

INTRADPARTMENTAL CORRESPONDENCE

May 22, 2019
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TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 047-18

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 047-18. A Use of Force Review Board (UOFRB) was convened on this matter on May 6, 2019. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On July 27, 2018, at approximately 2210 hours, Officers [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED], Mission Patrol Division, were dressed in full police uniform and driving a marked black and white police vehicle. The officers were conducting extra patrol in the area of Van Nuys Boulevard and Nordhoff Street.

According to Officer [REDACTED] and Officer [REDACTED] were traveling northbound on Van Nuys approaching Nordhoff when [REDACTED] observed a silver Nissan Altima, license plate of 7PXG865, in the left turn lane. [REDACTED] recognized the vehicle as one previously driven by *Richard Mendoza*, a known gang member from the *Vincent Town* street gang. Officer [REDACTED] advised Officer [REDACTED] of [REDACTED] observations and informed [REDACTED] that Mendoza was a *shot caller* from Vincent Town who was on *Federal Probation* for possession of firearms.

Note: During [REDACTED] interview, Officer [REDACTED] recalled *one prior contact* [REDACTED] had with Mendoza approximately a year earlier when [REDACTED] was assigned to the Mission Area Gang Enforcement Detail (GED). During the prior contact, Officer [REDACTED] and [REDACTED] partner conducted a traffic stop on Mendoza and learned that he was on Federal probation for firearms possession. Additionally, Officer [REDACTED] completed a Field Interview card on Mendoza, at which time [REDACTED] learned his residential address. Following their initial contact, Officer [REDACTED] familiarized [REDACTED] with the gang's documented members, including Mendoza, and subsequently became a Vincent Town gang expert.

[REDACTED]

According to Officer [REDACTED] requested Officer [REDACTED] run an inquiry on the license plate to confirm that the vehicle was registered to Mendoza. Officer [REDACTED] conducted the vehicle inquiry utilizing Department resources and confirmed that the vehicle was registered to Mendoza. As the Nissan negotiated a left-turn, west on Nordhoff Street from Van Nuys Boulevard, Officer [REDACTED] identified the driver as Mendoza.

According to Officer [REDACTED] was conducting a vehicle inquiry on the Nissan and *prior to the result coming back*, Officer [REDACTED] advised [REDACTED] that [REDACTED] believed Mendoza was driving the vehicle and that he was *on Federal probation*.

According to Officer [REDACTED], Officer [REDACTED] provided [REDACTED] Mendoza's date of birth and asked [REDACTED] to *run Mendoza for wants and warrants*. Officer [REDACTED] conducted the inquiry via the Mobile Data Computer (MDC) and advised Officer [REDACTED] of the probation status, which [REDACTED] acknowledged.

According to Officer [REDACTED], Mendoza was leaving the *Blythe Street* gang territory and entering the *Columbus Street* gang territory, which are both rival gangs to the Vincent Town gang. Additionally, Officer [REDACTED] noted the time of night and that Mendoza was driving west, away from his residence. Due to the above observations, along with Mendoza being on Federal probation for possession of a firearm, Officer [REDACTED] *was thinking* that Mendoza was possibly *hunting for rival gang members*. Officer [REDACTED] then decided to conduct an *Investigative Stop* on Mendoza (**Debriefing Point No. 1**).

According to Officer [REDACTED], *nothing* had *escalated* to change the officers' approach from utilizing *regular traffic stop* tactics to the need of an *additional unit* or a high-risk *felony stop*. Officer [REDACTED] planned on approaching Mendoza the *same way* [REDACTED] conducted the *traffic stop on him the first time*, at which time he was also *on federal probation for guns*.

According to Officer [REDACTED] and Officer [REDACTED] *communicated to each other* that they were going to conduct a *traffic stop* on Mendoza for *federal probation*. Officer [REDACTED] then activated the forward-facing red light and Mendoza stopped in front of [REDACTED] Noble Avenue. Officer [REDACTED] then advised Communications Division (CD) that they were *code six*, exited the police vehicle, approached the passenger side of Mendoza's vehicle, and observed Mendoza with *both hands in the air* (**Additional Tactical Debrief Topics – Code Six vs. Traffic Stop**).

