

## INTRADEPARTMENTAL CORRESPONDENCE

November 8, 2018  
3.2

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 002-18

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 002-18. A Use of Force Review Board (UOFRB) was convened on this matter on October 22, 2018. In this case, the recommended findings were not unanimous, with a minority opinion rendered regarding the Tactics finding for Sergeant [REDACTED], Serial No. [REDACTED] 77<sup>th</sup> Street Patrol Division.

I have carefully weighed each opinion, considered the case in its entirety and adopted the recommendations of the UOFRB regarding Officers [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED] Metropolitan Division and the minority opinion regarding Sergeant [REDACTED]. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY

On January 8, 2018, at approximately 1800 hours, Officers [REDACTED] and [REDACTED] were in full uniform, driving an unmarked dual-purpose police vehicle. The officers were conducting crime suppression in the area of Broadway and Florence Avenue (**Additional/Equipment – Required Equipment**).

According to Officer [REDACTED], as [REDACTED] turned their vehicle north onto Broadway from westbound Florence Avenue, [REDACTED] observed a male, later identified as P. Macias, seated in the driver's seat of a *four-door sedan* that was parked, *facing south* along the *west curb* of Broadway, *just north of the Shell gas station*. Macias was parked in a *red zone* in violation of California Vehicle Code (CVC), Section 21458 (a) (1), Red Zone.

**Note:** The Shell gas station is located on the northwest corner of Broadway and Florence Avenue.

[REDACTED]

According to Officer [REDACTED], Macias *caught* [REDACTED] attention because it was *raining outside* and Macias' driver side window was *rolled down*, his *arm* was *hanging out* of the window and he was *looking around very attentively*.

According to Officer [REDACTED], as they turned north onto Broadway from Florence Avenue, [REDACTED] partner advised [REDACTED] that Macias was *parked in the red*. Officer [REDACTED] *looked over* and observed a *light gray Honda* parked along the *red curb just north of the gas station*. [REDACTED] further observed that the *driver's window* was *down* and Macias was alone in the vehicle.

According to Officer [REDACTED] drove *past* Macias' vehicle and then conducted a *U-turn* to *verify the violation* and to conduct a want/warrant inquiry of the vehicle license plate. Officer [REDACTED] *stopped* their vehicle behind Macias and [REDACTED] partner began *entering* Macias' vehicle license plate information into their Mobile Digital Computer (MDC).

According to Officer [REDACTED], Macias *immediately leaned out the window* and *looked back* at them with a *startled* and *surprised* look on his face. Officer [REDACTED] then observed the front *wheels* of Macias' vehicle *turning outward very quickly* and advised his partner that Macias was *going to take off*. Macias then *pulled away from the curb*.

According to Officer [REDACTED], as [REDACTED] partner began the *U-turn*, [REDACTED] heard *tires screeching on the wet pavement*. As they *completed* the U-turn, Officer [REDACTED] observed Macias *drive southbound towards the intersection of Broadway and Florence*.

According to the officers, they followed Macias as he entered the Shell gas station through the north entrance. Macias then drove south, through the gas station, and then exited through the south driveway onto Broadway. Macias then failed to stop for a red phase tri-light signal at the intersection of Broadway and Florence Avenue. The officers continued to follow Macias as he drove *diagonally through the intersection* and then *eastbound* on Florence Avenue.

**Note:** According to Officer [REDACTED], as they followed Macias through the gas station, [REDACTED] could not enter Macias' license plate into the MDC because of *the movement* of the police vehicle.

According to Officer [REDACTED], as [REDACTED] followed Macias through the intersection, [REDACTED] activated [REDACTED] emergency lights and siren to *safely clear the intersection* and *notify* the public that they were *the police* because they were in a *plain vehicle*.

Surveillance camera video from the Shell gas station captured the officers entering the Shell gas station, behind Macias's vehicle, with their emergency lights activated.

Officers [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED] Southwest Patrol Division, were transporting an arrestee and were stopped at the red phase tri-light northbound on Broadway at Florence Avenue. The officers' Digital In-Car Video System (DICVS) was activated and captured Officers [REDACTED] and [REDACTED] following Macias eastbound, through the intersection, with their emergency lights and siren activated.

