

INTRADPARTMENTAL CORRESPONDENCE

April 9, 2019
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TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 036-18

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 036-18. A Use of Force Review Board (UOFRB) was convened on this matter on March 18, 2019. I have reviewed and adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On June 9, 2018, at approximately 0328 hours, Officers [REDACTED], Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED] Hollenbeck Area Gang Enforcement Detail (GED) were in full uniform at Hollenbeck Community Police Station. The officers were directed by Sergeant [REDACTED] Serial No. [REDACTED] Hollenbeck Area GED, to escort O. Magana, who was an arrestee, as [REDACTED] was being transported by Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) to White Memorial Medical Center for medical treatment. The medical treatment was not related to Magana's arrest.

Note: Magana had been arrested for Assault with a Deadly Weapon (ADW) by uninvolved Hollenbeck Area GED officers. The other officers had taken Magana into custody without incident and Magana was transported to Hollenbeck Community Police Station for pre-booking processing. While at Hollenbeck Community Police Station, the Watch Commander observed Magana shaking as he lay on the ground of the holding cell. The Watch Commander requested an RA to respond to Hollenbeck Community Police Station due to the possibility that Magana was suffering from a seizure (**Additional – Communication**).

According to Officer [REDACTED] and Officer [REDACTED] were *end of watch* and had already *turned in their equipment*, when they were asked to assist the primary unit in the booking process for Magana. Officer [REDACTED] conducted an inquiry of Magana's criminal record and noted that Magana had recently been released from *prison* and was on *parole for robbery*. During the

[REDACTED]

pre-booking process, Officer [REDACTED] was advised that Magana was in need of medical treatment and was being transported to a contract hospital.

According to Officer [REDACTED], Magana had already been loaded into the RA in preparation for transportation prior to Officer [REDACTED] arrival to the RA. Officer [REDACTED] entered the RA and called Officer [REDACTED] on [REDACTED] phone to advise [REDACTED] was riding in the ambulance with Magana to White Memorial Hospital.

According to Officer [REDACTED], since they had *already logged off* via the Mobile Digital Computer (MDC) on their police vehicle, [REDACTED] used the *primary unit's* police vehicle, which was still logged on with the unit information of the primary arresting unit, to respond to the hospital. Officer [REDACTED] was a *little delayed* following the RA as [REDACTED] attempted to locate the vehicle at Hollenbeck Community Police Station. When [REDACTED] arrived at White Memorial Medical Center, [REDACTED] placed [REDACTED] and Officer [REDACTED] Code Six via the MDC (**Additional Tactical Debrief Topics – Situational Awareness and Transporting Arrestees**).

Note: The investigation revealed that Officers [REDACTED] and [REDACTED] did not activate their BWV when they entered the in-patient care area of the hospital, which was consistent with department policy.

According to Officer [REDACTED] and Officer [REDACTED] observed that Magana was *cooperative* with the medical staff. While they waited in the hospital, Officer [REDACTED] spoke to Magana about his incarceration in *prison*. Officer [REDACTED] learned that Magana had been classified as a *Level Four security* inmate. Officer [REDACTED] recognized the classification as one given to *high risk, high security, and usually violent prisoners*.

According to Officer [REDACTED] overheard the conversation between Officer [REDACTED] and Magana regarding Magana's previous incarceration in prison. Officer [REDACTED] was *informed* by Officer [REDACTED] that Magana had been classified as *Level Four* inmate while in prison. Officer [REDACTED] had *knowledge* that the Level Four classification was *the highest level* of classification and for inmates who had *violent tendencies*.

According to Officer [REDACTED], the doctor treating Magana determined it was necessary for Magana to undergo a Computerized Axial Tomography (CAT) scan. Witness [REDACTED] was employed at White Memorial Medical Center as a Computerized Tomography (CT) Technician. [REDACTED] wheeled Magana, who was secured by two handcuffs attached to the gurney, to the CT room while Officers [REDACTED] and [REDACTED] followed. While in the CT room, [REDACTED] advised the officers he *needed* the *handcuffs taken off* of Magana to conduct the CAT scan. Officers [REDACTED] and [REDACTED] removed both of the handcuffs off of Magana. Magana then moved onto the CT bed.

