

INTRADEPARTMENTAL CORRESPONDENCE

January 11, 2018
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 011-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 011-17. A Use of Force Review Board (UOFRB) was convened on this matter on January 3, 2018. I have adopted the recommendations from the UOFRB for this incident and I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On January 31, 2017, at approximately 1358 hours, Officers [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Hollywood Patrol Division, Hollywood Entertainment Detail (HED), were in full bicycle uniform, driving a marked black and white police vehicle. The officers were stopped at a red tri-light signal on Ivar Avenue at Sunset Boulevard.

Note: The investigation revealed that the officers were assisting another patrol unit with an investigation involving three juvenile runaways and were transporting two of the juveniles to Hollywood Station. While en route to the station, the officers drove through the Jack-In-The-Box restaurant drive-thru, located at [REDACTED] to get some food for the juveniles. After receiving the food, the officers exited the restaurant parking lot onto south Ivar Avenue.

According to the officers, a citizen, who was walking from the Jack-In-The-Box parking lot, approached the passenger side of their vehicle and advised them that *a man with a knife*, later identified as D. Picart, was going into the Jack-In-The-Box.

According to Officer [REDACTED] *an additional* [REDACTED] drove up next to *the driver's side* of their police vehicle and advised [REDACTED] that [REDACTED] was *on the phone with 9-1-1 to report a guy with a knife*.

[REDACTED]

Note: A Closed-Circuit Television (CCTV) camera located on the exterior of the Cable News Network (CNN) building located at [REDACTED] captured Picart entering the south door of the Jack-In-The-Box restaurant.

The investigation revealed that approximately 10 minutes prior to Picart entering the Jack-In-The-Box restaurant and unbeknownst to the officers, Picart had stabbed one pedestrian and attempted to stab two additional pedestrians as he walked east on Sunset Boulevard toward the Jack-In-The-Box restaurant.

According to Officer [REDACTED] exited the vehicle and broadcast that citizens were reporting a 415 man with a knife in the Jack-In-The-Box, Sunset and Ivar, and requested a Back-Up, Air Unit, and a supervisor. As [REDACTED] walked around the vehicle, an additional [REDACTED] later identified as [REDACTED] approached and advised [REDACTED] that [REDACTED] had been stabbed. [REDACTED] observed that [REDACTED] shirt was half off and [REDACTED] was holding [REDACTED] side.

According to Officer [REDACTED] believed this was an active incident and Picart had unrestricted access to additional victims possibly inside the restaurant or in the parking lot. Consequently, [REDACTED] returned to [REDACTED] vehicle and retrieved [REDACTED] patrol rifle. [REDACTED] believed that this was the best option because Picart may take someone hostage and [REDACTED] may have to eliminate the threat from a distance (Drawing/Exhibiting).

According to Officer [REDACTED] exited the vehicle and observed [REDACTED] running through the parking lot in their direction. [REDACTED] was holding [REDACTED] yelling that Picart just cut [REDACTED] and was going around to the west side doors into the Jack-In-The-Box. Believing that Picart was armed with a knife and that the situation could escalate very quickly, [REDACTED] drew [REDACTED] service pistol (Drawing/Exhibiting).

Note: According to Officer [REDACTED] communicated to [REDACTED] partner to make sure that the rear doors of the police vehicle were locked, so the juveniles could not get out and would be safe and out of harm's way.

According to Officer [REDACTED] and [REDACTED] partner proceeded westbound through the parking lot in front of the Jack-In-The-Box. They were flagged down by an additional male who pointed towards the west side of the restaurant and advised them that Picart was outside around the corner and [REDACTED] was wearing a purple shirt.

Note: The dining area the Jack-In-The-Box restaurant can be accessed by a door located on the south side of the building and a door located on the west side of the building.

According to Officer [REDACTED] and [REDACTED] partner approached the southwest corner of the restaurant and began to pie the corner. As they came around the corner, [REDACTED] observed Picart standing on the west side of the building, holding a large approximate six-inch knife in his right hand.