According to Officer [REDACTED], as they followed Macias east on Florence Avenue, [REDACTED] was able to conduct a want/warrant inquiry of Macias' license plate. The inquiry revealed that Macias' vehicle *was not stolen and was not wanted for any crimes*. Officer [REDACTED] advised [REDACTED] partner of the information. Officer [REDACTED] then *turned off the emergency lights* and advised [REDACTED] to broadcast that they were *following a vehicle failing to yield*.

According to Officer [REDACTED] did not *remember exactly how far down* on Florence Avenue they had travelled, but [REDACTED] *shut down the lights and siren* because they were *not in pursuit and were not violating any rules of the road*. Macias was approximately *a block ahead* of them and was *zigzagging in and out* of traffic at approximately 70 to 80 miles per hour. Officer [REDACTED] then *communicated* to his partner to *request an air unit and broadcast* that they were *following a vehicle that is driving erratically eastbound on Florence from Broadway*.

According to Officer [REDACTED], as they *passed Main Street*, Macias *started to lose control* of his vehicle and *slide across the wet road*. [REDACTED] and Officer [REDACTED] *communicated to each other* that Macias was *losing it and was going to crash*. At that point, Macias *collided with another vehicle* and began *spinning in a southeasterly direction across eastbound lanes of traffic* out of [REDACTED] view.

According to Officer [REDACTED], Macias *lost control, spun out and collided* with two vehicles in the roadway. Macias' vehicle continued out of control, went up onto the *south sidewalk* of Florence Avenue, *west of San Pedro Street*, and *collided with a light pole*.

**Note:** A review of Metropolitan base frequency revealed that Officer [REDACTED] broadcasted, *"R4, we're going to be following a vehicle failure to yield, eastbound Florence through Gage, vehicle just TC'd [Traffic Collision]" (Debriefing Point No. 1 and Additional Tactical Debrief Topics – Situational Awareness)*.

According to Officer [REDACTED] *activated the lights and siren* so [REDACTED] could use the center median to *safely drive around traffic* and see what had happened to Macias' vehicle. As [REDACTED] *came around traffic*, [REDACTED] observed that Macias had *collided into a light pole*. Macias' driver's side window was *still down*, but [REDACTED] *could not see the condition* of Macias. As Officer [REDACTED] continued to *drive up*, [REDACTED] *slowed* [REDACTED] vehicle and *angled it in a southeast direction* so [REDACTED] could use [REDACTED] *headlights* to *illuminate* Macias' vehicle and *gauge if Macias was still inside (Debriefing Point No. 2)*.

According to Officer [REDACTED], *within seconds of pulling up to Macias vehicle*, Macias *leaned back* in the driver's seat and then *came up with what appeared to be a long gun in his hands*. Macias then *shouted out the window, "Shoot me, motherfuckers."* As Officer [REDACTED] *tried to stop* his vehicle, Macias then *leaned forward in an aggressive manner, punched the weapon out* of his window and *pointed it towards* [REDACTED] partner.

According to Officer [REDACTED], while keeping [REDACTED] right foot on the brake pedal, [REDACTED] opened [REDACTED] driver's side door and drew [REDACTED] service pistol. *Fearing for* [REDACTED] partner's *life*, [REDACTED] remained seated, assumed a *shooting position with* [REDACTED] service pistol *set between* [REDACTED] *open door* and the *A-frame* of [REDACTED] police vehicle. Officer [REDACTED] fired one round from [REDACTED] service pistol at Macias to stop the threat (**Drawing/Exhibiting and Lethal Use of Force**).

**Note:** According to Officer [REDACTED] *did not have time to put the police vehicle in park.*

According to Officer [REDACTED], after firing, [REDACTED] assessed and observed Macias *turning toward [REDACTED] and aiming the weapon at [REDACTED]. Believing that Macias was going to shoot [REDACTED] Officer [REDACTED] tried to get lower behind [REDACTED] vehicle door and fired two additional rounds from [REDACTED] service pistol at Macias to stop the threat (Lethal Use of Force and Additional Tactical Debrief Topics – Shooting Foreground).*

**Note:** According to Officer [REDACTED] *foot came off the brake and the police vehicle began moving forward as he fired (Debriefing Point No. 3).*

The investigation revealed that the officers' police vehicle did not make contact with Macias' vehicle.