Note: On April 4, 2019, personnel assigned to Critical Incident Review Division contacted White Memorial Hospital Diagnostic Imaging and Radiology Center and confirmed that it is standard protocol to remove any metal from a patient prior to

initiating a CT scan so as not to interfere with the scan. Officers [REDACTED] and [REDACTED]'s removal of the handcuffs was consistent with hospital CAT scan protocols.

According to Officer [REDACTED], after the CAT scan was completed, [REDACTED] asked Magana to move back onto the hospital gurney. Magana moved back to the gurney while Officer [REDACTED] retrieved his handcuffs to secure Magana to the gurney. As Officer [REDACTED] approached, Magana's suddenly got off the gurney.

According to Officer [REDACTED] approached Magana with the intent to handcuff his right wrist to the rail of the gurney. Magana started actively resisting, swung his hand away from Officer [REDACTED] and jumped out of the gurney.

According to Officer [REDACTED] immediately went hands on with Magana, believing Magana was attempting to escape. Officer [REDACTED] grabbed onto Magana's right forearm and wrist in an attempt to gain control of his arm (Non-Lethal Use of Force).

Note: The investigation revealed that during the struggle with Magana, both Officers [REDACTED] and [REDACTED] BWV's were knocked off and fell to the ground and neither officer was able to activate their BWV.

According to [REDACTED], after the CT scan was completed, Magana went back onto the gurney. Officers [REDACTED] and [REDACTED] were in the process of attempting to handcuff Magana when Magana suddenly jumped from the gurney and pushed Officer [REDACTED] to the wall almost causing Officer [REDACTED] to fall. Officer [REDACTED] came over to help Officer [REDACTED]

According to Officer [REDACTED] grabbed Magana's left hand and attempted to take him into custody, but Magana was violently attempting to escape. Officer [REDACTED] attempted to retrieve [REDACTED] handheld radio to request a backup, but was unable to obtain it without losing control of Magana's arm due to Magana actively fighting [REDACTED]. Magana attempted to grab the back of Officer [REDACTED] head, but Officer [REDACTED] immediately pulled away and attempted to pin Magana's left arm against the wall. Officer [REDACTED] attempted to reach for [REDACTED] TASER, but couldn't get it out of the holster due to the continuing violent struggle with Magana (Non-Lethal Use of Force).

According to Officer [REDACTED] applied a firm grip to Magana's right wrist and forearm during the struggle. Magana, who was continuing to actively resist, stated, "I'm shitting myself." Officer [REDACTED] believed that Magana made that statement as a tactic to further aid in his escape by trying to get Officers [REDACTED] and [REDACTED] to release their grips. Officer [REDACTED] maintained [REDACTED] grip on Magana and shuffled toward the gurney, which [REDACTED] intended to use as a controlling agent. Officer [REDACTED] felt a violent tug on [REDACTED] Sam Browne, looked down and saw Magana's hand on [REDACTED] service pistol. Magana was grabbing the service pistol with a tight grip, nearly breaking it loose from the holster (Non-Lethal Use of Force).

Note: The investigation revealed that Officer [REDACTED] carried [REDACTED] service pistol in a single retention holster. The single retention holster secures a service pistol with a thumb snap and no other manipulations are required to remove the service pistol.

According to [REDACTED], Magana was *wrestling hard and really resisting the officers*. [REDACTED] saw Magana *violently grab the torso of Officer [REDACTED], like a bearhug*. [REDACTED] *walked backwards, out of the CT room, intending to request help from any staff member*. When [REDACTED] did not see anyone, [REDACTED] *walked back in, intending to push the emergency button, but was so scared and shocked that he ended up frozen and did not push the button*.

