

INTRADEPARTMENTAL CORRESPONDENCE

May 16, 2019
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: IN-CUSTODY DEATH FID NO. 045-18

Honorable Members:

The following is my review, analysis and findings for In-Custody Death, Force Investigation Division (FID) No. 045-18. A Use of Force Review Board (UOFRB) was convened on this matter on April 22, 2019. I did not adopt the recommendations from the UOFRB in their entirety for Tactics.¹ I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On July 20, 2018, at approximately 1507 hours, Communications Division (CD) broadcast a radio call of a *415 Man* at Vermont Avenue and 1st Street. The comments of the radio call stated the subject was *throwing himself onto vehicles and laying in the middle of the street*.

Note: The investigation revealed that CD received five emergency calls for service, resulting in the aforementioned radio call. One of the calls for service was generated by a Department of Transportation (DOT) Traffic Officer who attempted to prevent Swagerty from being struck by positioning his vehicle in the number three southbound lane, north of Swagerty.

Officers [REDACTED], Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED], Olympic Patrol Division, dressed in full uniform and driving a marked black and white police vehicle were assigned the radio call. The officers acknowledged the radio call and advised CD there were responding Code-Three to the incident.

According to Officer [REDACTED], as they approached the location from the south, [REDACTED] observed a male, later identified as J. Swagerty, laying in the southbound lanes of traffic. Officer [REDACTED] *safely* crossed into the southbound lanes of traffic and positioned the police vehicle facing Swagerty, south of where he was laying.

[REDACTED]

According to Officer [REDACTED], as they drove north on Vermont Avenue, [REDACTED] observed Swagerty *rolling around* in the *number three* lane of southbound traffic. Once Officer [REDACTED] positioned their police vehicle south of Swagerty, Officer [REDACTED] exited to *make contact* with him. Officer [REDACTED] attempted to communicate with Swagerty, but he was non-responsive and *kept making noises*. When Swagerty *turned his back* to the officers, Officer [REDACTED] *saw a window of opportunity* to get Swagerty *out of the lane of traffic*. Officer [REDACTED] signaled to Officer [REDACTED] and they *went hands on*. Officer [REDACTED] took control of Swagerty's left arm, while [REDACTED] partner *had* Swagerty's right arm. The officers *assisted* Swagerty to his feet and walked him toward the sidewalk. Swagerty *started struggling and dropped his weight*, so the officers *guided him to a seated position* on the apron of a driveway and *let go* of him.

According to Officer [REDACTED], as Swagerty sat down, he simultaneously was *making hand movements* and appeared as if he was *trying to say something*. Officer [REDACTED] began to *suspect* Swagerty may be *under the influence* of a controlled substance when Swagerty did not respond to any of their questions or commands. Officer [REDACTED] then broadcast a request for a Rescue Ambulance (RA) and an additional unit.

According to Officer [REDACTED], as they waited for additional resources, [REDACTED] and Officer [REDACTED] *redeployed* by taking *a couple of steps back* to create distance from Swagerty. [REDACTED] reassessed the situation and believed Swagerty was *considerably safer* since he was out of the roadway. Swagerty subsequently *started rolling around and making noises*, and eventually re-entering the roadway.

Los Angeles Fire Department (LAFD) personnel arrived prior to additional Department personnel. Among them included, Captain [REDACTED] Serial No. [REDACTED] Engine No. [REDACTED] and Firefighter/Paramedic [REDACTED], Serial No. [REDACTED], RA No. [REDACTED]

Note: A review of Officer [REDACTED] BWV captured the DOT officer placing traffic cones to block the number two lane of southbound traffic on Vermont Avenue. It also captured RA No. [REDACTED] parking in the number two lane of southbound traffic on Vermont Avenue, east of Swagerty.

Sergeant [REDACTED], Serial No. [REDACTED], Olympic Patrol Division, responded to the additional unit request.

According to Sergeant [REDACTED] upon arrival, [REDACTED] observed Swagerty *rolling around on the street, rubbing his head* on the concrete roadway, *slamming his hands on the street*, and *growling*. Officers [REDACTED] and [REDACTED] advised Sergeant [REDACTED] that Swagerty would not communicate with them. Sergeant [REDACTED] assumed the role of Incident Commander (IC) and requested a *back-up (Additional/Equipment – Required Equipment)*.

According to Sergeant [REDACTED], Captain [REDACTED] approached [REDACTED] and they discussed a plan to *work together* and have police personnel *control* Swagerty while LAFD personnel administered medication that they *hoped would calm him down*.