Note: During [REDACTED] interview, Officer [REDACTED] was unable to recall what type of crime Mendoza was on federal probation for; however, [REDACTED] was certain Officer [REDACTED] did advise [REDACTED].

According to Officer [REDACTED] partner exited the vehicle, approached the Nissan and directed Mendoza to turn off the ignition. Officer [REDACTED] then approached the driver's side of the vehicle and *immediately recognized* Mendoza. Officer [REDACTED] asked Mendoza if he was *still on probation*, to which Mendoza replied that he was still on probation and was going to *discharge in nine months*. Officer [REDACTED] then directed Mendoza to exit the vehicle pending further investigation (**Debriefing Point No. 1**).

According to Officer [REDACTED], Mendoza was *very compliant* and had *his hands raised very high*. Officer [REDACTED] noticed that Mendoza's movements *were very exaggerated* as he removed a *blue bandana* and a *cell phone* from his lap and onto the passenger seat. Officer [REDACTED] believed that Mendoza was moving *too slow*, prompting [REDACTED] direct Mendoza to exit the vehicle again while *opening the door for him*.

According to Officer [REDACTED] heard Officer [REDACTED] direct Mendoza to *step out of the car* and observed Mendoza *look in [REDACTED] direction* as he dropped a blue bandana onto the passenger seat. In preparation of Mendoza's exit, Officer [REDACTED] began walking to the driver's side of the vehicle to *assist Officer [REDACTED] in taking Mendoza into custody or patting him down*.

According to Officer [REDACTED] was positioned *in the triangle* of the opened driver's door waiting for Mendoza to exit. Mendoza *stepped out of the vehicle, produced a handgun and pointed it towards Officer [REDACTED] torso*. Fearing that [REDACTED] was going to be *shot*, Officer [REDACTED] reached out and *pushed the gun down* as Mendoza fired one round at Officer [REDACTED], striking [REDACTED] upper left leg.

Note: The investigation revealed that Officer [REDACTED] had no independent recollection of reaching out and pushing Mendoza's handgun away from [REDACTED]. It was only after reviewing [REDACTED] BWV that Officer [REDACTED] learned [REDACTED] had done that. Additionally, the investigation was unable to determine which hand Officer [REDACTED] utilized to push the handgun down.

According to Officer [REDACTED], as [REDACTED] approached the rear passenger side quarter panel of the vehicle, [REDACTED] *heard Mendoza shoot [REDACTED] partner* and heard Officer [REDACTED] *scream*, prompting Officer [REDACTED] to draw [REDACTED] service pistol (**Drawing/Exhibiting**).

According to Officer [REDACTED], after hearing Mendoza fire a shot at Officer [REDACTED] observed Mendoza turn in a *bladed one-handed stance, point the handgun over the roof of the vehicle and shot a round at Officer [REDACTED]*. Fearing for [REDACTED] life, Officer [REDACTED] *returned fire, firing three rounds from [REDACTED] service pistol, over the roof of the vehicle, at Mendoza to stop his actions (Lethal Use of Force)*.

According to Officer [REDACTED], as Mendoza *engaged [REDACTED]*, Officer [REDACTED] continued [REDACTED] *fluid momentum* around the rear of the vehicle, *lowered [REDACTED] stance, and fired three rounds from [REDACTED] service pistol, through the rear windshield of the vehicle, at Mendoza to stop his actions*. Officer [REDACTED] then observed Mendoza *go down out of sight (Lethal Use of Force)*.

Note: The investigation revealed that Officer [REDACTED] fired five rounds in a two, two, one sequence.

According to Officer [REDACTED] observed Officer [REDACTED] *on the ground, yelling and wanted to get to [REDACTED] to render aide*. Not knowing exactly where Mendoza was, Officer [REDACTED] made the decision to *pie the trunk* of the vehicle.