According to Officer [REDACTED], as [REDACTED] was *reaching for [REDACTED] TASER*, Magana *swung his hand, breaking free from Officer [REDACTED] grip and immediately reached toward Officer [REDACTED] waist area*. Officer [REDACTED] heard Officer [REDACTED] yell, "*He has my gun.*" Officer [REDACTED] saw Magana's *hands on Officer [REDACTED] service pistol*. Using *two hands*, Officer [REDACTED] *grabbed Magana's forearm and bicep area to try and yank Magana's hands off [REDACTED] partner's service pistol, but was unsuccessful (Non-Lethal Use of Force)*.

According to Officer [REDACTED], Magana *repeatedly and violently tugged at and tried to pull [REDACTED] service pistol from the holster*. Officer [REDACTED] fought for *control of [REDACTED] service pistol by grabbing Magana's wrist with [REDACTED] left hand and capping [REDACTED] service pistol with [REDACTED] right hand in an effort to prevent the service pistol from being pulled from the holster*. Officer [REDACTED] *felt that [REDACTED] service pistol was coming out of the holster*. Officer [REDACTED] *yelled to Officer [REDACTED] several times that Magana had a hold of [REDACTED] service pistol (Non-Lethal Use of Force)*.

According to Officer [REDACTED] heard Officer [REDACTED] yell, "*He has my gun.*" Officer [REDACTED] *felt that Officer [REDACTED] was having a hard time breathing and that Officer [REDACTED] voice was desperate and cracking*. Additionally, Officer [REDACTED] was aware that Officer [REDACTED] utilized a *single retention holster for [REDACTED] service pistol*. Officer [REDACTED] believed that Magana had "*complete control*" of Officer [REDACTED] service pistol. Believing that Magana was going to *swing around and shoot him and then kill his partner*, Officer [REDACTED] drew [REDACTED] service pistol and fired *approximately two or three rounds at Magana to stop [REDACTED] actions*. Officer [REDACTED] fired to defend his own *life, [REDACTED] partner's life and the lives of others inside the hospital (Drawing/Exhibiting and Lethal Use of Force)*.

Note: The investigation revealed that Officer [REDACTED] fired three rounds.

According to Officer [REDACTED], as [REDACTED] fought with Magana over control of [REDACTED] service pistol, [REDACTED] heard *shots and felt Magana let go of [REDACTED] service pistol*. Officer [REDACTED] then *requested help via a broadcast on [REDACTED] hand-held radio*. Officer [REDACTED] also *looked down and touched [REDACTED] service pistol to verify it was still there in [REDACTED] holster*.

Note: The investigation revealed that Magana's deoxyribonucleic acid (DNA) was subsequently found present on the handle Officer [REDACTED] service pistol.

According to [REDACTED], while Magana was bent over, struggling with the officers, [REDACTED] heard Officer [REDACTED] make a strong statement. [REDACTED] was unable to understand the statement and described that when the statement was made, it wasn't in a calm manner. After Officer [REDACTED] made the statement, [REDACTED] observed Officer [REDACTED] draw [REDACTED] weapon and fire two shots.

According to Officer [REDACTED], after Magana fell to the ground, [REDACTED] holstered [REDACTED] service pistol and assisted Officer [REDACTED] in handcuffing Magana. Medical staff entered the room and instructed Officer [REDACTED] and [REDACTED] to remove the handcuffs from Magana. Officer [REDACTED] uncuffed Magana and the medical staff administered medical treatment (**Additional Tactical Debrief Topics – Contact and Cover**).

Sergeant [REDACTED] arrived and assumed the role of Incident Commander (IC). [REDACTED] ensured Officers [REDACTED] and [REDACTED] were separated and monitored. Additionally, Sergeant [REDACTED] obtained a Public Safety Statement (PSS) from Officer [REDACTED]. Sergeant [REDACTED], Serial No. [REDACTED], Hollenbeck Patrol Division, arrived and obtained a PSS from Officer [REDACTED].

At approximately 0556 hours, Magana was transferred to the Los Angeles County-University of Southern California Medical Center for further medical treatment. Magana succumbed to his injuries and was pronounced dead by Doctor [REDACTED] at 1144 hours.