According to Sergeant [REDACTED] believed if police and LAFD personnel *left the scene*, Swagerty would have been *injured or killed in a traffic accident*. Based on [REDACTED] observations, Sergeant [REDACTED] believed Swagerty was under the influence of *some type of narcotic* and although [REDACTED] was unsure if Swagerty would be *violent*, [REDACTED] knew the officers *may possibly need to use force* and wanted to wait for additional units. To avoid injuring Swagerty and in an effort to use the *least amount of force or no force if possible*, [REDACTED] advised Officers [REDACTED] and [REDACTED] of the plan and they waited for additional officers to arrive.

Additional personnel, including Officers [REDACTED], Serial No. [REDACTED], [REDACTED], Serial No. [REDACTED], [REDACTED], Serial No. [REDACTED], [REDACTED], Serial No. [REDACTED], [REDACTED], Serial No. [REDACTED], [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED] Olympic Patrol Division, responded to the location (**Additional/Equipment – Body Worn Video (BWV) Activation**).

According to Sergeant [REDACTED], when Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] arrived at the scene, [REDACTED] briefed each of them regarding the plan. Sergeant [REDACTED] advised them that when Swagerty was in a prone position, the officers were going to hold him down while LAFD personnel *administered the medication*.

Note: Sergeant [REDACTED] BWV captured [REDACTED] directing the officers to hold Swagerty down for LAFD personnel to inject him with medication. [REDACTED] further advised them to handcuff Swagerty if possible, but if they were unable to, [REDACTED] instructed the officers to hold Swagerty down. Officer [REDACTED] was assigned as the less-lethal officer, equipped with the TASER.

Officer [REDACTED] BWV captured [REDACTED] advising the contact team that Officer [REDACTED] and [REDACTED] would control Swagerty's arms. It also captured [REDACTED] directing Officers [REDACTED] and [REDACTED] to control Swagerty's legs.

According to Sergeant [REDACTED], the officers *moved in* when Swagerty rolled onto his *front torso*. Each officer *grabbed* an arm or a leg and held Swagerty down while Firefighter/Paramedic Portis administered the Versed injection into Swagerty's leg. As the officers held Swagerty down, he *attempted to bite the officers*, which was communicated by the officers and relayed to the entire contact team by Sergeant [REDACTED]. Officer [REDACTED] *attempted to control* Swagerty's head by placing one of his hands on the back of Swagerty's head and holding it in place. Swagerty continued turning his head back and forth and repeatedly attempted to bite the officers.

[REDACTED]

According to Sergeant [REDACTED], while [REDACTED] continuously monitored the unfolding situation, [REDACTED] communicated with Swagerty to *calm down*, advising [REDACTED] that *he was not under arrest*. Sergeant [REDACTED] was also cognizant of the actions of the officers, at times *moving officers* to different positions to facilitate better control of Swagerty. Sergeant [REDACTED] paid particular *attention that there was not bodyweight on Swagerty's back that would prevent him from breathing*.

Note: A review of Officer [REDACTED] BWV captured six LAFD employees positioned to the east and north of the officers as they took Swagerty into custody.

The following accounts do not reflect the chronological order in which the officers used Non-Lethal Force, as the officers' actions occurred simultaneously.

According to Officer [REDACTED] was designated to control an arm. When Swagerty rolled into a prone position, Officer [REDACTED] placed [REDACTED] right hand on Swagerty's right shoulder blade area, [REDACTED] left hand on Swagerty's left shoulder blade area and [REDACTED] left knee on Swagerty's lower back. *To prevent Swagerty from rolling to one side, Officer [REDACTED] leaned forward and utilized [REDACTED] bodyweight to overcome Swagerty's resistance (Non-Lethal Use of Force).*

According to Officer [REDACTED] was also designated to control an arm. When Swagerty rolled into a prone position, [REDACTED] *grabbed Swagerty's left arm with both hands. Swagerty reacted by moving [REDACTED] left arm closer to his body. As Officer [REDACTED] attempted to maintain control of Swagerty's left arm, Officer [REDACTED] arms were dragged in close proximity to Swagerty's mouth at which time, [REDACTED] lunged his head forward and tried to bite Officer [REDACTED] arms multiple times. As Swagerty was struggling, trying to turn and bite, Officer [REDACTED] did [REDACTED] best to maintain control of Swagerty's left arm waiting for him to calm down (Non-Lethal Use of Force).*

According to Officer [REDACTED] was directed to control Swagerty's upper torso area. Officer [REDACTED] grabbed Swagerty's right arm and applied bodyweight to pin it to the ground when Swagerty began to roll into a prone position. *As Swagerty was trying to bite officers, Officer [REDACTED] placed [REDACTED] left hand on Swagerty's head and applied slight bodyweight to control it against the ground. [REDACTED] recalled Swagerty attempted to bite Officer [REDACTED] hand three or four times (Non-Lethal Use of Force).*

According to Officer [REDACTED], when he put his hands on Swagerty, he was *moving around and trying to bite one of the officers*. In an attempt to prevent Swagerty from biting anyone, Officer [REDACTED] placed [REDACTED] left knee, and *all of [REDACTED] bodyweight*, on Swagerty's right thigh to hold him down. Simultaneously, Officer [REDACTED] placed [REDACTED] right hand on Swagerty's trap [trapezoid] area, merely to hold Swagerty where [REDACTED] was while not applying any pressure (Non-Lethal Use of Force).