According to Officer [REDACTED], as [REDACTED] *peered the rear* of the vehicle, [REDACTED] observed Mendoza lying *face-down*, parallel to the vehicle, with his head and hands *closest* to the rear passenger door facing in a southerly direction. Mendoza's *right arm* was *tucked* under his head and his right hand was concealed by a *shadow underneath the car*. Officer [REDACTED] then observed Mendoza's hand *moving out* from underneath the car. Believing Mendoza *still had the gun* and was going to shoot Officer [REDACTED] or Officer [REDACTED], who was on the ground *next* to Mendoza, Officer [REDACTED] fired one round from [REDACTED] service pistol at Mendoza to stop his actions (**Lethal Use of Force**).

Note: The investigation revealed the elapsed time between Mendoza's first shot and Officer [REDACTED] final shot was approximately 4.4 seconds. Additionally, Officer [REDACTED] fired [REDACTED] first four rounds in less than a second and [REDACTED] last round approximately 2.7 seconds later.

According to Officer [REDACTED] knew [REDACTED] had been shot, but *the pain* had not *set in*. [REDACTED] stepped back and *fell backwards* onto the ground as [REDACTED] *heard the back and forth* exchange of *gunfire*. Believing [REDACTED] *immediately needed to get [REDACTED] gun out and find [REDACTED] target* because Mendoza was *still going to shoot and execute [REDACTED]* Officer [REDACTED] drew [REDACTED] service pistol (**Drawing/Exhibiting**).

According to Officer [REDACTED], with [REDACTED] service pistol in [REDACTED] hand, [REDACTED] lifted [REDACTED] *torso up* and looked over [REDACTED] legs towards Mendoza's last known location, but did not see him. Officer [REDACTED] then observed Mendoza *laying on the ground near the vehicle, heard him breathing*, and knew he was still alive. Officer [REDACTED] holstered [REDACTED] service pistol because [REDACTED] *recognized that he was not standing over [REDACTED] and was not going to execute [REDACTED]*

According to Officer [REDACTED] went to Officer [REDACTED] to *verify the extent of her injuries* and observed that [REDACTED] was suffering from a gunshot wound to [REDACTED] upper left thigh. Officer [REDACTED] then broadcast to CD, "*Officer Needs Help, Shots Fired, Noble, south of Plummer*" and requested a Rescue Ambulance (RA).

According to Officer [REDACTED], Officer [REDACTED] *ran to [REDACTED]*, asked [REDACTED] if [REDACTED] was *okay* and where she was *hit*. [REDACTED] advised [REDACTED] that [REDACTED] was struck on the left leg. Officer [REDACTED] *main concern* was that Mendoza was *not handcuffed*, and [REDACTED] *did not know where the handgun was located*. Officer [REDACTED] then advised Officer [REDACTED] to, "*Just get him*" (**Additional Tactical Debrief Topics – Handcuffing**).

Note: During Officer [REDACTED] interview with FID, [REDACTED] clarified that in stating "*Just get him*" [REDACTED] was directing Officer [REDACTED] to handcuff Mendoza.

Officer [REDACTED] then approached Mendoza and handcuffed him (**Additional Tactical Debrief Topics – Bloodborne Pathogens**).

Mission Patrol Division personnel, including Officers [REDACTED] Serial No. [REDACTED], Serial No. [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] responded to the help call.

Note: The investigation revealed that officers were not initially able to locate Mendoza's handgun. While searching, Officers [REDACTED] and [REDACTED] moved Mendoza approximately six feet south of the vehicle in an attempt to locate the handgun.

The Firearms Analysis Unit Criminalist responded to the scene of the OIS and located and recovered Mendoza's firearm from underneath Mendoza's vehicle, near the front driver's side.