FINDINGS

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

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

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

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

ANALYSIS

Detention

During the attempted commission of a robbery in Hollenbeck Area, the suspect committed an ADW, stabbing the victim with a screwdriver. The suspect was taken into custody without incident and transported to Hollenbeck Community Police Station. The suspect was in the custody of officers during booking procedures for the ADW, which required transportation to a medical facility. While at the medical facility, the suspect remained in the custody of the officers. The officers' actions were appropriate and within Department policies and procedures.

[REDACTED]

Tactics

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance"* (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 established communication and attempted to develop a rapport with the suspect while waiting for him to receive medical treatment. The officers engaged in conversation and elicited cooperation from the suspect. During their interaction with the suspect, the officers became aware the suspect had been previously incarcerated and had been classified as a high-risk inmate. The officers ensured that they were both aware of this information. The officers remained together with the suspect while inside of the medical center and coordinated their actions. During medical treatment, the suspect suddenly and violently attacked the officers and attempted to remove one officer's service pistol from the holster. The officers were forced to immediately defend themselves utilizing physical force. Believing there was an imminent threat of serious bodily injury or death, the partner officer utilized lethal force to stop the deadly threat.

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

Additional Tactical Debrief Topics

Transporting Arrestees – The investigation revealed that Officers [REDACTED] and [REDACTED] had turned in their assigned equipment before they were requested to escort Magana to White Memorial Medical Center. Officer [REDACTED] had to locate a police vehicle to drive and was delayed in leaving Hollenbeck Community Police Station. This resulted in Officer [REDACTED] not following directly behind the RA while Officer [REDACTED] rode inside with Magana. Officer

██████████ is reminded of the importance of remaining in close proximity to his partner officer when transporting arrestees. I will direct that this be a topic of discussion during the Tactical Debrief.

Situational Awareness – The investigation revealed that Officer ██████████ utilized another unit's MDC, who was still logged on, to advise CD of their Code Six location; therefore, CD was advised of the correct location and status of Officers ██████████ and ██████████, but under the wrong unit designation. While this did not result in a delay of officers responding to the location, Officer ██████████ is reminded of the tactical importance of CD knowing officers' locations. I will direct that this be a topic of discussion during the Tactical Debrief.

Contact and Cover – The investigation revealed that Officer ██████████ holstered ██████████ service pistol after the OIS and prior to handcuffing Magana. The officers are reminded to utilize the concept of contact and cover, during which one officer initiates contact while the other officer provides cover. I will direct this topic be discussed during the Tactical Debrief.

Command and Control

Sergeant ██████████ arrived and declared himself the IC. ██████████ ensured Officers ██████████ and ██████████ were separated and monitored. Additionally, Sergeant ██████████ obtained a Public Safety Statement (PSS) from Officer ██████████. Sergeant ██████████ arrived and obtained a PSS from Officer ██████████.

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 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 Officers ██████████ and ██████████ attend a Tactical Debrief and 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 June 21, 2018, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered including Force Option Simulator and Restraint Devices.

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] lost control of Magana's arm during the physical struggle and Magana turned and grabbed Officer [REDACTED] service pistol. Believing that Magana had control of Officer [REDACTED] service weapon, Officer [REDACTED] drew [REDACTED] service weapon to defend [REDACTED] own life, [REDACTED] partner's life and the lives of others inside the hospital.

Officer [REDACTED] recalled,

I'm trying to like yank his hand out of my part -- out of my partner's -- off my partner's gun, and I thought he was going to swing around and shoot me with my partner's gun and then kill my partner. So I with -- I withdrew. I got out of my holster to -- to defend my -- to defend my life and my partner's life and possibly any people inside the -- inside the hospital.

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 reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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

Use of Force – General

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 Manual, Volume 1, Section 556.10).*

[REDACTED]

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

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

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 Manual, Volume 1, Section 556.10).*

Officer [REDACTED] – Firm grips and physical force.