Note: Officer [REDACTED] BWV captured [REDACTED] initially positioned with [REDACTED] left knee on Swagerty's left buttocks, applying bodyweight. Approximately seven seconds later, [REDACTED] repositioned [REDACTED] left knee on Swagerty's right thigh and [REDACTED] left hand on Swagerty's left thigh. Officer [REDACTED] BWV captured Officer [REDACTED] right hand positioned below Swagerty's

neck, grasping [REDACTED] sweatshirt and applying bodyweight. Officer [REDACTED] then moved [REDACTED] right hand to the back of Swagerty's head in an attempt to hold it down. Simultaneously, Officer [REDACTED] moved [REDACTED] left hand on top of Officer [REDACTED] right hand in an attempt to control Swagerty's head.

According to Officer [REDACTED] was designated to control a leg and grabbed Swagerty's lower left leg near the *calf and ankle area* with both hands. Swagerty *continued to be erratic* and was *kicking a lot*. Officer [REDACTED] maintained [REDACTED] hold on Swagerty's lower leg, applying pressure to prevent Swagerty from kicking an officer or hurting himself (**Non-Lethal Use of Force**).

According to Officer [REDACTED] was positioned closest to Swagerty's legs and *yelled out* that [REDACTED] would *grab* a leg. With both of [REDACTED] knees on the ground, Officer [REDACTED] grabbed Swagerty's lower right leg and ankle with both hands. Officer [REDACTED] leaned forward and held down Swagerty's right leg with the weight of [REDACTED] upper body. At times, Swagerty was lifting up Officer [REDACTED] with *his leg strength* so [REDACTED] placed [REDACTED] left knee on Swagerty's right foot (**Non-Lethal Use of Force**).

According to Officer [REDACTED] was designated to control a leg. [REDACTED] observed that Swagerty was still trying to move his legs despite Officers [REDACTED] and [REDACTED] each holding down one of Swagerty's legs. Officer [REDACTED] squatted down and placed a hand on each of Swagerty's ankles to hold them down. Officer [REDACTED] determined [REDACTED] efforts were no longer needed to control Swagerty's legs and [REDACTED] released [REDACTED] grips. Officer [REDACTED] continued to monitor the situation and when Officers [REDACTED] and [REDACTED] appeared to be struggling to control Swagerty's legs, [REDACTED] resumed [REDACTED] previous position and held down Swagerty's ankles by placing firm grips on them (**Non-Lethal Use of Force**).

According to Officer [REDACTED], when the officers *took control* of Swagerty, [REDACTED] *did not have an angle to get in*. As Officer [REDACTED] monitored the unfolding situation, Sergeant [REDACTED] directed [REDACTED] to help Officer [REDACTED] control Swagerty's left arm. Officer [REDACTED] inserted [REDACTED] behind Officer [REDACTED], *placed* [REDACTED] right hand on Swagerty's left forearm and *held* it down (**Non-Lethal Use of Force**).

According to Officer [REDACTED], when [REDACTED] arrived, [REDACTED] observed Swagerty *flailing* his arms, legs and head as officers attempted to control him on the ground. Sergeant [REDACTED] directed Officer [REDACTED] to *help out* with Swagerty's right arm. Officer [REDACTED] placed [REDACTED] left hand on Swagerty's bicep and [REDACTED] right hand on Swagerty's forearm to hold down Swagerty's right arm (**Non-Lethal Use of Force**).

According to Sergeant [REDACTED] as [REDACTED] assessed Swagerty's actions, [REDACTED] noted Swagerty became a *little more manageable to handcuff* and asked Officer [REDACTED] if [REDACTED] was able to handcuff Swagerty. Officer [REDACTED] advised Sergeant [REDACTED] that [REDACTED] believed [REDACTED] could and proceeded to handcuff Swagerty.

According to Officer [REDACTED] placed [REDACTED] knee on Swagerty's shoulder to gain control before [REDACTED] secured a handcuff on his left wrist. The officers controlling Swagerty's right arm guided it to his back and he was handcuffed without further incident (**Non-Lethal Use of Force**).

Note: The investigation revealed that Swagerty was in the prone position for approximately four minutes and five seconds.

