveness increases with situational awareness and recognition of the potential that a subject is under the influence of narcotics.

Therefore, the BOPC determined the sergeants' and officers' actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, this topic will be discussed during 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 merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

Therefore, the BOPC found that Sergeants A and B, along with Officers A, B, C, and D should attend a Tactical Debrief to ensure the specific identified topics are covered.

## **B. Drawing/Exhibiting**

- Sergeants A and B observed the Subject commit numerous traffic violations. Based on their observations and the Subject's disregard for public safety, Sergeants A and B formed the opinion the Subject had possibly just committed a crime. As the Subject abruptly stopped his vehicle the second time, Sergeants A and B exited their police vehicle and drew their service pistols, believing that the Subject was potentially armed.

Based on the totality of the circumstances, the BOPC determined that a sergeant with similar training and experience while faced with similar circumstances would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Sergeants A and B's drawing and exhibiting of a firearm to be in policy.

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

- **Sergeant A** - Firm Grip, Takedown, Bodyweight and Physical Force.
- **Sergeant B** - Firm Grip, Punches, Takedown, Bodyweight and Physical Force.
- **Officer A** - Firm Grip and Bodyweight.
- **Officer B** - Firm Grip and Bodyweight.
- **Officer C** - Firm Grip and Bodyweight.
- **Officer D** - Physical Force.

The Subject abruptly stopped in front of his residence and ultimately opened the rear doors of the van, and jumped out.

Sergeant B immediately ordered the Subject, to "get down on the ground, get down on the ground." The Subject initially appeared to comply, causing Sergeant B to believe the Subject was going to the ground; however, the Subject then stood up and ran away from the sergeants. Sergeant B ran after the Subject approximately 10 to 15 feet. The Subject suddenly stopped and turned toward Sergeant B. Sergeant B approached the Subject and wrapped both of his arms around the Subject's torso, trapping the Subject's arms. The Subject was able to break away from Sergeant B and punched Sergeant B twice on his chest. Sergeant B responded by punching the Subject one time in the face with his right closed fist. The Subject continued to struggle and when Sergeant B believed the Subject was going to punch him again, Sergeant B punched the Subject two additional times in his face with his right closed fist. Sergeant B punched the Subject a total of three times in the face.

Sergeant A engaged in the physical altercation and observed the Subject move his left arm rearward, in a motion that indicated that the Subject was going to punch Sergeant B. Sergeant A grabbed the Subject's left arm. Sergeants A and B continued to verbalize with the Subject, but he refused to comply. As the sergeants were holding the Subject, Sergeant A advised Sergeant B to take the Subject to the ground. Sergeants A and B worked together, utilizing physical force/bodyweight to take the Subject to the ground.

Sergeant A held the Subject's left wrist as Sergeant B continued to control the Subject's right arm. The Subject continued to struggle to break free and refused to comply with the sergeants' commands. Sergeants A and B applied bodyweight and controlled the Subject's right and left arms. Sergeant A did not want to lose control of the Subject's left wrist and asked Sergeant B for a set of handcuffs. Sergeant A was able to place one of the manacles on the Subject's left wrist as Sergeant B controlled the Subject's right arm. Sergeants A and B maintained bodyweight on the Subject to prevent him from getting up, and maintained that posture until additional personnel arrived to assist.

Officer A arrived and was advised by Sergeant B that the Subject was not yet handcuffed. Officer A placed his right knee on the Subject's upper back, across his shoulder blade area. Officer A then used his right hand and placed it on the Subject's upper back to prevent him from getting up. Officer A then used his left hand to assist with controlling the Subject's right wrist so he could ultimately be handcuffed.

**Note:** Sergeant A recalled handcuffing the Subject before additional units arrived. The FID investigation revealed the Subject was not handcuffed until Officer A arrived to assist.

After the Subject was handcuffed, he continued to resist and attempted to raise his body up. Officer B placed his right knee on the Subject's waist to prevent him from pushing himself up. As the Subject continued to struggle with the officers, Officer C relieved Sergeant A and took control of the Subject's right arm. The Subject continued "kicking and flashing around" on the ground. Officer D grabbed the Subject's feet as he kicked at the officers. An HRD was then applied to the Subject's ankles.

The officers attempted to sit the Subject upright, but he continued to resist and move about. As a result, the Subject was placed onto his left side and monitored until paramedics arrived. The Subject was placed on a gurney, treated and transported by paramedics to the hospital.

After a thorough review of the incident, the BOPC determined a sergeant/officer with similar training and experience as Sergeants A and B, along with Officers A, B, C, and D, would believe that the application of various non-lethal force, under these circumstances, was objectively reasonable to overcome the Subject's resistance, prevent his escape and detain him.

In conclusion, the BOPC found Sergeants A and B, along with Officers A, B, C, and D's non-lethal use of force to be objectively reasonable and in policy.