According to Officer [REDACTED], as [REDACTED] grabbed Magana's left hand and attempted to take him into custody, Magana violently attempted to escape. Officer [REDACTED] attempted to retrieve [REDACTED] handheld radio to request a backup, but was unable to do so without losing control of Magana's arm since Magana was actively fighting the officers. When Magana attempted to grab the back

of Officer [REDACTED]' head, Officer [REDACTED] pulled away and attempted to pin Magana's arm against the wall.

Officer [REDACTED] recalled,

I approach, so I could handcuff him again to the -- to the rail on the gurney when he starts actively resisting, and he jumps out of the bed and tried to escape. I don't know if he was -- he swung his hand. I don't know if he was trying to hit me or he's just trying to jump out of the bed. He landed on my partner's side. I go around the gurney and try to get him into custody. I'm holding his hand. He's waving his hands violently and trying to escape from us. I see the technician. He runs and he goes to the doorway, and he just -- I looked over so he -- kind of like I called for help. Maybe a nurse could help us out, you know, because he was fighting hard to escape from us.

He's trying to -- I believe he was trying to -- he was trying to hit me. At one point he grabbed -- he grabbed the back of my head and to try to, I guess -- I guess to hurt me, so I could like let go of him or --

I went back to his -- his left arm and was trying to pin it against the wall [REDACTED]

According to Officer [REDACTED], as [REDACTED] was reaching for [REDACTED] TASER, Magana broke free from Officer [REDACTED] grip and immediately reached towards Officer [REDACTED] waist area. Officer [REDACTED] heard Officer [REDACTED] yell, "He has my gun." Officer [REDACTED] saw Magana's hands on Officer [REDACTED]'s service pistol. Using two hands, Officer [REDACTED] grabbed Magana's forearm and bicep area to try and pull Magana's hand from [REDACTED] partner's service pistol, but was unsuccessful.

Officer [REDACTED] recalled,

At one point he swung his -- I have his -- I had his left hand -- left wrist and he's -- while I was trying to grab my TASER, he swung his hand and he goes immediately to my -- to my partner's waist area. And I'm trying -- I'm trying to get his hands, and my partner -- he yells, "He has my -- he has my gun."

I'm grabbing his -- his kind of like bicep, like elbow -- elbow area, like this side. What I remember, I felt like I was grabbing the bicep -- like forearm/bicep area. I was pulling towards -- towards me. [REDACTED]

Officer [REDACTED] -- Firm grips, twist locks and physical force.

According to Officer [REDACTED], as he was attempting to handcuff Magana to the rail of the gurney, Magana jumped off of the gurney. Officer [REDACTED] applied firm grips and physical

[REDACTED]

force using both of his hands to Magana's right wrist and forearm in an attempt to prevent him from escaping.

Officer [REDACTED] recalled,

I immediately went -- went hands on because he -- or I -- I -- I thought he was -- he was going to -- or I felt that he was going to attempt to -- to escape at some point. And that was the only reason why he was getting off the -- getting off the gurney.

Based on my recollection, I believe I grabbed onto -- onto his right forearm, wrist area with both my -- both my hands applying a firm grip attempting to gain control of his arm. And with my left hand, I attempted to apply or I was applying a twist lock to his hand to try to -- try to get him to -- At that point -- at the same time as I'm making contact with my partner, you know, nodding my head to try and move him... towards the gurney

According to Officer [REDACTED] used firm grips and physical force to prevent Magana from gaining control of [REDACTED] service pistol.

At the same time I -- I do remember fighting over for the possession of -- or control of keeping my gun in the holster because he was -- he was pulling up and down and side to side on my gun.

I don't recall if I -- if I kept my -- if I kept his -- his hand on my gun. Or if I maintained control of his -- of his wrist and preventing him from -- from -- from pulling and tuggin

Based upon 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 these same applications of non-lethal force would be reasonable to overcome Magana's resistance while preventing his escape and taking him into custody.

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

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,*

[REDACTED]

- *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] – 9mm, three rounds in a westerly direction from an approximate distance of two and a half feet.