After Swagerty was handcuffed, he was rolled over into a supine position and placed onto a gurney. LAFD personnel noted Swagerty was not breathing and requested the handcuffs be removed. The handcuffs were removed from Swagerty and LAFD personnel initiated Cardio Pulmonary Resuscitation before transporting Swagerty by RA to Kaiser Permanente Sunset Medical Center. Swagerty failed to respond to emergency medical treatment and was pronounced dead by Doctor [REDACTED] at 1657 hours.

On August 2, 2018, Deputy Medical Examiner Doctor [REDACTED], Los Angeles County Department of Medical Examiner-Coroner, performed a post-mortem examination of Swagerty's remains. Dr. [REDACTED] determined there were no fractures, abnormalities or signs of trauma on Swagerty's body, brain and trachea. Doctor [REDACTED] ascribed Swagerty's death to *Acute Cardiac Dysfunction due to Extreme Agitation with Physical Exertion and Idiopathic Cardiomyopathy*. Doctor [REDACTED] opined that Swagerty's death was not attributed to the officers' actions and that the manner of death be classified as accidental.

Note: Toxicology tests determined that Swagerty had a 3.4 ng/mL (nanograms per milliliter) of Tetrahydrocannabinol (marijuana) and 7.2 ng/mL of Midazolam (Versed) in his blood.

Officer [REDACTED] rode in the RA with Swagerty to the hospital, while Officer [REDACTED] followed in their police vehicle. Sergeant [REDACTED], Serial No. [REDACTED], Olympic Patrol Division, responded to the scene and also followed the RA to Kaiser Medical Center.

Lieutenant [REDACTED], Serial No. [REDACTED], Watch Commander, Olympic Patrol Division, and Sergeant [REDACTED], Serial No. [REDACTED], Olympic Area, Gang Enforcement Detail, responded to the scene. Lieutenant [REDACTED] assumed the role of IC and directed Sergeant [REDACTED] to initiate a Non-Categorical UOF investigation.

Once the investigation was determined to be a Categorical UOF, Sergeant [REDACTED], Serial No. [REDACTED], Wilshire Patrol Division, responded to Kaiser Permanente Sunset Medical Center to monitor Sergeant [REDACTED] along with Officers [REDACTED] and [REDACTED]. Sergeant [REDACTED] followed the aforementioned personnel in trail back to Olympic Station (**Additional – Protocols Subsequent to a Categorical UOF incident**).

FINDINGS

Tactics – Tactical Debrief, Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

Non-Lethal Use of Force – In Policy, No Further Action, Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

ANALYSIS

Detention

The officers responded to a radio call of a 415 man who was throwing himself onto vehicles and lying in the middle of the street. Upon arrival, the officers observed the subject lying in a lane of traffic and attempted to communicate with him, however, his responses were incoherent. The officers moved the subject out of the roadway to safeguard his life. Officers believed the subject may be a danger to himself and required medical assistance, so they summoned LAFD personnel to the scene. While they waited for LAFD, the subject rolled back into the southbound lanes of traffic. Los Angeles Fire Department personnel arrived and requested assistance from the officers to restrain the subject while they administered medication in accordance with Los Angeles County Protocol 1208 for Agitated Delirium. When the officers made contact, the subject resisted and repeatedly attempted to bite an officer. The officers used a series of Non-Lethal force options to take the subject into custody because he was a danger to himself. The officers' actions were appropriate and within Department policies and procedures.

TACTICS

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

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.

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect 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 (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.

[REDACTED]

In this case, the officers verbalized with the subject in an attempt to gain compliance and resolve the situation peacefully, without the use of force. The officers moved the subject from the roadway to safeguard his life, however, he rolled back into the roadway, placing himself in harms way.

Los Angeles Police Department and LAFD personnel assessed the situation and formulated a plan for officers to utilize Non-Lethal Force options to allow LAFD to medicate the subject and gain his compliance. Once the contact team initiated contact, the subject resisted and repeatedly attempted to bite an officer. The sergeant continuously attempted to communicate and gain the subject's cooperation, however, all communication efforts proved unsuccessful. The sergeant monitored the positions of the officers and continued assessing, utilizing time in an effort to de-escalate the situation. The subject was taken into custody once his active resistance subsided.

