

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.048-18

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 048-18. A Use of Force Review Board (UOFRB) was convened on this matter on May 6, 2019. In this case, the recommended findings were unanimous with the exception of a minority opinion rendered regarding the Tactics and Lethal Use of Force findings for Officer [REDACTED], Serial No [REDACTED] Southwest Patrol Division, and the Lethal Use of Force finding for Officer [REDACTED], Serial No [REDACTED] Southwest Patrol Division.

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

**SUMMARY**

On July 29, 2018, at approximately 2200 hours, Officers [REDACTED] and [REDACTED] were dressed in full police uniform, driving a marked black-and-white police vehicle. The officers responded to a radio call of a Child Custody Dispute at [REDACTED] South Normandie Avenue. The comments of the call indicated that the PR (Person Reporting) was in a *grey Ford Mustang* and she was requesting that the police *stand by* while she picked up her child from the father.

**Note:** The investigation revealed that Officer [REDACTED] was a probationary officer with approximately four months in the field. According to Officer [REDACTED] had been working with Officer [REDACTED] for *three weeks*. During that time, they *discussed lethal force, background, foot pursuit and vehicle pursuit tactics, clearing vehicles, separation, shooting at a moving vehicle, cover, and ambush tactics*.

According to Officer [REDACTED] and Officer [REDACTED] have discussed *lethal force, cover, shooting at a moving vehicle, foot pursuits, apprehension versus containment and broadcasting*.

[REDACTED]

According to Officer [REDACTED], upon arrival *in the area*, [REDACTED] *observed* the grey Ford Mustang parked facing east along the south curb of 29<sup>th</sup> Street, just west of Normandie Avenue, with its hazard lights on. Officer [REDACTED] pulled up next to a vehicle parked behind the Ford Mustang and double-parked his police vehicle in the roadway. Officer [REDACTED] left the parking lights of the police vehicle on and activated the rear facing, overhead flashing, amber lights of the police vehicle. Officer [REDACTED] placed them Code Six via the Mobile Digital Computer in their police vehicle.

According to Officer [REDACTED] and Officer [REDACTED] exited their police vehicle and made contact with the PR and [REDACTED] friend, later identified as [REDACTED] and [REDACTED] respectively, who were standing on 29<sup>th</sup> Street, in front of the officers' police vehicle.

**Note:** The investigation revealed that 29<sup>th</sup> Street is an east/west roadway, approximately 40 feet in width, with a single lane of traffic in each direction and vehicle parking along the north and south curbs. The area consists of single family and multi-unit residences.

A review of Officers [REDACTED] and [REDACTED] Body Worn Video (BWV) reflects that the officers were standing in front of their police vehicle, in the eastbound lane of 29<sup>th</sup> Street, approximately 50 feet west of Normandie Avenue. Officer [REDACTED] was facing in a southeasterly direction, while Officer [REDACTED] was positioned slightly southwest of Officer [REDACTED], facing a northeasterly direction. [REDACTED] and [REDACTED] were positioned just east of the officers next to the left rear quarter panel of the Ford Mustang (**Additional Tactical Debrief Topic – Situational Awareness**).

According to Officer [REDACTED] was the designated contact officer and met with [REDACTED] and [REDACTED] to conduct the *child exchange investigation*. As [REDACTED] was talking with [REDACTED], [REDACTED] heard a gunshot. [REDACTED] then turned around to the northeast and observed a blue Toyota Rav4, with tinted windows, traveling southbound in the number one lane of Normandie Avenue.

**Note:** A review of Officer [REDACTED] BWV revealed that [REDACTED] and Officer [REDACTED] were at the scene for approximately one minute and fifty seconds prior to hearing the first gunshot.

According to Officer [REDACTED] then heard two or three more gunshots and observed one muzzle flash coming from the driver side of the Toyota. Simultaneously, the Toyota cut across the number two lane of Normandie Avenue and began to turn westbound onto 29<sup>th</sup> Street and drive pretty fast and aggressively in their direction. Believing that the gunshots were directed towards [REDACTED] and [REDACTED] partner or [REDACTED] and [REDACTED], Officer [REDACTED] drew [REDACTED] service pistol (**Drawing/Exhibiting**).