According to Officer [REDACTED], he observed Magana's hands on Officer [REDACTED] service pistol. Officer [REDACTED] was unable to remove Magana's hands from Officer [REDACTED] service pistol. Officer [REDACTED] believed Magana had control of Officer [REDACTED]'s service pistol and was going to turn around and shoot [REDACTED] then shoot [REDACTED] partner. Officer [REDACTED] fired [REDACTED] service pistol to stop Magana's actions and protect [REDACTED] life, [REDACTED] partner's life and the lives of others inside the hospital.

Officer [REDACTED] recalled,

At one point he swung his -- I have his -- I had his left hand -- left wrist and he's -- while I was trying to grab my Taser, he swung his hand and he goes over immediately to my -- to my partner's waist area. And I'm try -- I'm trying to get his hands, and my partner -- he yells, "He has my -- he has my gun."

Once my partner said, "He had my gun," he said -- he said -- his voice sounded very stressful, cracking. I felt like he was also having a hard time breathing. I felt like he had complete control of his gun since he said he has his gun. I was trying to like get his hands away from my partner's gun.

I've never hear my partner -- I've never heard my partner's voice that way. I've worked with him for a couple of months now. I've known him for years. I've been over to his house and, you know, to his family barbecues. And his voice was very -- it was very -- like desperation. He said -- he said it again. "He has my gun." And since I've worked with him for a couple years --for a couple of months, I know he carries a 4506 and his holster is a single retention holster. So I --you know, my part -- if I see that, the suspect has --has his hands on my partner's gun, (Unintelligible) so much.

The first time he said it loud and I could -- I could hear the desperation in his voice. The second time he said it, he said it even louder and with more desperation in his -- in his voice. I thought -- I thought he was -- once my partner -- I heard my partner say it the second time, I thought the gun was going to come out and he was going to turn around and shoot me. And that's when I unholstered and shot the suspect to defend my life and my partner's life.

I got out of my holster to -- to defend my -- to defend my life and my partner's life and possibly any people inside the -- inside the hospital. I discharged approximately two or three rounds towards the suspect and then he fell -- he fell to the ground. █

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

Additional/Equipment

Communication – During the transportation from the original arrest location to Hollenbeck Community Police Station, Magana removed his seatbelt multiple times. Magana also continuously twisted and moved around while in the back seat of the police vehicle. The transporting officers advised the Watch Commander about Magana's behavior, but this information was not relayed to Officers █ or █.

This was brought to the attention of Captain █ Serial No. █ Commanding Officer, Hollenbeck Area, who handled the matter with informal training to divisional personnel on the necessity to pass on information regarding the behavior and level of cooperation of persons who are in custody. The commanding officers of Operations Central Bureau (OCB) and Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS)/Body Worn Video (BWV) – Hollenbeck vehicles were equipped with DICV, which captured the initial transport of Magana from the field to Hollenbeck Community Police Station.

The BWVs of the original Hollenbeck personnel, who initially contacted and detained Magana, recorded the initial contact and detention, but did not capture the OIS.

Officers █ and █ were both equipped with BWV. Officer █ did not activate his BWV because Magana was already inside the facility by the time he arrived to White Memorial Medical Center. Officer █ activated his BWV during the transportation of Magana in the RA, but deactivated it upon their entry into White Memorial Medical Center. Officers █ and █ did not activate their BWV when they entered the in-patient care area of the hospital, which is consistent with department policy. During the struggle with

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Magana, both Officers [REDACTED] and [REDACTED] BWVs were knocked off and fell to the ground and neither officer was able to activate their BWV.

Outside Video – Surveillance video obtained from White Memorial Hospital captured portions of Magana in his hospital bed prior to the OIS.

Chief's Direction

In order to enhance officer safety, I direct the Director of Office of Support Services to review current department training standards and best practices for restraining a suspect or arrestee who is required to undergo a medical procedure that may require them to be uncuffed.

Respectfully,



MICHAEL R. MOORE
Chief of Police

Date: 4-9-19