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

Additional Tactical Debrief Topics

Protocols Subsequent to a Non-Categorical UOF incident – The investigation revealed that prior to the incident being identified as a Categorical UOF incident, Sergeant [REDACTED] initiated a Non-Categorical UOF Investigation. To assist in the investigation, Sergeant [REDACTED] directed officers who utilized force to canvass the area for witnesses and conduct interviews. Sergeant [REDACTED] is reminded that only uninvolved supervisory personnel should assist with a Non-Categorical UOF investigation, thereby maintaining the integrity of the investigation. Captain [REDACTED] Serial No. [REDACTED], Commanding Officer, Olympic Patrol Division, advised that the former Commanding Officer of Olympic Area, Commander [REDACTED] Serial No. [REDACTED] verbally counseled Sergeant [REDACTED] regarding the requirement for uninvolved supervisors to conduct UOF canvassing. Captain [REDACTED] further advised that Olympic Area supervisors will be receiving training at an upcoming supervisor training day regarding supervisor responsibilities subsequent to Categorical and Non-Categorical UOF incidents. The commanding officers of Operations-West Bureau (OWB) and the Office of Operations (OO) concurred with this action. As such, I deem no further action necessary.

COMMAND AND CONTROL

Sergeant [REDACTED] responded to the scene and assumed the role of IC. Sergeant [REDACTED] effectively communicated with the officers and immediately requested additional resources. [REDACTED] recognized the subject was contained in the southbound lanes of traffic by the police and LAFD vehicles and waited for additional officers to arrive.

[REDACTED]

Sergeant [REDACTED] and Captain [REDACTED] discussed the LAFD intent to administer Versed to calm down the subject. A plan was devised to hold down the subject, have LAFD administer the medication and take the subject into custody.

Sergeant [REDACTED] communicated the plan to the responding officers, ensured the contact team understood their roles, and designated an officer as a less-lethal option, tasked with deploying the TASER if needed. Sergeant [REDACTED] directed the officers to make their approach and continuously monitored the actions of the subject and officers. Based on [REDACTED] ongoing assessment, [REDACTED] directed and repositioned officers to better control the subject's actions. Sergeant [REDACTED] directed officers to handcuff the subject when [REDACTED] believed the subject's resistance was subsiding. Once the subject was handcuffed, [REDACTED] was immediately rolled over and placed in a seated position on an awaiting gurney.

Sergeant [REDACTED] responded to the scene and followed the RA to Kaiser Medical Center.

Lieutenant [REDACTED] and Sergeant [REDACTED] also responded to the scene. Lieutenant [REDACTED] assumed the role of IC and directed Sergeant [REDACTED] to conduct a Non-Categorical UOF investigation.

Once the investigation was determined to be a Categorical UOF, Sergeant [REDACTED] responded to Kaiser Permanente Sunset Medical Center to monitor Sergeant [REDACTED], along with Officers [REDACTED] and [REDACTED]. When they departed from the hospital, Sergeant [REDACTED] allowed the officers to drive back to Olympic Station in the same vehicle.

Note: According to Sergeant [REDACTED] a *FID detective* arrived at the hospital and instructed Officers [REDACTED], [REDACTED], Sergeant [REDACTED] and [REDACTED] to drive in trail to Olympic Area Station. According to Officer [REDACTED], an *FID Sergeant* instructed Officer [REDACTED] and [REDACTED] to drive in trail back to Olympic Station. The investigation noted that FID Sergeant [REDACTED] had contact with Sergeant [REDACTED] but indicated that [REDACTED] did not direct the officers and Sergeant [REDACTED] to drive in trail. The investigation was unable to substantiate who directed Sergeant [REDACTED] to allow Officers [REDACTED] and [REDACTED] to drive back to Olympic Station together.

Overall, with the noted exceptions, the actions of Lieutenant [REDACTED], along with Sergeants [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were consistent with Department supervisory training and met my expectations of field supervisors during a critical incident.

Tactical Debrief

In conducting an objective assessment of this case, I have determined that Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] tactics did not substantially deviate from approved Department tactical training.

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.

Therefore, I will direct that Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] attend a Tactical Debrief and that the specific identified topics are discussed.

Note: Sergeant [REDACTED] retired from the Department on February 17, 2019.

In addition to the above topics, the Tactical Debrief shall also include the following mandatory discussion points:

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

General Training Update (GTU)

On July 25, 2018, Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], attended a GTU. All mandatory topics were covered, including In-Custody Deaths and Force Options Simulators.

Non-Lethal Use of Force

It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

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

The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*

- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

Officer [REDACTED] – Firm Grips and Bodyweight

According to Officer [REDACTED] was designated to control an arm. When Swagerty rolled into a prone position, Officer [REDACTED] placed [REDACTED] right hand on Swagerty's right shoulder blade area, [REDACTED] left hand on Swagerty's left shoulder blade area and [REDACTED] left knee on Swagerty's lower back. To prevent Swagerty from rolling to one side, Officer [REDACTED] leaned forward and utilized [REDACTED] bodyweight to overcome Swagerty's resistance.

Officer [REDACTED] recalled,

Once we got - - saw that window of opportunity when he was kind of on his stomach is when we all went hands on. I had, I believe, my right hand on his right shoulder blade area as he was facing down, and my left hand was on his left shoulder blade area to prevent him from rolling. And then also, my left knee was close towards his lower back to the side, which I - - which I also used to prevent him from rolling to - - to one side.