Sergeant [REDACTED], Serial No. [REDACTED] Mission Area GED, arrived and assumed the role of Incident Commander (IC). [REDACTED] ensured ingress and egress routes were clear and that the RA's were directed in for the immediate treatment of Officer [REDACTED] and Mendoza. While the scene was still fluid, Sergeant [REDACTED] directed Sergeant [REDACTED] to obtain enough information relative to a Public Safety Statement (PSS) from Officer [REDACTED] in the interest of community safety. Additionally, once the scene stabilized, Sergeant [REDACTED] ensured a full PSS was obtained from Officer [REDACTED] at scene.

Los Angeles Fire Department (LAFD) personnel responded and transported Officer [REDACTED] to Northridge Hospital where [REDACTED] was treated for a gunshot wound to the left leg.

Note: The investigation revealed that while waiting for the RA to respond, Officer [REDACTED] placed a tourniquet on Officer [REDACTED] left leg.

Additionally, Officers [REDACTED] and [REDACTED], Serial No. [REDACTED] Mission Area GED, accompanied Officer [REDACTED] in the RA (**Additional – Protocols Subsequent to a Categorical Use of Force Incident**).

Sergeant [REDACTED], Serial No. [REDACTED] Mission Patrol Division, responded to the scene and obtained a PSS from Officer [REDACTED].

Additional LAFD personnel responded and transported Mendoza to Providence Holy Cross Medical Center, where he was treated for gunshot wounds to his head, left shoulder, and right hand and subsequently placed on life support.

Note: The investigation revealed that while waiting for the RA to respond, and in an effort to preserve Mendoza's life, officers placed him on the opposite side of his injury to slow the bleeding and avoid obstructions.

On August 23, 2018, Mendoza failed to respond to medical treatment, was removed from life support and was pronounced deceased. On August 27, 2018, Los Angeles County Department of Coroner Deputy Medical Examiner Doctor [REDACTED] performed a post-mortem examination of Mendoza's remains. Doctor [REDACTED] concluded Mendoza's death was caused by a gunshot wound to the head.

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

The involved officers conducted a vehicle stop on a car occupied by a known gang member who they believed was on Federal probation for firearms possession. When the driver was asked to exit the vehicle, he stepped out, produced a handgun and fired at the officers resulting in an OIS. The officers' actions were appropriate and within Department policies and procedures.

TACTICS

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."* (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 utilized planning, time, assessment, and lines of communication to de-escalate the incident. The investigation noted that the officers had worked with each other

[REDACTED]

intermittently since 2012 and worked together as assigned partners for approximately two weeks prior to the incident. The officers discussed tactics daily as part of their start of watch routine and regularly debriefed traffic stops and tactical incidents. On the day of the incident, the officers discussed contact and cover responsibilities and determined that Officer [REDACTED] would be contact and Officer [REDACTED] would be the cover officer.

Prior to the investigative vehicle stop, the officers utilized lines of communication as they exchanged information pertaining to Mendoza and their intent to conduct a vehicle stop. The officers used time while following Mendoza for approximately three minutes prior to initiating the vehicle stop. The officers utilized Department resources to gather wants, warrants and probation information on Mendoza and his vehicle prior to initiating contact and in preparation of the vehicle stop. When the decision was made to conduct an investigative stop on Mendoza, the officers communicated their intention to each other and notified CD via their police radio by placing themselves code six, in the event they required the response of additional officers or resources.

Additionally, the officers assessed Mendoza's actions while Officer [REDACTED] communicated with him through the driver's window. The officers continued to assess as Mendoza exited the vehicle, produced a handgun and fired at both officers. Confronted with an imminent threat of serious bodily injury or death, Officer [REDACTED] continued to assess the situation and utilized lethal force until the deadly threat was stopped.

During a review of the incident, the following Debriefing Point was noted:

Debriefing Point No. 1 Vehicle Stop Tactics

Conducting a vehicle pullover can be one of the most dangerous duties a patrol officer can perform. Because of the frequency of vehicle pullovers, police officers can come to regard such tasks as "routine." Such complacency compromises officer safety by causing officers to ignore danger signs during vehicle pullovers (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).