**Note:** A review of Officer [REDACTED] BWV captured the sound of four gunshots, but did not capture any muzzle flash.

According to Officer [REDACTED] observed a person in the driver seat of the Toyota, but could only see a hand on the steering wheel. Although [REDACTED] did not see a weapon, Officer [REDACTED] believed the driver of the Toyota was shooting at them. Additionally, at the speed the Toyota was traveling in [REDACTED] direction, Officer [REDACTED] believed [REDACTED] did not have enough time to move to cover. In fear for

█ safety, █ partner's safety, and the safety of █ and █. Officer █ believed █ fired approximately four rounds from █ service pistol at the driver to stop the threat (**Lethal Use of Force**).

**Note:** The investigation revealed that Officer █ fired seven rounds from █ service pistol.

According to Officer █ did not observe any other occupants in the Toyota.

According to Officer █, as Officer █ spoke with █ and █ began to review some court documents that █ had given █. After a couple of minutes, █ observed a blue Toyota CRV traveling southbound in the number two lane of Normandie Avenue, just north of the intersection of 29<sup>th</sup> Street.

According to Officer █, as the Toyota approached the north crosswalk of the intersection and began to negotiate a right turn from southbound Normandie Avenue to westbound 29<sup>th</sup> Street, █ heard a gunshot, followed by several other gunshots. █ simultaneously observed several muzzle flashes coming from outside the driver's front window and observed the driver of the Toyota with his left hand extended out of the driver side window, reaching over in front of the windshield, and pointing a blue steel semi-automatic handgun across the windshield in their direction.

**Note:** A review of Officer █ BWV captured the sound of four gunshots and four muzzle flashes emitting from the area of the driver side window of the Toyota.

According to Officer █ dropped the court documents and sidestepped to █ left, crossing behind █ partner, to offset █ position at an angle from █ partner to avoid any crossfire issues. As soon as Officer █ was completely out of the way of █ muzzle, Officer █ drew █ service pistol and looked for some sort of cover (**Drawing/Exhibiting and Debriefing Point No. 1**).

According to Officer █ believed the driver of the Toyota was actively shooting at them and, at that split-second moment, believed █ had no chance of getting to cover. At that point, Officer █ believed █ and █ partner or █ and █ were going to get shot. In fear that the driver was trying to kill them, Officer █ came up on target, activated the tactical light attached to █ service pistol and fired four rounds from █ service pistol at the driver to stop the threat (**Lethal Use of Force**).

According to Officer █, after █ fired, █ observed smoke or steam coming from the front of the Toyota as it continued traveling slowly westbound on 29<sup>th</sup> Street. Officer █ assessed and observed that the driver appeared to be slumped over the center console of the Toyota and no longer had the weapon pointed outside the window at him. Based upon █ observations, █ stopped firing because it appeared that the driver was either hit by the gunfire or was leaning over to his right to use the vehicle door as cover.

**Note:** According to Officer [REDACTED], [REDACTED] *did not see anybody else in the front seat* of the Toyota. Additionally, *it did not appear that anybody was in the back seat, but due to the tint on the back windows, he did not get a good clear view of the back seat.*

According to Officer [REDACTED], after the Toyota drove past their location, [REDACTED] *broadcast shots fired, officer needs help.* [REDACTED] and Officer [REDACTED] then *ran westbound on 29<sup>th</sup> Street for approximately 10 to 15 feet to try to maintain a visual on the Toyota as he broadcasted the Toyota's direction of travel.* [REDACTED] and Officer [REDACTED] then lost sight of the Toyota as it turned south onto Brighton Avenue **(Additional Tactical Debrief Topics – Utilization of Cover).**

According to Officers [REDACTED] and [REDACTED], after losing sight of the Toyota, they ran back to their police vehicle and verified that neither they or [REDACTED] or [REDACTED] were injured. The officers advised [REDACTED] and [REDACTED] to seek cover inside [REDACTED] Ford Mustang in the event that the suspect in the Toyota returned. While simultaneously coordinating with responding units and the Air Unit to establish a perimeter and contain the area, the officers entered their police vehicle and briefly searched the immediate area for the Toyota. Officers [REDACTED] and [REDACTED] subsequently returned to the scene of the OIS and awaited the arrival of a supervisor.