He's not complying. He is - - he's trying to move...So that's why when I put my hands on there, the last thing I wanted was for him to roll...my main focus was on controlling his shoulders and preventing him from rolling over...I don't know how - - how I would describe the severity of how much he was resisting, but it was a good amount of resistance is the way I would describe it...I was leaning forward to prevent him from rolling to the side.█

Officer [REDACTED] – Firm Grips, Bodyweight and Physical Force

According to Officer [REDACTED] was designated to control an arm. When Swagerty rolled into a prone position, [REDACTED] grabbed Swagerty's left arm with both hands. Swagerty reacted by moving his left arm closer to his body. As Officer [REDACTED] attempted to maintain control of Swagerty's left arm, Officer [REDACTED] arms were dragged in close proximity to Swagerty's mouth at which time, [REDACTED] lunged his head forward and tried to bite Officer [REDACTED] arms multiple times. As Swagerty was

[REDACTED]

struggling, trying to turn and bite, Officer [REDACTED] did his best to maintain control of Swagerty's left arm waiting for him to calm down.

Officer [REDACTED] recalled,

...we just waited for an opportunity where he laid on his stomach so that we could - - we could go hands on. And once he did, we approached. And that's when I saw that his left arm was free. So I, using my both - - both arms, I grabbed onto his left arm to control him...He - - he started struggling, continued to struggle. He actually - - I actually saw him try to bite my arm...As best I could, I tried to remain control of his left arm.

According to Officer [REDACTED], after some time had passed, Sergeant [REDACTED] asked [REDACTED] if [REDACTED] could handcuff Swagerty. Officer [REDACTED] advised Sergeant [REDACTED] that [REDACTED] believed they could. Officer [REDACTED] then placed a knee on Swagerty's left shoulder, guided his left arm to his back and secured a handcuff on his left wrist. The officers controlling Swagerty's right arm then guided his right arm to his back and Swagerty was handcuffed without further incident.

Officer [REDACTED] recalled,

Initially, I had - - I had his arm. And before I cuffed him, his left shoulder, upper torso area, he was flailing about to try to turn over, so I placed my - - I - - I am not sure if it was my left knee or right knee, but on his left shoulder area to gain control.

Note: Officer [REDACTED] BWV captured Officer [REDACTED] handcuffing Swagerty's left wrist and then placing his left knee on Swagerty's left shoulder in an effort to facilitate the handcuffing of the right wrist.

Officer [REDACTED] – Firm Grip and Bodyweight

According to Officer [REDACTED], [REDACTED] was directed to control Swagerty's upper torso area. When Swagerty began to roll into a prone position, Officer [REDACTED] grabbed Swagerty's right arm and applied bodyweight to pin it to the ground. Simultaneously, as Swagerty was trying to bite officers, Officer [REDACTED] placed [REDACTED] left hand on Swagerty's head and applied slight bodyweight to control it against the ground. [REDACTED] recalled Swagerty attempted to bite Officer [REDACTED] hand three or four times.

Officer [REDACTED] recalled,

I was able to grab his right arm and pin it to the ground using my bodyweight to pin his right arm to the ground and I used my left hand to grab his head and use slight body weight to control it to the ground as he was trying to bite officers upon our approach...As they administered the Narcan [Versed], I continued to use my hand to pin his right - - use my

[REDACTED]

right hand to pin his right hand to the ground and use my left hand to control the movement of his head as he continued to bite - - attempt to bite officer [REDACTED] who was directly to my left...so I continued to control his movements with my hand, with my left hand on his head. Not necessarily using bodyweight and pressure, but more controlling the movement so that he wasn't able to lunge completely in that direction to actually bite ...the officer. [REDACTED]

Officer [REDACTED] – Firm Grip, Bodyweight and Physical Force

According to Officer [REDACTED], when [REDACTED] put [REDACTED] hands on Swagerty, [REDACTED] was moving around and trying to bite one of the officers. In an attempt to hold Swagerty in place and to prevent him from biting anyone, Officer [REDACTED] simultaneously placed [REDACTED] left knee, with all of [REDACTED] bodyweight on Swagerty's right thigh and [REDACTED] right hand on Swagerty's trapezoid area, with no pressure.

Officer [REDACTED] recalled,

At that point as we were holding him down, the male was 415. He was moving around. At one point, it seemed that he was trying to bite one of the officers. I can't recall which officer exactly, but he was trying to bite one of the officers, so we were attempting to hold him down until FD gave him the shot.

