

INTRADPARTMENTAL CORRESPONDENCE

February 14, 2017

3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 021-17

Honorable Members:

[REDACTED]

I have carefully weighed each opinion, considered the case in its entirety and adopted the recommendations of the majority opinion. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On March 25, 2017, at approximately 0001 hours, Officers [REDACTED] and [REDACTED], Hollenbeck Patrol Division, were in full uniform driving a marked black and white police vehicle. The officers were conducting patrol in the area of Soto Street and First Street.

According to the officers, as they were driving *north* on Soto Street *approaching* First Street, they *heard* multiple *gunshots coming from west of Soto, by Breed Street. Simultaneously, they heard* a radio broadcast of *shots fired in the area of First and Breed or Chicago near the station.* The officers confirmed with each other that they *heard* the gunfire and *believed that it came from the west.* Officer [REDACTED] then turned left onto First Street and drove *west in the direction of the gunshots.*

Note: The investigation revealed that a Hollenbeck Patrol Division supervisor, who was in the parking lot of Hollenbeck Station, heard multiple gunshots and broadcasted, "*Control be advised possible shots fired, heard only. It's going to be in the area of, let's say Breed Street and around Michigan.*" Two additional Hollenbeck Division units also heard the gunshots and one of the units broadcast, "*4A1, show us enroute. There was approximately 12 to 15 shots fired.*"

[REDACTED]

According to Officer [REDACTED], as they were *approaching* Breed Street, [REDACTED] *observed two males*, later identified as F. Barragan and A. Rodriguez, *standing on the south sidewalk in front of a closed business*. Barragan and Rodriguez *appeared to be engaged in some type of verbal argument*.

Based on [REDACTED] observations and their *close proximity to Breed Street*, [REDACTED] *communicated to [REDACTED] partner that [REDACTED] believed Barragan and Rodriguez may be involved in the shooting* and stopped the police vehicle east of their location.

According to Officer [REDACTED] then *illuminated them with [REDACTED] vehicle spotlight*. Barragan *looked in their direction*, appeared to be *startled and started to walk toward Breed Street*. [REDACTED] then gave Barragan commands, through [REDACTED] *open driver's side window*, to *stop, police or stop, put your hands up*. Barragan ignored [REDACTED] commands, *grabbed his waistband with his right hand and ran eastbound on the south sidewalk of First Street*. Based upon [REDACTED] *experience*, [REDACTED] believed Barragan was *concealing a weapon* (Debriefing Point No. 1).

According to Officer [REDACTED], as they *approached Breed Street*, [REDACTED] *observed Barragan and Rodriguez running eastbound on the south sidewalk from Breed Street*. [REDACTED] further observed that Rodriguez was *approximately five to six feet in front of Barragan*.

[REDACTED] *focused [REDACTED] attention on Barragan because he was holding his waistband*. Barragan then *looked up in their direction and immediately took cover behind a vehicle* parked along the south curb of First Street. Based on [REDACTED] observations, [REDACTED] *believed Barragan was armed with a handgun and was probably involved in the shooting*.

According to Officer [REDACTED], as Officer [REDACTED] stopped the vehicle, [REDACTED] *grabbed the mic and intended to broadcast that they were Code 6 on a possible suspect*. However, when Barragan *took cover*, [REDACTED] made the decision to *exit the vehicle and focus on Barragan just in case Barragan engaged them*.

Note: A review of the Hollenbeck Area base frequency reflects that Officer [REDACTED] broadcasted, "*Hey we have suspects... Code-Six... Heads up!... Hang on!*" (Debriefing Point No. 2).

According to Officer [REDACTED] drew [REDACTED] service pistol and assumed a position of cover *behind the front passenger side door*. [REDACTED] communicated to [REDACTED] partner that Barragan was *ducking down and that he may possibly be armed*. [REDACTED] then gave Barragan commands to *come out and show his hands*. Barragan ignored [REDACTED] commands and *started running eastbound on the south sidewalk of Soto Street, while still holding his waistband* (Drawing/Exhibiting).

According to Officer [REDACTED], Barragan ran *approximately 20 to 30 feet* when [REDACTED] *observed the butt of a gun protruding from Barragan's waistband area*. [REDACTED] advised [REDACTED] partner, "*Gun, gun,*" and then *ran after Barragan, in containment mode, while keeping some distance and giving him commands to stop* (Debriefing Point No. 3 and Additional Tactical Debrief Topics – Running with a Service Pistol Drawn and Utilization of Cover).

Note: The investigation revealed five civilian witnesses that reported hearing an officer give Barragan commands to *stop*.