Sergeants [REDACTED], Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED], Southwest Patrol Division, along with Sergeant [REDACTED], Serial No. [REDACTED] Metropolitan Division, responded to the scene.

Officers [REDACTED] and [REDACTED] advised Sergeant [REDACTED] that they were involved in an OIS. Sergeant [REDACTED] then requested additional supervisors to the scene to assist with the separation and monitoring of the involved officers **(Command and Control).**

Sergeant [REDACTED] assisted with setting up perimeter containment, securing the scene and requesting additional Metropolitan Division resources.

Sergeant [REDACTED] established a Command Post at 29<sup>th</sup> Street and Kenwood Avenue.

Lieutenant [REDACTED], Serial No. [REDACTED] Watch Commander, Southwest Patrol Division, responded and assumed the role of Incident Commander (IC).

Sergeant [REDACTED] Serial No. [REDACTED] Southwest Patrol Division, responded and obtained a Public Safety Statement (PSS) from Officer [REDACTED].

Sergeant [REDACTED] Serial No. [REDACTED] Southwest Patrol Division, responded and obtained a PSS from Officer [REDACTED].

**Note:** The investigation revealed that Officers [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Southwest Patrol Division, located the abandoned Toyota Rav4 on Brighton Avenue, just south of 29<sup>th</sup> Street. A subsequent forensic examination of the vehicle did not locate any blood or forensic evidence indicating that the driver or other occupants were injured as a result of the OIS **(Additional/Equipment - Preservation of Evidence).**

The investigation revealed that the Registered Owner of the Toyota Rav4, later identified as [REDACTED], telephoned 911 minutes after the OIS and reported that [REDACTED] was the victim of a Carjacking/Kidnapping. According to [REDACTED] [REDACTED] was driving [REDACTED] Toyota Rav4 east on Washington Boulevard, approaching Normandie Avenue, when a male White or Hispanic ran in front of [REDACTED] vehicle, pointed a handgun at [REDACTED] and ordered [REDACTED] to open [REDACTED] door and move over to the front passenger seat of [REDACTED] vehicle. The suspect entered the vehicle and drove south on Normandie Avenue. While driving, the suspect rolled down the driver side window and fired approximately two rounds at an unknown person or vehicle. The suspect then turned right onto 29<sup>th</sup> Street, where [REDACTED] observed a police vehicle parked along the south curb of 29<sup>th</sup> Street. [REDACTED] then heard multiple gunshots, ducked down and covered [REDACTED] face. The suspect then turned left onto Brighton Avenue, stopped the vehicle and ordered [REDACTED] to exit the vehicle. [REDACTED] exited and ran to the area of Jefferson Boulevard and Denker Avenue where [REDACTED] telephoned 911 to report the incident.

Force Investigation Division investigators recovered four discharged .380 caliber casings from the roadway in the area of the intersection of 29<sup>th</sup> Street and Normandie Avenue.

On July 20, 2018, a citizen reported that on July 29, 2018, at approximately 2200 hours, [REDACTED] was driving southbound Normandie Avenue, at 29<sup>th</sup> Street, when [REDACTED] silver 2011 Toyota Camry was struck by gunfire. Force Investigation Division investigators caused a subsequent forensic examination of the citizen's vehicle. Investigators located four bullet impacts on the passenger side of the vehicle. Additionally, three bullet fragments were recovered from the vehicle, which were consistent with .380 caliber ammunition.

The suspect/driver of the Toyota Rav4 was not located.

## FINDINGS

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

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

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

## ANALYSIS

### **Detention**

While the officers were standing in the roadway with two females, conducting an un-related child custody investigation, the officers heard gunshots and observed muzzle flash emitting from the driver side window of a vehicle approaching in their direction. Based upon their observations, the officers believed the driver of the vehicle was shooting at them or the two

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[REDACTED]

females, 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, during the investigation of an un-related radio call, the officers were faced with a rapidly unfolding tactical situation when they heard gunshots and observed muzzle flash emitting from the driver side of a vehicle that was quickly approaching in their direction.