According to Officer [REDACTED] observed that Picart was *oddly calm, had a thousand-yard stare on his face and the knife was down by his side*. [REDACTED] ordered Picart to *drop the knife*, but Picart ignored [REDACTED] command. Officer [REDACTED] then *gave Picart several more commands to drop the knife*. Picart ignored the commands, *remained silent and continued staring off into the distance*.

Note: According to Officer [REDACTED] did not give Picart any commands at this time.

According to Officer [REDACTED] considered *redeploying to get some distance and cover* and then attempt to *de-escalate the situation by talking him into dropping the knife*. However, [REDACTED] soon realized that Picart was *standing in front of the door, and if he entered the Jack-In-The-Box, he would have access to additional potential victims*. Consequently, [REDACTED] directed [REDACTED] partner to *tase Picart to keep him from entering the restaurant*.

According to Officer [REDACTED] as they came around the corner, [REDACTED] observed Picart *standing in front of the west door of the restaurant holding a knife in his hand*. [REDACTED] was aware that [REDACTED] partner had *lethal*, so [REDACTED] began to get [REDACTED] less lethal ready. At that point, [REDACTED] partner verbalized, *"Partner, get your TASER out."*

According to Officer [REDACTED] as [REDACTED] holstered [REDACTED] service pistol and drew [REDACTED] TASER, Picart *immediately ran inside the restaurant*. Believing that Picart *had no care for life and was going to stab someone else*, [REDACTED] and [REDACTED] partner *ran towards the door in fear that the customers inside were in immediate danger* (Additional Tactical Debrief Topics - TASER Spark Check).

According to Officer [REDACTED] as Officer [REDACTED] drew [REDACTED], Picart *turned around and entered the restaurant*. Believing that Picart *was going to continue doing what he had been doing and attack additional victims*, [REDACTED] and [REDACTED] partner *immediately followed Picart into the restaurant to protect the innocent lives*.

According to Officer [REDACTED] entered the restaurant and observed that Picart was *approximately 10 feet to his right-hand side* and was next to a table where *two [REDACTED] were sitting*. Picart was *reaching across the table grabbing at one of the [REDACTED]*, later identified as [REDACTED] in what looked like an attempt to put [REDACTED] in a headlock. [REDACTED] then observed that Picart was *holding a knife in his right hand towards [REDACTED] throat and [REDACTED] was resisting [REDACTED] left arm and trying to push away from Picart*.

According to Officer [REDACTED] was *seriously concerned that [REDACTED] had already been stabbed or injured*. Believing that Picart was *going to take [REDACTED] hostage or slit [REDACTED] throat right then and there*, [REDACTED] side stepped to [REDACTED] left to get a clear sight picture and fired two rounds from [REDACTED] police rifle at Picart's *center mass to stop the imminent threat of serious bodily injury or death and protect [REDACTED] life* (Lethal Use of Force).

According to Officer [REDACTED] entered the restaurant and *button hooked to the right*, while [REDACTED] partner continued straight ahead. [REDACTED] observed Picart *grab [REDACTED] wrap both arms around [REDACTED] kind of like a bear hug from the back* and then place a *knife up to [REDACTED] throat*. Believing that [REDACTED] had to protect [REDACTED] from *serious bodily injury that was imminent at the time*, [REDACTED] deployed the

TASER, while [REDACTED] partner simultaneously fired two rounds at Picart to stop the deadly threat (Less-Lethal Use of Force and Additional Tactical Debrief Topics - Optimal TASER Target Locations).

Note: Surveillance video from inside the Jack-In-The-Box restaurant captured Picart stabbing [REDACTED]. It also captured the movement and actions of Officers [REDACTED] and [REDACTED] after they entered the restaurant.

According to Officer [REDACTED] Picart let go of [REDACTED] and went down to the ground, face down, with his arms straight out in front of him. [REDACTED] dropped the TASER and verbalized to [REDACTED] partner to cover Picart because [REDACTED] was going to handcuff him (Additional Tactical Debrief Topics – Maintaining Control of Equipment).