In this case, Officers [REDACTED] and [REDACTED] observed a vehicle that contained a known gang member that was on federal probation for firearms possession. Officer [REDACTED] had formed the opinion that the suspect may possibly be attempting to locate rival gang members, prompting the officers to conduct an investigative stop on the vehicle.

The officers ran the vehicle for wants and warrants, placed themselves Code Six, and utilized vehicle stop tactics consistent with Department tactical training. The officers confirmed Mendoza was the sole occupant of the vehicle prior to conducting the vehicle stop. Officer [REDACTED] considered [REDACTED] prior contact with Mendoza, and approached this vehicle stop utilizing the same tactics as [REDACTED] first contact with him. Based on the lack of wants or warrants in the systems for Mendoza or his vehicle, and because he was the sole occupant of the vehicle, the officers did not believe additional resources were necessary at the time, nor were they required per Department policy.

The UOFRB opined, and I concur, that it would have been preferable for Officers [REDACTED] and [REDACTED] to request additional resources and remain behind the protection of their ballistic panels pending the arrival of those additional resources before ordering Mendoza out of the vehicle. Though the officers were operating within Department policy and officers are afforded a certain level of discretion in the handling of their investigations, there is room for improvement.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the officers' actions were reasonable and did not deviate from Department tactical training. In an effort to enhance future performance, I will direct that this topic be discussed during the Tactical Debrief.

Additional Tactical Debrief Topics

Code Six vs. Traffic Stop – The investigation revealed that Officer [REDACTED] notified CD and placed them Code Six rather than placing them on a Traffic Stop on the suspect's license plate. Per Communication Division protocols, Radio Telephone Operators (RTO) check on officers every ten minutes when they advise they are on a traffic stop versus every 60 minutes when they are Code Six. Additionally, RTO's memorialize the license plate of a vehicle in the comments of an incident when officers advise they are on a traffic stop. In an effort to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Bloodborne Pathogens – The investigation revealed that Officer [REDACTED] did not don protective gloves prior to handcuffing Mendoza. Given the extenuating threat and circumstances, it was understandable that Officer [REDACTED] found it necessary to handcuff the suspect without further delay. In an effort to enhance future performance and employee wellness, I will direct that this be a topic of discussion during the Tactical Debrief.

Handcuffing – The investigation revealed that Officer [REDACTED] did not immediately handcuff Mendoza who was known to be armed. In this case, it was understandable that Officer [REDACTED] wanted to check on the welfare of [REDACTED] partner, who had been shot. In an effort to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

COMMAND AND CONTROL

Sergeant [REDACTED] responded to the scene of the OIS and assumed the role of IC. Sergeant [REDACTED] ensured all officers were accounted for and that an RA had been requested for Mendoza and the injured officer. [REDACTED] also ensured that any corresponding evidence was in custody, or being searched for, and directed officers to establish a crime scene with both an inner and outer perimeter. Sergeant [REDACTED] directed Sergeant [REDACTED] to obtain a PSS from Officer [REDACTED].

Sergeant [REDACTED] responded to the scene of the OIS and obtained a PSS from Officer [REDACTED].

[REDACTED]

The UOFRB determined, and I concur, the actions of these supervisors were consistent with Department supervisory training and met my expectations of a field supervisor 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 [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 October 4, 2018 Officer [REDACTED] attended a GTU. All the mandatory topics were covered including situational awareness and fire discipline. Officer [REDACTED] has been unable to attend a GTU due to her IOD status.

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], as [REDACTED] approached the rear passenger side quarter panel of the vehicle, [REDACTED] heard Mendoza shoot [REDACTED] partner and heard Officer [REDACTED] scream, prompting Officer [REDACTED] to draw [REDACTED] service pistol.