According to Officer [REDACTED], Barragan then *turned south* into an *alley*. [REDACTED] remained in the roadway and continued to *track* Barragan to make sure Barragan was *not waiting* for [REDACTED] around the corner.

Note: Surveillance video obtained from a camera located at [REDACTED] captured Barragan running south into the alley and Rodriguez running east past the alley out of view of the camera.

According to Officer [REDACTED], Barragan stopped in the alley approximately *10 to 15 feet south of the sidewalk*. [REDACTED] observed that Barragan was *facing away from* [REDACTED] and was *holding a gun in his right hand*. [REDACTED] gave Barragan several *commands to drop the gun*. Barragan ignored [REDACTED] commands, *turned towards* [REDACTED] and *pointed the gun in* [REDACTED] *direction*. In *fear for* [REDACTED] *life*, [REDACTED] fired one round from [REDACTED] *service pistol* at Barragan to stop the deadly threat (Lethal Use of Force).

According to Officer [REDACTED], after [REDACTED] fired [REDACTED] *weapon*, Barragan *tossed the gun with his right hand, westbound, over a cinderblock wall* and then *collapsed* onto the ground.

Note: Barragan's handgun was recovered west of the alley, inside the Metropolitan Transit Authority (MTA) Electrical Substation.

According to Officer [REDACTED] partner *had already exited the vehicle*. [REDACTED] did not want to *leave the police vehicle in the middle of the street*, so [REDACTED] *put the vehicle in reverse*, with the intention of conducting a *three-point turn, parking it next to the curb* and then *exiting to join* [REDACTED] partner. As [REDACTED] *looked in the rear-view mirror*, [REDACTED] observed [REDACTED] partner running east in the roadway, *making* [REDACTED] *way toward the sidewalk*.

[REDACTED] then proceeded to drive in reverse and as [REDACTED] *slowed the vehicle to initiate the turn*, [REDACTED] *heard two shots coming from the direction of where* [REDACTED] partner was located. [REDACTED] then *put the vehicle in park, quickly exited* and drew [REDACTED] *service pistol* (Drawing/Exhibiting and Debriefing Point No. 4).

According to Officer [REDACTED], as [REDACTED] *approached* [REDACTED] partner's location, [REDACTED] observed that Barragan was *down on his back and broadcast a Help Call*. [REDACTED] and [REDACTED] partner then assumed a position of *cover behind a metal utility box until back-up units arrived*. After additional officers arrived, they formulated a tactical plan, *approached* Barragan and handcuffed him without further incident (Additional Tactical Debrief Topics – Supplemental Information Broadcast).

Sergeant [REDACTED] Serial No. [REDACTED] Hollenbeck Area, Gang Enforcement Detail (GED), responded and assumed the role of Incident Commander (IC). [REDACTED] ensured the officers were separated and obtained a Public Safety Statement (PSS) from Officer [REDACTED]. Sergeant [REDACTED] Serial No. [REDACTED] Hollenbeck Area, GED, responded and obtained a PSS from Officer [REDACTED].

Note: The investigation revealed that Rodriguez returned to the scene after the OIS and was subsequently detained without incident.

Los Angeles Fire Department (LAFD) personnel responded and began treating Barragan for a single gunshot wound to the torso. Barragan failed to respond to treatment and was pronounced dead at the scene at 0028 hours.

FINDINGS

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

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

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

ANALYSIS

Detention

While on patrol, the involved officers heard multiple gunshots west of their location and advised CD that they heard shots fired in the area. As they drove west to investigate, they observed two possible suspects on the sidewalk in front of a closed business. One of the officers then gave the suspects commands to stop and put their hands up. The suspects ignored the commands and ran from the officers, resulting in a foot pursuit. 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

[REDACTED]

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 suspects immediately fled from the officers. As the suspects fled, one of the suspect produced a handgun as he ran into an alley. According to one of the officers, he gave the suspect commands to drop the gun; however, the suspect ignored the commands, turned toward the officer and pointed the gun in his direction.

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

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

Debriefing Point No. 1 Initiating Contact While Seated in a Police Vehicle

Proper safety tactics demand that officers exit their patrol vehicles to conduct pedestrian contacts. Approaching and conducting the contact on foot allows officers to devote complete concentration to observing the pedestrian, better visibility of the pedestrian, better mobility (rather than being trapped in a vehicle), the ability to detain and search an individual, if necessary, and greater advantage if a foot pursuit should occur (California Commission on Peace Officer Standards and Training, Learning Domain 21).