According to Officer [REDACTED] placed [REDACTED] left knee on Picart's lower back and then grabbed both of his wrists to bring his arms behind to the middle of his back. Picart was actively resisting and did not want his hands behind his back. [REDACTED] decided to focus on Picart's right wrist and grabbed it with both hands. [REDACTED] then pulled it back towards him and placed a handcuff on the wrist (Non-Lethal Use of Force).

According to Officer [REDACTED] then attempted to bring Picart's left arm behind his back, but was not able to do so because [REDACTED] was still holding onto Picart's right wrist and did not want to lose his positioning. At that point, Officer [REDACTED] Serial No. [REDACTED] Hollywood Patrol Division, arrived and handcuffed Picart's left arm without further incident (Non-Lethal Use of Force).

According to Officer [REDACTED] after [REDACTED] second shot, Picart dropped to the ground with his left arm under his body and his right arm along his right side. [REDACTED] partner took control of Picart's right arm and placed a handcuff on his wrist. At that point [REDACTED] observed the knife approximately two feet away from Picart's left side, so [REDACTED] removed Picart's left arm from under his body and placed it in the small of his back. [REDACTED] partner and Officer [REDACTED] handcuffed Picart, while [REDACTED] broadcast a Help Call and requested two Rescue Ambulances (RA) (Non-Lethal Use of Force).

Sergeants [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Hollywood Patrol Division, responded to the scene. Sergeant [REDACTED] assumed the role of Incident Commander (IC) and directed Sergeant [REDACTED] to separate and monitor Officers [REDACTED] and [REDACTED] Sergeant [REDACTED] obtained a Public Safety Statement (PSS) from Officer [REDACTED]

Los Angeles Fire Department (LAFD) personnel responded and treated [REDACTED] [REDACTED] and Picart for their respective injuries. [REDACTED] and [REDACTED] were transported to the hospital for additional medical treatment. Picart failed to respond to medical treatment and was pronounced dead at the scene at 1420 hours.

FINDINGS

Tactics – Tactical Debrief, Officers [REDACTED] and [REDACTED]

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

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

Less-Lethal Use of Force – In Policy, No Further Action, Officer [REDACTED]

Lethal Use of Force – In Policy, No Further Action, Officer [REDACTED]

ANALYSIS

Detention

While stopped at red tri-light signal, en route to the station, the officers were flagged down by several citizens who reported that there was a man armed with a knife attacking people inside the Jack-In-The-Box restaurant. The officers located the suspect outside the restaurant and ordered him to drop the knife. The suspect ignored their commands and entered the restaurant while still armed with the knife. The officers followed the suspect into the restaurant and then observed the suspect grab a man and place a knife up to his throat. The officers' actions were appropriate and within Department policies and procedures.

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).

[REDACTED]

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, Officer [REDACTED], considered *re-deploying to get some distance and cover, and then attempt to de-escalate the situation by talking him into dropping the knife* [REDACTED] then realized that Picart was *standing in front of the door, and if he entered the Jack-In-Box, he would have access to additional potential witnesses*. Consequently [REDACTED] directed [REDACTED] partner to tase Picart to keep him from entering the restaurant. When the officers ordered the suspect to *drop the knife*, the suspect ignored their commands and then fled into the restaurant where he immediately began attacking another victim with a knife.

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

Additional Tactical Debrief Topics

TASER Spark Check – The investigation revealed that Officer [REDACTED] did not conduct a Spark Check at the start of his shift. Officer [REDACTED] is reminded to conduct a Spark Check at the beginning of every shift to ensure the TASER is functioning as designed before deploying in the field. I will direct that this topic be discussed during the Tactical Debrief.

Maintaining Control of Equipment (TASER) – The investigation revealed that after Officer [REDACTED] deployed his TASER, [REDACTED] dropped it because [REDACTED] was going to draw [REDACTED] service pistol. Officer [REDACTED] is reminded of the importance of maintaining control of [REDACTED] equipment prior to transitioning to other force options. I will direct that this topic be discussed during the Tactical Debrief.