To be honest, once I was already - - already had hands on, you know, I kept that until someone made - - told me that, you know, switch over, but as far as I remember, I stayed doing the same thing. You know, I had my left knee on his right thigh, and, you know, trying to hold below his neck, trying to hold him down. That way, he didn't bite anyone. [REDACTED]

Officer [REDACTED] – Firm Grip and Bodyweight

According to Officer [REDACTED], [REDACTED] was designated to control a leg and grabbed Swagerty's lower left leg near the calf and ankle area with both hands. Swagerty continued to be erratic and was kicking a lot. Officer [REDACTED] maintained [REDACTED] hold on Swagerty's lower leg, applying pressure to prevent Swagerty from kicking an officer or hurting himself.

Officer [REDACTED] recalled,

I grabbed the left leg around the calf area with my...left hand...And my right hand was around his...ankle slash calf area...Just a firm grip. Upper- - upper pressure...No bodyweight. Just holding him down with both my hands...He continued to be erratic. He was pretty strong. Like I said I don't know what kind of narcotics he was use or if he was under the influence. He was kicking a lot...I just pressure on the lower legs, and that was my focus, just to maintain that - - that grip on him so he wouldn't get loose and actually kick one of us or further injure himself. [REDACTED]

[REDACTED]

Officer [REDACTED] – Firm Grip and Bodyweight

According to Officer [REDACTED], she was positioned closest to Swagerty's legs and advised the other officers that she would grab a leg. With both of her knees on the ground, Officer [REDACTED] grabbed Swagerty's lower right leg and ankle with both hands. Officer [REDACTED] leaned forward and held down Swagerty's right leg with the weight of her upper body. At times, Swagerty was lifting up Officer [REDACTED] with his leg strength so she placed her left knee on Swagerty's right foot. Officer [REDACTED] recalled,

I just yelled out that I'll grab his leg, since I was closest to his leg. So once everyone moved at the same time, we all moved at the same time and grabbed - - grabbed hold of a portion of his body. For me, that was the subject's right lower leg and foot. So I grabbed a hold of him with both of my hands and placed bodyweight on top to prevent him from moving up and down, which he was with all of my bodyweight on top of him...I'm sorry. Not all of my bodyweight, with my upper bodyweight...holding down his leg.

So I had both hands on his lower leg, ankle, foot area...And my knees were on the ground, so I was leaning forward. So the upper bodyweight...And I would alternate between, because as I was doing that...I was still being lifted up by his leg strength...when that happened, I would use my left knee to place on his foot area, and I would just - - once he - - he didn't buck up anymore, I would move it back [REDACTED]

Officer [REDACTED] – Firm Grip and Bodyweight

According to Officer [REDACTED] was designated to control a leg. [REDACTED] observed that while Officers [REDACTED] and [REDACTED] were each holding down one of Swagerty's legs, Swagerty was still trying to move them. Officer [REDACTED] squatted down and placed a hand on each of Swagerty's ankles to hold them down. Officer [REDACTED] determined [REDACTED] efforts were no longer needed to control Swagerty's legs and [REDACTED] released [REDACTED] grip. Officer [REDACTED] continued to monitor the situation and when Officers [REDACTED] and [REDACTED] appeared to be struggling to control Swagerty's legs, [REDACTED] resumed [REDACTED] previous position and held down Swagerty's ankles.

Officer [REDACTED] recalled,

My partner went to the left side of the subject. I had the right side. And as I was coming down to hold the right side, another officer came up from behind me to also hold the right leg down. So I ended up having my right hand on the right ankle - -. I was there for approximately 15 seconds when I realized I wasn't needed there. I had already had two officers holding the legs down, so I got up...at one point, I saw the officer on the right side holding the right leg. He was - - the subject was bringing his leg up, so that's when I got back down to hold the right side. And then I saw it seemed on the left side his foot was kind

[REDACTED]

of raising off, so I - I went back to my left hand on his left ankle and my right hand on the right ankle.

Officer [REDACTED] – Bodyweight

According to Officer [REDACTED], when the officers took control of Swagerty, there was no place for [REDACTED] to assist. As Officer [REDACTED] monitored the unfolding situation, Sergeant [REDACTED] directed [REDACTED] to help Officer [REDACTED] control Swagerty's left arm. Officer [REDACTED] inserted himself behind Officer [REDACTED], placed his right hand on Swagerty's left forearm and held it down.

Officer [REDACTED] recalled,

I couldn't get any - - any control of him because other officers were already controlling him. So I didn't have an angle to get in. So I was just kind of observing and it was a - - it was like maybe a few minutes after that Sergeant [REDACTED] advised me or told me to go and help Officer [REDACTED] with his left - - with the subject's left arm...I kind of went behind Officer [REDACTED] ...with my right arm, with my right hand, I kind of placed it over his left - - like forearm area near his elbow and just kind of like held it there. Just to - - just to keep him from moving around and basically hurting himself, you know.