According to Officer [REDACTED], as they *pulled up* to Macias' vehicle, Officer [REDACTED] opened [REDACTED] passenger door. Macias then *emerged from the driver's side window* of his vehicle, *stuck his entire upper torso out* and said, "Fucking kill me, motherfuckers," or "Shoot me, motherfuckers." Macias *simultaneously produced a red and black assault rifle, with an extended magazine, and pointed the barrel directly at him.* Officer [REDACTED] then *heard [REDACTED] partner say, "Oh, shit."*

According to Officer [REDACTED], [REDACTED] *dropped the vehicle microphone out of [REDACTED] hand and drew [REDACTED] service pistol. [REDACTED] remained in a seated shooting position and acquired a sight picture between [REDACTED] open door and the A-pillar of [REDACTED] vehicle. Believing Macias was going to shoot [REDACTED] or [REDACTED] partner, Officer [REDACTED] fired two rounds from [REDACTED] service pistol at Macias to stop the threat (Drawing/Exhibiting and Lethal Use of Force).*

According to Officer [REDACTED], after firing, [REDACTED] assessed and believed [REDACTED] rounds struck Macias. However, Macias *immediately moved his entire upper torso and the barrel of the rifle towards [REDACTED] partner. Believing [REDACTED] partner was going to be killed, Officer [REDACTED] fired one round from [REDACTED] service pistol at Macias' head to stop the threat (Lethal Use of Force).*

**Note:** According to Officer [REDACTED] *did not know that the police vehicle was moving when [REDACTED] was firing [REDACTED] service pistol (Debriefing Point No. 2).*

According to Officer [REDACTED], as [REDACTED] *gained control* of their police vehicle, [REDACTED] observed that Macias was *hunched over* out of his vehicle window and *the long gun* was on the ground. Believing that Macias was either *incapacitated or playing possum*, [REDACTED] advised [REDACTED] partner that [REDACTED] was *going to slowly move the police vehicle back, away from Macias' vehicle, to a safer distance in case they had to reengage Macias.* Officer [REDACTED] holstered [REDACTED] service pistol and moved the police vehicle, while [REDACTED] partner provided *cover.* After moving the vehicle, Officer [REDACTED] drew [REDACTED] service pistol a second time **(Drawing/Exhibiting)**.

According to Officer [REDACTED] then *broadcast [REDACTED] location, requested help and two Rescue Ambulances (RA), one for Macias and a second for the victims involved in the traffic collisions.*

Additional 77th Street Patrol Division and Metropolitan Division personnel responded to the help call, including Officers [REDACTED] and [REDACTED]. A contact team approached and cleared Macias' vehicle. An arrest team then approached and removed Macias from the vehicle. Macias was handcuffed without further incident (**Additional/Equipment – Occupying a Moving Vehicle with a Service Pistol Drawn / Use of Seatbelt / Timely Transportation of an Arrestee / Preservation of Evidence**).

Sergeant [REDACTED] responded and assumed the role of Incident Commander (IC). Sergeant [REDACTED] identified the involved officers, separated them and obtained a Public Safety Statement (PSS) from Officer [REDACTED] (**Command and Control**).

Sergeant [REDACTED] Serial No. [REDACTED], Newton Patrol Division, responded and monitored Officer [REDACTED].

Sergeant [REDACTED] Serial No. [REDACTED], Metropolitan Division, responded, assumed the role of IC and obtained a PSS from Officer [REDACTED].

Los Angeles Fire Department personnel responded, assessed Macias' medical condition at the scene and pronounced him dead at 1816 hours.

### FINDINGS

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

**Drawing/Exhibiting** – In Policy, No Further Action, Officers [REDACTED] and [REDACTED].

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

### ANALYSIS

#### **Detention**

While on patrol, the involved officers observed the suspect parked in a red zone in violation of CVC, Section 21458 (a) (1), Red Zone. As the officers drove behind the vehicle to conduct a want and warrant inquiry on the license plate, the suspect drove away at a high rate of speed. As the officers followed the suspect from a distance, the suspect became involved in a traffic collision. As the officers drove up to the suspect's disabled vehicle, the suspect leaned out of the driver's side window and pointed an assault rifle at the officers, resulting in an OIS. The officers' actions were appropriate and within Department policies and procedures.