Officer [REDACTED] recalled,

I hear him shoot; my partner goes down. I unholster my weapon immediate [REDACTED]

According to Officer [REDACTED] [REDACTED] knew [REDACTED] had been shot, but the pain had not set in. [REDACTED] stepped back and fell backwards onto the ground as [REDACTED] heard the back and forth exchange of gunfire. Believing [REDACTED] immediately needed to get [REDACTED] gun out and find [REDACTED] target because Mendoza was still going to shoot and execute [REDACTED] Officer [REDACTED] drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

I know I get shot. The pain doesn't set in right away. I'm thinking to step, and I'm thinking, oh, my God, I need to get my gun out because he's going to kill me. When I go to step, I don't realize that I'm shot in my leg and it's broken, so when I step, I just fall backwards. As I'm falling backwards, I can hear. I can't see what's going on but I can hear gunfire back and forth, just -- I hit the ground. I'm in pain but I immediately think I need to get my gun out and find my target if he's still going to shoot me, is he -- is he standing over me, is he going to execute me? So, I'm lying on the ground. I have to cant my body because I can't move my left leg, so I'm canting my body as I'm lying there, and I'm getting my gun out. And I have to, like -- it's going to be hard to describe, but I have to, like, lift my torso up to look over my legs towards where I last know where his car is, where Mendoza was. So I'm looking for Mendoza. I don't see him. When I finally find him, he's -- he's already lying on the ground, and I can hear him breathing so I know he's still alive. But I recognize that he's not standing over me. He's not going to execute me. So I assess, and I realized my threat isn't there, and I reholstered. [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.

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;*

[REDACTED]

- *Prevent escape; or,*
- *Overcome resistance*

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

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

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 No.1, Section 556.10).*

Officer [REDACTED] – .40 caliber Glock, five rounds in three sequences of fire.

First Sequence: two rounds in a northwesterly direction from an approximate distance of five feet.

According to Officer [REDACTED], after hearing Mendoza fire a shot at Officer [REDACTED] observed Mendoza turn in a bladed one-handed stance, pointed the handgun over the roof of the vehicle and fired a round at [REDACTED]. Fearing for [REDACTED] life, Officer [REDACTED] returned fire, firing three rounds from [REDACTED] service pistol, over the roof of the vehicle, at Mendoza to stop his actions.

Officer [REDACTED] recalled,

As I start making my approach towards the back -- towards the rear of the car to go around it that's when he exits the car and I hear the shot being -- that he shot my partner and I hear [REDACTED] scream [REDACTED]

So, I return fire when he shoots his first round. At that point I'm -- basically, I'm over the car towards him. He -- he engages me. [REDACTED]

Second Sequence: two rounds in a northwesterly direction from an approximate distance of eight feet.

According to Officer [REDACTED], as Mendoza engaged [REDACTED] Officer [REDACTED] continued [REDACTED] fluid momentum around the rear of the vehicle, lowered [REDACTED] stance, and fired three rounds from [REDACTED] service pistol, through the rear windshield of the vehicle, at Mendoza to stop his actions. Officer [REDACTED] then observed Mendoza go down out of sight.

Officer [REDACTED] recalled,

I crouch down and I shoot through the rear windshield of the vehicle directly at him. I -- I can see him through the window. We had great lighting on the car. We had all our spotlights on him.

At that point I'm continuing my approach around the car. He engages me. I return fire through the rear windshield directly at him [REDACTED]

Third Sequence: one round in a northerly direction from a distance of approximately five feet.

According to Officer [REDACTED], as [REDACTED] pied around the rear of the vehicle, [REDACTED] observed Mendoza lying face-down, parallel to the vehicle, with his head and hands closest to the rear passenger door facing in a southerly direction. Mendoza's right arm was tucked under his head and his right hand was concealed by a shadow underneath the car. Officer [REDACTED] then observed Mendoza's hand moving out from underneath the car. Believing Mendoza still had the gun and

[REDACTED]

was going to shoot Officer [REDACTED] or Officer [REDACTED], who was on the ground next to Mendoza, Officer [REDACTED] fired one round from his service pistol at Mendoza to stop his actions.