Officer [REDACTED] initiated contact with a suspect while seated in the police vehicle.

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

In this case, Officer [REDACTED] observed Barragan and Rodriguez standing on the sidewalk, stopped the vehicle and illuminated them with [REDACTED] vehicle spotlight. Barragan looked in [REDACTED] direction and then started to walk away. Believing Barragan and Rodriguez may have been involved in the shooting, Officer [REDACTED] then attempted to get Barragan to stop by giving [REDACTED] commands while seated in the police vehicle.

Based upon the totality of the circumstances, the majority determined, and I concur, that in this instance, Officer [REDACTED] effort to gain the suspect's compliance at that moment was not a substantial deviation from approved Department tactical training. However, in an effort to enhance future tactical performance, I will direct this topic be discussed during the Tactical Debrief.

Debriefing Point No. 2 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 prior to conducting a pedestrian stop on Barragan and Rodriguez.

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.

In this case, Officer [REDACTED] attempted to broadcast their Code Six location, then observed one of the suspects grabbing his waistband and believed the suspect was attempting to arm himself. In order to maintain the tactical advantage, Officer [REDACTED] made the decision to interrupt [REDACTED] broadcast, exit [REDACTED] vehicle, and focus [REDACTED] attention on the immediate threat of a possibly armed suspect.

Officer [REDACTED] also observed the same suspect clutching the front of his waistband with his right hand, believed that he was possibly arming himself and immediately began to focus his attention on the threat of a possibly armed suspect.

Based upon the totality of the circumstances, the majority determined, and I concur, that although identified as an area for improvement, the officers' actions were reasonable and not a substantial deviation from approved Department tactical training. I will direct that this topic be discussed during the Tactical Debrief.

Debriefing Point No. 3 Tactical Communication/Situational Awareness

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).

Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).

Officers [REDACTED] and [REDACTED] did not communicate their intended actions to each other when Barragan and Rodriguez fled on foot.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officer [REDACTED] initially stepped out the vehicle and began giving commands to the suspect who was attempting to conceal himself behind a vehicle. The suspect ignored [REDACTED] commands and then fled on foot. At which time, Officer [REDACTED] gave chase, but did not communicate that to [REDACTED] partner. However, Officer [REDACTED] quickly determined that [REDACTED] partner was pursuing the suspect and decided that [REDACTED] was going to move their vehicle out of middle of the street, then join [REDACTED] partner in the foot pursuit.

As Officer [REDACTED] began to move the vehicle, [REDACTED] was aware of [REDACTED] partner's presence and heard the shot being fired in the area of [REDACTED] partner. Consequently, [REDACTED] immediately stopped the vehicle, exited with [REDACTED] service weapon drawn, and joined [REDACTED] partner. Additionally, all of this occurred within a distance of approximately 100 feet.

Based upon the totality of the circumstances, the majority determined, and I concur, that in this instance, Officers [REDACTED] and [REDACTED] were forced to make a split-second decision during a rapidly unfolding tactical situation, while simultaneously trying to focus their attention on the possibly armed fleeing suspects.

Consequently, the majority determined, and I concur, that in this instance their actions were reasonable. I will direct that this be a topic of discussion during the Tactical Debrief.

Debriefing Point No. 4 Foot Pursuit

Parallel Foot Pursuit Tactics: The tactic of one officer on foot, or on rare occasions in a vehicle, choosing to pursue parallel to the other officer who is on foot, while remaining close

enough to observe the partner officer and render aid when necessary. Generally, this tactic is discouraged as such actions may result in a tactical disadvantage to both officers (Los Angeles Police Department Use of Force-Tactics, Directive No. 3.2, October 2013).

Officer [REDACTED] remained inside the police vehicle and drove in reverse behind [REDACTED] partner during the foot pursuit.

Generally, officers are discouraged from paralleling during a foot pursuit. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their tactical decision during foot pursuits.

In this case, as Officer [REDACTED] initiated a foot pursuit, Officer [REDACTED] decided to remain in the police vehicle with the intention of parking it out of the roadway and then joining [REDACTED] partner in foot pursuit. As [REDACTED] drove in reverse to park the vehicle, [REDACTED] monitored Barragan while simultaneously remaining in close proximity to [REDACTED] partner, thus allowing [REDACTED] to render aid if the tactical situation escalated.

Based upon the totality of the circumstances, the majority determined, and I concur, that in this instance, Officer [REDACTED] was faced with a rapidly unfolding tactical situation and [REDACTED] split-second decision to remain in the vehicle to stay in close proximity to [REDACTED] partner, was reasonable, and not substantial deviation from approved Department tactical training. I will direct that this topic be discussed during the Tactical Debrief.