[REDACTED]

## **Tactics**

*Department policy relative to Tactical Debriefs 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" (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

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.

In this case, the officers were faced with a rapidly unfolding tactical situation when the officers drove up to the suspect's disabled vehicle and the suspect pointed an assault rifle at them.

Faced with an imminent threat of serious bodily injury or death, the officers utilized lethal force to stop the deadly threat.

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

#### **Debriefing Point No. 1 Code-Six**

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

*Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include:*

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a back-up, assistance, or help location.*

*Note: The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers [REDACTED] and [REDACTED] did not advise Communications Division (CD) of their Code-Six location as they arrived at the scene of the traffic collision.

The purpose of going Code-Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

Officers are required to balance officer safety considerations against the need to make a timely Code-Six broadcast. Officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six broadcast.

According to Officer [REDACTED], after [REDACTED] broadcasted they were following Macias' vehicle, he still had the microphone queued for a second and was going to broadcast something else. At that time, the traffic collision occurred and he broadcast that Macias was involved in a traffic collision and believed that he also broadcast that they were Code Six on Florence west of San Pedro.

As the officers' vehicle came to a stop, the officers' attention was directed to the immediate threat of a suspect armed with an assault rifle. Immediately after the OIS, Officer [REDACTED] broadcasted a help call, including their location.

Based upon the totality of the circumstances, the UOFRB determined, and I concur, Officers [REDACTED] and [REDACTED] actions were a substantial deviation, with justification, from approved Department tactical training. I will direct that this topic be discussed during the Tactical Debrief.

## **Debriefing Point No. 2 Tactical Vehicle Deployment**

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

Officer [REDACTED] stopped their police vehicle in close proximity to Macias' vehicle.

The positioning of a police vehicle is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, Officer [REDACTED] placed [REDACTED] and [REDACTED] partner at a significant tactical disadvantage by positioning the police vehicle in close proximity to Macias' vehicle. Although Officer [REDACTED] indicated [REDACTED] was concerned with rendering immediate aid and

angled the police vehicle to illuminate the driver's side of Macias' vehicle to assess the situation, I would have preferred that Officer [REDACTED] had greater control of [REDACTED] police vehicle which would have enabled [REDACTED] to stop further back from Macias vehicle. Positioning [REDACTED] vehicle further back would have given [REDACTED] and [REDACTED] partner additional time and distance to assess the rapidly unfolding tactical situation.

Based upon the totality of the circumstances, the UOFRB determined, and I concur, that the positioning of the vehicle was a substantial deviation, with justification, from approved Department tactical training. I will direct this be a topic of discussion during that Tactical Debrief.

### Debriefing Point No. 3 Shooting From a Moving Vehicle

*Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.*

*Note: It is understood that the policy in regards to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, Department members are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

Officers [REDACTED] and [REDACTED] fired their service pistols at Macias from seated positions in their police vehicle as their vehicle rolled forward.

In this case, as the officers pulled up to Macias' vehicle, they were immediately confronted with a rapidly unfolding tactical situation when Macias pointed an assault rifle in their direction. Faced with a deadly threat, Officer [REDACTED] did not have time to put the police vehicle in park and made the decision to draw his service pistol, while keeping his right foot on the brake pedal. As both Officer [REDACTED] and [REDACTED] partner fired their service pistols from seated positions in the police vehicle, Officer [REDACTED] foot came off the brake pedal and the police vehicle began moving forward.

Based upon the totality of the circumstances, the UOFRB determined, and I concur, that in this instance, Officers [REDACTED] and [REDACTED] actions were reasonable and not a substantial



deviation from approved Department training. I will direct that this be a topic of discussion at the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Situational Awareness** -- The investigation revealed Officer [REDACTED] incorrectly broadcasted they were following Macias east on Florence Avenue through Gage Avenue instead of through Main Street. Officer [REDACTED] is reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner. I will direct that this be a topic of discussion during the Tactical Debrief.