Officer [REDACTED] – Firm Grip and Bodyweight

According to Officer [REDACTED], when [REDACTED] arrived, [REDACTED] observed officers on the ground, attempting to control Swagerty who was flailing his arms, legs and head. Sergeant [REDACTED] directed Officer [REDACTED] to assist by holding Swagerty's right arm. Officer [REDACTED] placed [REDACTED] left hand on Swagerty's bicep and his right hand on Swagerty's forearm to hold down Swagerty's right arm.

Officer [REDACTED] recalled,

I observe officers already on the subject and I am standing by a sergeant. Sergeant [REDACTED] advises me to help out with the subject's right arm. So I immediately go down and place both my hands on the subject's right arm and as I'm - - as I have my arm - - my hands on the subject, he's moving around. So I kind of keep a firm grip on his arm and then they advise that they are going to handcuff...They do the left arm first. Then I lift up his arm and another officer grabs his arm, pulls it in and handcuffs...

Based upon the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], while faced with similar circumstances, would believe that the same applications of Non-Lethal Force would be reasonable to overcome Swagerty's resistance.

[REDACTED]

Therefore, I find Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

Additional/Required Equipment

Body Worn Video Activation – The investigation revealed that Officer [REDACTED] did not activate [REDACTED] BWV until he began canvassing the scene for witnesses. Captain [REDACTED] advised this issue was addressed through training at the divisional level and was documented on a Comment Card. Additionally, Captain [REDACTED] ensured that audits would be completed regarding the involved officer for a 60-day period, following the Tactical Debrief, to ensure the officer's BWV is being properly activated. The commanding officers of OWB and OO concurred with this action. As such, I deem no further action is necessary.

Required Equipment (TASER) – The investigation revealed that Sergeant [REDACTED] TASER was in his police vehicle when the incident occurred. As supervisory personnel are encouraged, but not mandated to equip themselves with a TASER, I will direct this be a general topic of discussion during the Tactical Debrief.

Required Equipment – The investigation revealed that Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED] and [REDACTED] did not have either a side-handle baton or ASP baton on their person when the incident occurred. The officers are reminded to have all required equipment on their person while performing field patrol duties. I will direct this to be a topic of discussion during the Tactical Debrief.

Protocols Subsequent to a Categorical Use of Force Incident – The investigation revealed Sergeant [REDACTED] followed Officers [REDACTED] and [REDACTED] in their police vehicle and Sergeant [REDACTED] in [REDACTED] respective police vehicle, to Olympic Station, instead of having them monitored and transported individually. Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Recruitment and Employment Division, advised that this issue has been addressed through training at the divisional level and was documented in LMS. The commanding officers of Personnel and Training Bureau and Office of Support Service concurred with this action. Although, I would have preferred for Sergeant [REDACTED] to clarify the direction she was given, the investigation was unable to determine what she was specifically told to do. As such, I deem no further action is necessary.

Documentation of a Categorical Use of Force Incident – The investigation revealed that Sergeant [REDACTED], Serial No. [REDACTED], Rampart Patrol Division, listed the wrong date on page two on [REDACTED] sergeant's log. In addition, [REDACTED] listed monitoring Sergeant [REDACTED] when in fact [REDACTED] monitored Sergeant [REDACTED]. Captain [REDACTED], Serial No. [REDACTED] Commanding Officer, Rampart Patrol Division, advised that this issue has been addressed through training at the divisional level and was documented in LMS. The commanding officers of Operations Central Bureau and OO concurred with this action. As such, I deem no further action is necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS)/Body Worn Video – Olympic Patrol Division vehicles were equipped with DICVS. Sergeant [REDACTED] along with Officers [REDACTED] and [REDACTED] DICVS captured the incident.

Olympic Patrol Division personnel were equipped with BWV at the time of the incident.

Sergeant [REDACTED], along with Officers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] captured their arrival at the scene, taking Swagerty into custody and post use of force activities.

Note: Officer [REDACTED] BWV camera was knocked off when he reached to hold Swagerty down and only captured the audio of the UOF incident.

Outside Video – Surveillance video cameras from Aladin Sweets and Market located at [REDACTED] South Vermont Avenue captured Swagerty's actions prior to contact with police personnel and the UOF.

Chief's Direction

The circumstances of this incident required Department personnel to assist LAFD personnel in administering a sedative to a subject who posed a danger to himself and others while displaying symptoms of agitated delirium. I have directed the Commanding Officer of Personnel and Training Bureau to develop tactics and a formal policy to clarify department expectations for personnel requested to assist LAFD in restraining individuals with agitated delirium.

Respectfully,



MICHEL R. MOORE
Chief of Police

Date: 5-16-19