Officer [REDACTED] recalled,

I kind of pie real quick and I see his hand still under like the car basically or under his body with his -- how can I put it, and he's moving. So I'm thinking he's got the gun; he's going to shoot my partner again or he's going to shoot me. So, I -- I -- I shoot him once. He stops moving and my reason for that -- because I did feel he's either going to -- he was getting ready to shoot my partner again because she was laid on the ground next to him practically and I was coming around. I thought he was going to take another shot at me. I shoot him. He stops moving.

I saw his hand moving as if he was pulling something out. I believe that to be a gun to shoot me again or shoot my partner.

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 that Mendoza's actions presented an imminent threat of death or serious bodily injury and the Use of Lethal Force was objectively reasonable.

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

Additional/Equipment

Protocols Subsequent to a Categorical Use of Force Incident – The investigation revealed that Sergeants [REDACTED] Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED] Mission Patrol Division, did not monitor, separate or admonish Officer [REDACTED] during transport to the hospital. It is reasonable that in this incident, given the heightened sense of concern for an injured officer, preservation of life supersedes administrative protocols. Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Mission Patrol Division, was advised of the issue and addressed it through counseling documented within an Employee Comment Sheet for each supervisor. The Commanding Officers of Operations Valley Bureau (OVB) and Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

Body Worn Video (BWV) Activation – The investigation revealed that Sergeant [REDACTED] and Officer [REDACTED] did not activate their BWV during the incident. The failed activations were documented on the employee's electronic Daily Field Activity Report (EDFAR), but did not set forth the reason for the failed activation. Captain [REDACTED] was advised of this issue, addressed it through Supervisor Action Items, and ensured 60-day audits will be completed for compliance. The Commanding Officers of OVB and OO concurred with this action. As such, I deem no further action is necessary.

[REDACTED]

Use of Profanity – The investigation revealed that Officer [REDACTED] utilized profanity prior to moving Mendoza. Captain [REDACTED] was advised of this issue and addressed it through counseling, which was documented on an Employee Comment Sheet. The Commanding Officers of OVB and OO concurred with this action. As such, I deem no further action is necessary.

Utilization of Personal Camera – The investigation revealed that Sergeant [REDACTED] utilized [REDACTED] personal cellular telephone camera to take photographs of evidence, prior to the movement of the primary unit's vehicle. Captain [REDACTED] was advised of this issue, addressed it through counseling, which was documented on an Employee Comment Sheet. The Commanding Officers of OVB and OO concurred with this action. As such, I deem no further action is necessary.

Required Equipment – The investigation revealed that Officers [REDACTED] and [REDACTED] left their Batons in the vehicle and that Officer [REDACTED] was not in possession of his Hobble Restraint Device (HRD) when they left their vehicle to contact Mendoza. Per the request of Captain [REDACTED] this topic will be reiterated during the Tactical Debrief discussion on Equipment Required/Maintained. The Commanding Officers of OVB and OO concurred with this action. As such, I deem no further action is necessary.

Preservation of Evidence – The investigation revealed Officers [REDACTED] and [REDACTED], Serial No. [REDACTED] Mission Patrol Division, entered and searched Mendoza's vehicle in search of the outstanding firearm. Captain [REDACTED] was advised of this issue and addressed it through divisional training which was documented in the Learning Management System (LMS). The Commanding Officers of OVB and OO concurred with this action. As such, I deem no further action is necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS) / BWV – Mission Patrol Division vehicles were equipped with DICVS at the time of this incident. Officers [REDACTED] and [REDACTED] DICVS captured the traffic stop and OIS.

Mission Patrol Division personnel were equipped with BWV at the time of this incident. Officers [REDACTED] and [REDACTED] BWV captured the traffic stop and OIS. Sergeants [REDACTED] and [REDACTED] BWV captured post OIS events and protocols.

Outside Video – None

Respectfully,


MICHEL R. MOORE
Chief of Police

Date: _____

5-22-19