**Shooting Foreground** -- The investigation revealed two of Officer [REDACTED] rounds struck the hood of the police vehicle he was utilizing as cover. Officer [REDACTED] is reminded of the importance of assessing his foreground while discharging his weapon. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

Sergeant [REDACTED] responded, assumed the role of IC and began assessing the situation. [REDACTED] observed that a vehicle had collided with a pole and that Macias was hanging half way out of the vehicle and appeared to be unconscious. [REDACTED] further observed approximately six to eight officers positioned behind Macias' vehicle as well as behind the police vehicles that were parked in the roadway.

Based upon [REDACTED] observations at that time, Sergeant [REDACTED] believed that Macias' vehicle had been searched. Sergeant [REDACTED] also believed Macias, who displayed no obvious signs of life, was not going to be removed from [REDACTED] vehicle. As such, Sergeant [REDACTED] focused [REDACTED] attention on identifying, separating and obtaining a PSS from the involved officers.

As Sergeant [REDACTED] was identifying the involved officers, Sergeant [REDACTED] arrived and assisted Sergeant [REDACTED] with monitoring Officer [REDACTED].

Sergeant [REDACTED] arrived approximately two minutes after Sergeant [REDACTED]. Sergeant [REDACTED] assessed the situation, assumed the role of IC and obtained a PSS from Officer [REDACTED].

The UOFRB minority noted that Sergeant [REDACTED] was a probationary sergeant with less than three weeks of field experience as a supervisor. I also noted that although Sergeant [REDACTED] arrived and began to take supervisory action during a critical incident, neither [REDACTED] nor Sergeants [REDACTED] took command and control of the tactical situation and did not provide supervisory oversight as the officers cleared and removed Macias from the vehicle.

In this case, Sergeants [REDACTED] and [REDACTED] should have acted with a greater sense of urgency, communicated sooner and formulated a tactical plan to address the ongoing incident.

[REDACTED]

Sergeants [REDACTED], [REDACTED] and [REDACTED] are reminded of the importance of ensuring that the tactical portion of the incident has concluded and that the scene is safe and secure before beginning the administrative portion of the incident.

Based upon the totality of the circumstances, I have determined that Sergeant [REDACTED], [REDACTED] and [REDACTED] actions were not a substantial deviation from approved Department supervisory training. I will direct that the topic of Command and Control and my expectations of supervisors during critical incidents be discussed during the Tactical Debrief.

### **Tactical Debrief**

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

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

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

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

### **General Training Update (GTU)**

On January 25, 2018, Officers [REDACTED] and [REDACTED] attended a GTU. All the mandatory topics were covered.

### **Drawing/Exhibiting**

*Department policy relative to drawing and exhibiting a firearm is: "An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).*

According to Officer [REDACTED], Macias leaned back in the driver's seat and then came up with what appeared to be a long gun in his hands. Macias leaned forward and punched the weapon out of his window, Officer [REDACTED] drew [REDACTED] service pistol in response to Macias' actions

Officer [REDACTED] recalled,

*As I'm trying to stop our vehicle, he then comes up with what appears to be a long weapon in his hands...And then he punches out towards us with it. At that point, I don't have time to put our vehicle into park. I'm drawing out my weapon, believing that the situation is escalating to where deadly force could be justified because he's drawing up with a weapon on us [REDACTED]*

According to Officer [REDACTED], after the OIS, he observed that Macias was hunched over out of his vehicle window and the long gun was on the ground. Officer [REDACTED] holstered [REDACTED] service pistol and moved the police vehicle back and away from Macias' vehicle, in case they had to reengage [REDACTED]. After moving the vehicle, Officer [REDACTED] drew [REDACTED] service pistol a second time.

Officer [REDACTED] recalled,

*I quickly holstered, reversed it, brought the car back, and then I re-unholstered due to the fact that we had just been in an OIS, the situation could re-escalate to the use of deadly force. [REDACTED]*

According to Officer [REDACTED], Macias emerged from the driver's side window of his vehicle, produced a red and black assault rifle and pointed the barrel directly at him. Officer [REDACTED] then drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

*And now all of a sudden, he's sticking out the window. I mean, it happened really quick. And as he's sticking out the window...I realize he's pointing a rifle at me...When I see the rifle, I dropped whatever mic I think I had in my hand, and I - - I drew my - - my pistol from my holste [REDACTED]*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers [REDACTED] and [REDACTED], while faced with similar circumstances, would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers [REDACTED] and [REDACTED] Drawing/Exhibiting to be In Policy, No Further Action.