Command and Control

Sergeant [REDACTED] responded, assumed the role of IC and directed Sergeant [REDACTED] to separate and obtain a PSS from Officer [REDACTED]

The actions of these supervisors were consistent with Department supervisory training and my expectations of field supervisors at a critical incident.

Tactical Debrief

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

Therefore, I will direct that 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;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

On February 14, 2017, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered, including Rifle Deployment, Mentally Ill Persons, Edged Weapons, and Force Option Simulator.

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 1, Section 556.80).

According to Officer [REDACTED] exhibited [REDACTED] patrol rifle because [REDACTED] believed that this was an active incident and Picart had unrestricted access to additional victims inside the restaurant or in the parking lot. [REDACTED] believed this was the best option because Picart may take someone hostage and [REDACTED] may have to eliminate the threat from a distance.

Officer [REDACTED] recalled,

It was actually my partner's patrol rifle in the front rifle rack of the vehicle based on the tactical situation and my reasonable belief that the situation may escalate to a point where deadly force may be necessary. I felt that was the best option because I felt that he did have un-restricted access, and once we confronted him, he might take someone hostage and I might have to try and eliminate the threat from a distance, and that would be my best option.

According to Officer [REDACTED] believed that Picart was armed with a knife and that the situation could escalate to the point of deadly force, so [REDACTED] drew [REDACTED] service pistol.

[REDACTED]

Officer [REDACTED] recalled,

At that time, I – I un-holster my weapon. Due to the situation at hand, I believed it could escalate to the point where deadly force may be – may be used. The guys got a knife. I don't know what he's doing with it, where he's going, what he looks like. So, it could escalate very quickly.

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 that 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.

Note: In addition to the above listed employees, there were additional personnel that either drew or exhibited firearms during the incident. This Drawing/Exhibiting was appropriate and requires no specific findings or action in regards to these officers.

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 (Los Angeles Police Department Use of Force – Revised, July 2009).*

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

According to Officer [REDACTED] placed [REDACTED] left knee on Picart's lower back and then grabbed both of his wrists to bring his arms behind to the middle of his back. Picart was actively resisting and did not want his hands behind his back. [REDACTED] decided to focus on Picart's right wrist and grabbed it with both hands. [REDACTED] then pulled it back and placed a handcuff on the wrist.

[REDACTED] then attempted to bring Picart's left arm behind his back, but was not able to do so because [REDACTED] was still holding onto Picart's right wrist and did not want to lose [REDACTED] positioning.

[REDACTED]

Officer [REDACTED] recalled,

At first, I grabbed both hands just because I thought he was going to go with the program and – and put his hands behind his back, but as soon as he started resisting, and I – I knew that I wasn't able to get both, I think I directed my – both of my hands to his right wrist, in which I was able to get it back behind his back and cuff that one.█

And then his left side, I was still holding onto the cuffs to his right wrist. I believe I was attempting to pull down his left arm with my right hand from his elbow bicep area because his wrist was too far in front of me and I would lose positioning if I were to go and grab his wrist because it was so far away.█

I remember putting my left knee on top of his lower back.█

Officer [REDACTED] – Firm Grip and Physical Force.

According to Officer [REDACTED], Picart dropped to the ground with his left arm under his body and his right arm along his right side. [REDACTED] removed Picart's left arm from under his body and placed it in the small of his back.

Officer [REDACTED] recalled,

I just helped remove the suspect's left arm from under his body and placed it to the small of his back, at which time, my partner took control of the suspect – both suspect's arms.█

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 believe that the same application of non-lethal force would be reasonable to overcome Picart's resistance.

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

Less-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;*

[REDACTED]

- Prevent escape; or,
- Overcome resistance (Los Angeles Police Department Use of Force – Tactics Directive No. 1, Use of Force Policy – Revised, July 2009).

The TASER may be used on suspects who are violent, or who pose an immediate threat to themselves or others, when an officer believes:

- Attempts to subdue the suspect with other tactics have been, or will likely be, ineffective in the situation; or
- It will be unsafe for officers to approach within contact range of the suspect. Verbal threats of violence by a suspect do not alone justify the use of the TASER. Any threat must be a credible one.