Additional Tactical Debrief Topics

Running with a Service Pistol Drawn – The investigation revealed that Officer [REDACTED] pursued Barragan and Rodriguez with [REDACTED] service pistol drawn. Officer [REDACTED] is reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol. I will direct this be a topic of discussion during the Tactical Debrief.

Utilization of Cover – The investigation revealed that Officer [REDACTED] pursued the suspects at night, and for a brief time, in the middle of the roadway, without the benefit of cover. Officer [REDACTED] is to be reminded of the dangers posed by vehicles driving on the roadway during the hours of darkness and the importance of utilizing cover when involved in a tactical situation involving a potentially armed suspect. I will direct that this be a topic of discussion during the Tactical Debrief.

Supplemental Information Broadcast – The investigation revealed that Officer [REDACTED] and [REDACTED] did not broadcast information regarding a possible second suspect after the OIS. The officers are reminded that the omission of this information can create a circumstance wherein responding personnel are not fully aware of the evolving tactical situation. I will direct this topic of discussion during the Tactical Debrief.

Command and Control

Sergeant [REDACTED] assumed the role of IC, ensured the officers were separated and obtained a PSS from Officer [REDACTED]. Sergeant [REDACTED] also ensured Sergeant [REDACTED] obtained a PSS from Officer [REDACTED].

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

Tactical Debrief

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to 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 covered.

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 April 27, 2017, Officer [REDACTED] attended a GTU. On May 9, 2017, Officer [REDACTED] attended a GTU. All the mandatory topics were covered, including BWV 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 No. 1, Section 556.80).

According to Officer [REDACTED] observed Barragan holding his waistband as he looked up in their direction and then took cover behind a parked vehicle. Based upon [REDACTED] observations, [REDACTED]

- 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] – .45 caliber, one round, in a southwesterly direction, from an approximate distance of 65 feet.

According to Officer [REDACTED] observed that Barragan holding a gun in his right hand. [REDACTED] gave Barragan several commands to drop the gun. Barragan ignored [REDACTED] commands, turned towards [REDACTED] and pointed the gun in [REDACTED] direction. Fearing for [REDACTED] life, [REDACTED] fired one round at Barragan to stop the deadly threat.

Officer [REDACTED] recalled,

At that point, he turned towards me and that's when I see a gun with his right hand... he turned around and I see it pointed at me. At that point...I got scared. I was in fear for my life... [REDACTED] and at that point I started thinking about my kids. I want to go home...I was in fear for my life and then I pointed and I took a shot.

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 Barragan's actions presented an imminent threat of death or serious bodily injury and the Use of Lethal Force would be objectively reasonable.

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

Additional/Required Equipment

Digital In-Car Video System (DICVS)/Body Worn Video (BWV) Activation – According to the officers, the incident unfolded so quickly that they didn't have time to activate their DICVS or BWV during this incident. Any issues related to the officers' failure to activate their DICVS and BWV will be addressed in Personnel Complaint, [REDACTED].

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

[REDACTED]

Audio/Video Recordings

Digital In-Car Video System (DICVS) / Body Worn Video (BWV) – Hollenbeck Patrol Division vehicles were equipped with DICVS at the time of the incident. In addition, Hollenbeck Patrol Officers were equipped with BWV at the time of the incident. Officers [REDACTED] and [REDACTED] did not activate their DICVS and BWV during this incident.

Outside Video – A surveillance camera from the Western Union, located at [REDACTED], captured Officers [REDACTED] and [REDACTED] police vehicle driving north on Soto Street and then turning left westbound on First Street. It later captured four individuals, believed to be Rodriguez, followed by Barragan and then Officers [REDACTED] and [REDACTED] run east near the alley.

A second surveillance camera from the Chase Bank, located at [REDACTED] captured two individuals, believed to be Rodriguez and Barragan, on the south sidewalk of First Street just east of Breed Street. It also captured Officers [REDACTED] and [REDACTED] police vehicle travelling west on First Street, stopping in front of the suspects, and the initiation of the foot pursuit.

A third surveillance camera from the [REDACTED] and [REDACTED] located at [REDACTED] captured Officers [REDACTED] and [REDACTED] police vehicle travelling west on First Street from Soto Street. The camera also captured the suspects' and officers' as they approached the alley and the subsequent OIS. However, the video is not clear enough to determine Barragan's actions at the time of the OIS.

Respectfully,



CHARLIE BECK
Chief of Police

Date: 2-14-18