### **Lethal Use of Force**

*Law enforcement officers are authorized to use deadly force to:*

[REDACTED]

- *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 (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

Officer [REDACTED] – .40 caliber, three rounds in a southeasterly direction, from an approximate decreasing distance of 15 to 10 feet.

### Round One

According to Officer [REDACTED], Macias leaned back in the driver's seat and then came up with what appeared to be a long gun in his hands. Macias leaned forward, punched the weapon out of his window and pointed it towards Officer [REDACTED]. Fearing for his partner's life, Officer [REDACTED] remained seated, assumed a shooting position with his service pistol set between his open door and the A-frame of his police vehicle. Officer [REDACTED] fired one round from his service pistol at Macias to stop the threat.

Officer [REDACTED] recalled,

*...our car is pulling up. I'm trying to now stop our vehicle, realizing I believe he's actually coming up, claiming for a long gun or weapon. He also shouts out the window very loud, 'Shoot me motherfuckers.' As I'm trying to stop our vehicle, he then comes up with what appears to be a long weapon in his hands...And then he punches out towards us with it. At that point, I don't even have time to put our vehicle in park. I'm drawing out my weapon...As I punch out, I'm trying to hold the brake while getting set in the A-frame...He actually points towards my partner, [REDACTED] I fire a shot from that position.█*

### Rounds Two and Three

According to Officer [REDACTED], after firing, he assessed and observed Macias turning toward [REDACTED] and aiming the weapon at [REDACTED]. Believing that Macias was going to shoot [REDACTED] Officer [REDACTED] tried to get lower behind [REDACTED] door and fired two additional rounds from [REDACTED] service pistol at Macias to stop the threat.

[REDACTED]

Officer [REDACTED] recalled,

*And then as I shoot... He's sitting like a turret to turn towards me. So he's now turning towards his right, which will be aiming at towards me. So I see him now turning towards me. At that point, I tried to get lower to utilize the vehicle as cover, believing that he's now going to shoot me... And as I'm firing my shots, I believe it's one or two shots... I wasn't able to maintain control on the brake of the vehicle... my foot actually came off the brake, and then my car began moving forward while I fired. █*

Officer [REDACTED] – .40 caliber, three rounds in a southeasterly direction, from an approximate decreasing distance of 15 to 10 feet.

#### Rounds One and Two

According to Officer [REDACTED], Macias emerged from the driver's side window of his vehicle, produced a red and black assault rifle and pointed the barrel directly at [REDACTED] Officer [REDACTED] remained in a seated shooting position and acquired a sight picture between [REDACTED] open door and the A-pillar of his vehicle. Believing Macias was going to shoot [REDACTED] or [REDACTED] partner, Officer [REDACTED] fired two rounds from [REDACTED] service pistol at Macias to stop the threat.

Officer [REDACTED] recalled,

*So as we approached, I opened my passenger door. And as I opened my passenger door, the driver emerged from the driver's side window, and pretty much stuck his entire upper torso out. And as he said, 'Fucking kill me, motherfuckers,' or, 'Shoot me motherfuckers,' ... simultaneously, he produced what I immediately recognized as an assault rifle. I observed the barrel pointed directly at me... I observed the extended magazine, which I'm familiar with because I carry the same style, inserted in the rifle. It was a red and black colored rifle. And he took a very -- I mean, immediately, he took a very, very aggressive shooting stance position from his vehicle... I unholstered my - - my service pistol. And I fired two rounds █*

#### Round Three

According to Officer [REDACTED], after firing, [REDACTED] assessed and believed [REDACTED] rounds struck Macias. However, Macias immediately moved his entire upper torso and the barrel of the rifle towards [REDACTED] partner. Believing [REDACTED] partner was going to be killed, Officer [REDACTED] fired one round from [REDACTED] service pistol at Macias' head to stop the threat.