Verbal threats of violence by a suspect do not alone justify the use of the TASER. Any threat must be a credible one (Los Angeles Police Department Use of Force Tactics Directive No. 4.4, Electronic Control Device TASER –December 2015).

Officer [REDACTED] TASER X-26P, one five second activation in probe mode from an approximate distance of seven to eight feet.

According to Officer [REDACTED] observed Picart grab [REDACTED] and place a knife up [REDACTED] throat. Believing that [REDACTED] had to protect [REDACTED] from serious bodily injury that was imminent at the time, [REDACTED] deployed the TASER.

Officer [REDACTED] recalled,

I went to the right and I saw that – he had the guy at knife point, at that point, it was immediate defense of life. It was – I had to protect this guy from – from a danger from – from a serious bodily injury that, you know, was imminent at the time. And, you know, he – he could have cut him at any moment and something – you know, all I had in my hand – if I were to drop my TASER and un-holster my gun, that – those half a second or seconds, you know, quick enough that he can slice his throat and he would have, you know, he would have died. So, I had – had to do something, and with what I had in my hand, it was – that was a less-lethal option. And, you know, I had to deploy it. █

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED] while faced with similar circumstances, would believe the same application of less-lethal force would be reasonable to stop Picart's actions.

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

[REDACTED]

Lethal Use of Force

Law enforcement officers are authorized to use deadly force to:

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

Officer [REDACTED] – 5.56 caliber, semi-automatic rifle, two rounds, in a southerly downward direction from an approximate distance of six to seven feet.

According to Officer [REDACTED] when [REDACTED] entered the restaurant, [REDACTED] observed that Picart was holding a knife in his right hand towards [REDACTED] throat and was concerned that [REDACTED] had already been stabbed or injured. Believing Picart was going to take [REDACTED] hostage or slit [REDACTED] throat, [REDACTED] side stepped to [REDACTED] left to get a clear sight picture and fired two rounds from [REDACTED] police rifle at Picart's center mass to stop the threat.

Officer [REDACTED] recalled,

When entering the Jack-In-The-Box, I immediately saw the suspect was grabbing a male white who was seated just south of the entrance at a table with his back to me. I could see the glint of the knife even with the neck of the victim as he was grabbing him, and I believed at that time he was going to take the victim hostage, or he was going to slit the victim's throat right then and there. I repositioned myself because he was struggling and the victim was trying to push him away. So, I side [sic] stepped to my left, and at that time, I believed I had a clear shot, and I fired two shots to the center mass of the suspect in order to stop the imminent threat of serious bodily injury or death and protect the life of that victim. [REDACTED]

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED] would reasonably believe Picart's 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 Officer [REDACTED] Use of Lethal Force to be In Policy, No Further Action.

[REDACTED]

Additional

Blood Borne Pathogens – The investigation revealed that Officer [REDACTED] had been exposed to Picart's blood during the incident. Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Hollywood Patrol Division, ensured the exposure was properly documented and placed in the officer's personnel package. As such, I deem no further action necessary.

Note: In September 2017, Officer [REDACTED] resigned from the Department to pursue a career at another agency in northern California.

Audio/Video Recordings

Digital In-Car Video System (DICVS) – Hollywood Area police vehicles were equipped with DICVS at the time of the incident. Officers [REDACTED] and [REDACTED] had the rear seat DICVS camera activated because they were transporting the two juveniles. The DICVS captured only audio portions of the citizen flag down and the OIS. Hollywood Area personnel were not equipped with BWV at the time of this incident.

Outside Video – Surveillance cameras located on the exterior of the Jack-In-The-Box restaurant captured movements of the officers and suspect prior to the OIS. Surveillance cameras located inside the restaurant captured the OIS.

CCTV cameras located on the exterior of the CNN building captured movements of the officers and suspect prior to the OIS.

Respectfully,



CHARLIE BECK
Chief of Police

Date: 1-11-18