Officer [REDACTED] recalled,

*And he moves his entire upper torso, turning it towards my partner... So now, I'm looking mostly at the left side of his head and shoulder... Then I fired a very controlled -- I mean, it*

[REDACTED]

*took me a second. I acquired my sights. And I honestly felt like if I didn't take a head shot, my partner was going to get killed. I mean, this guy was already aggressive, so I fired a single head shot.*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers [REDACTED] and [REDACTED], would reasonably believe that Macias' actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

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

### Additional/Equipment

**Required Equipment** – The investigation revealed that Officer [REDACTED] did not have [REDACTED] OC Spray on [REDACTED] person during the incident. Officer [REDACTED] is reminded to have all [REDACTED] equipment on [REDACTED] person while performing field patrol duties. I will direct this be a topic of discussion during the Tactical Debrief.

**Occupying a Moving Vehicle with a Service Pistol Drawn** – The investigation revealed that while responding to the help call, Officer [REDACTED] drew [REDACTED] pistol while in the back seat of [REDACTED] police vehicle, seated directly next to an arrestee. Captain [REDACTED], Serial No. [REDACTED] Commanding Officer, Southwest Area, was notified and [REDACTED] advised that the issue has been addressed through training at the divisional level. As such, I deem no further action necessary.

**Use of Seatbelt** – The investigation revealed that Officer [REDACTED] removed [REDACTED] seatbelt while responding to the location of the help call. Captain [REDACTED] was notified and [REDACTED] advised that the issue has been addressed through training at the divisional level. As such, I deem no further action necessary.

**Timely Transportation of an Arrestee** – The investigation revealed that Officers [REDACTED] and [REDACTED] responded to the help call with an arrestee in their police vehicle. The arrestee remained at the scene for approximately one hour and thirty-nine minutes. Captain [REDACTED] was notified and [REDACTED] advised and indicated that the issue had been addressed through training at the divisional level. As such, I deem no further action necessary.

**Preservation of Evidence** – The investigation revealed that Officer [REDACTED] Serial No. [REDACTED] Metropolitan Division, donned a glove, picked up Macias' rifle and moved it away from the vehicle so the arresting officers could safely remove Macias from his vehicle. While it is understandable in this case that Officer [REDACTED] moved Macias' rifle, officers are to be reminded that evidence shall remain in place for documentation purposes whenever practicable.

[REDACTED]

Captain [REDACTED] Serial No. [REDACTED] Assistant Commanding Officer, Metropolitan Division, advised that this issue has been addressed through training at the divisional level. As such, I deem no further action necessary.

**Note:** Officer [REDACTED] separated from the Department on May 13, 2018.

### Audio/Video Recordings

**Digital In-Car Video System (DICVS) / Body Worn Video (BWV)** – Metropolitan Division police vehicles were not equipped with DICVS at the time of this incident. Metropolitan Division personnel were not equipped with BWV at the time of this incident.

Southwest, 77<sup>th</sup> Street and Newton Division police vehicles were equipped with DICVS at the time of the incident. Southwest, 77<sup>th</sup> Street and Newton Division personnel were equipped with BWV at the time of this incident. The DICVS from Southwest Division, Shop No. [REDACTED] captured officers clearing Macias' vehicle and then removing Macias from his vehicle.

**Outside Video** – A surveillance camera from the Shell gas station, located at [REDACTED] Avenue, captured Officers [REDACTED] and [REDACTED] following Macias through the gas station property, across the intersection of Florence Avenue and Broadway, and continuing east on Florence Avenue out of view. A surveillance camera from Sun Cabinets, located at [REDACTED] Avenue, and a residence, located at [REDACTED], both captured Officers [REDACTED] and [REDACTED] following Macias east on Florence Avenue. A surveillance camera from Golden Body Auto Shot, located at [REDACTED], captured the traffic collision and the OIS.

### Chief's Direction

Although it was determined that Officers [REDACTED] and [REDACTED] were not substantially involved in this incident and did not receive formal findings, the UOFRB recommended, and I concur, that they would benefit from attending the Tactical Debrief to discuss lessons learned and enhance future tactical performance during similar incidents. Therefore, I will direct Officers [REDACTED] and [REDACTED] to attend the Tactical Debrief.

Additionally, although it was determined that Sergeants [REDACTED] and [REDACTED] were not substantially involved in this incident and did not receive formal findings, I have determined that they would benefit from attending the Tactical Debrief to discuss lessons learned and enhance future tactical performance during similar incidents. Therefore, I will direct Sergeants [REDACTED] and [REDACTED] attend the Tactical Debrief.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Date: \_\_\_\_\_

11-8-18