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

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

### **Debriefing Point No. 1 Crossfire**

*Does the surrounding area provide a clear background/foreground? Officers must be aware of where the bullet will go and where it may stop. Officers should not fire under conditions that would subject bystanders to death or possible injury, except in Imminent Defense of Life or to prevent serious bodily injury (Standardized Roll Call Training Program, Deployment Period No. 8/2007).*

The UOFRB minority reviewed Officer [REDACTED] statement and BWV and believed that Officer [REDACTED] created a crossfire situation when he drew his service pistol and crossed

directly behind Officer [REDACTED]. Due to this movement, the UOFRB minority believed that Officer [REDACTED] covered Officer [REDACTED] with the muzzle of [REDACTED] service pistol and therefore, violated one of the Four Basic Firearm Rules, "Never allow the muzzle to cover anything you are not willing to shoot." As such, the UOFRB minority believed that Officer [REDACTED] actions placed Officer [REDACTED] in a dangerous situation and therefore, were a substantial deviation, without justification, from approved Department tactical training.

The UOFRB majority also reviewed Officer [REDACTED] statement and BWV and believed that the BWV did not capture any movement by Officer [REDACTED] that was consistent with [REDACTED] covering Officer [REDACTED] with the muzzle of [REDACTED] service pistol. The UOFRB noted that Officer [REDACTED] was cognizant of his position behind Officer [REDACTED] and tactically re-deployed to a position where Officer [REDACTED] was no longer in [REDACTED] foreground prior to firing [REDACTED] service pistol.

Officer [REDACTED] stated,

*As I was drawing out my service weapon, I sidestepped to my left to create more of an offset from my partner and myself, so that way there wouldn't be any -- any downrange issues with my partner being in front of my muzzle. I did not draw my weapon out into a low ready or anything. I undid the push down rocker strap on my double retention holster as I sidestepped to the left, putting my partner -- crossing behind my partner, putting him off to my right side further off at an angle. At the same time I simultaneously drew my weapon out to a low ready and came up on target as -- once I saw that my partner was completely out of the way of my muzzle [REDACTED]*

The UOFRB majority opined that Officer [REDACTED] appropriately recognized that there was potential crossfire with Officer [REDACTED] and adjusted [REDACTED] position without covering Officer [REDACTED] with the muzzle of [REDACTED] service pistol. Based upon the totality of the circumstances, the UOFRB majority determined, and I concur, that Officer [REDACTED] 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.

### **Additional Tactical Debrief Topics**

**Situational Awareness** – The investigation revealed that Officers [REDACTED] and [REDACTED] met with [REDACTED] and [REDACTED] in the roadway and initiated their child custody investigation in front of their police vehicle, during hours of darkness. Although the officers had double parked their police vehicle to block approaching traffic and the vehicles' parking lights and flashing rear amber lights were illuminated, Officers [REDACTED] and [REDACTED] are reminded of the dangers posed by conducting activities on the roadway, especially during the hours of darkness. In this case, I would have preferred that they had conducted their investigation on the sidewalk and not in the roadway. I will direct that this be a topic of discussion during the Tactical Debrief.

**Utilization of Cover** – The investigation revealed that following the OIS, Officers [REDACTED] and [REDACTED] briefly tracked the suspect vehicle, while running in the roadway, without the benefit of

[REDACTED]

cover. Although Officers [REDACTED] and [REDACTED] were attempting to maintain visual contact with the suspect vehicle while broadcasting its direction of travel, the officers are reminded of 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.

### **Command and Control**

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor’s Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

Sergeant [REDACTED] responded to the scene. Shortly thereafter, Officers [REDACTED] and [REDACTED] advised Sergeant [REDACTED] that they were involved in an OIS. Although Sergeant [REDACTED] requested additional supervisors to the scene to assist with the separation and monitoring of the involved officers, [REDACTED] did not order the involved officers not to discuss the incident and did not ensure that they were separated and monitored. As a result, the involved officers were left unattended for approximately six minutes.

**Note:** A review of Officers [REDACTED] and [REDACTED] BWV revealed that during the six-minute time period, Officers [REDACTED] and [REDACTED] were in the vicinity of Sergeant [REDACTED] attempting to locate items of evidence in the roadway and assist with setting up the perimeter. The BWV reflects that Officers [REDACTED] and [REDACTED] did not discuss the incident during this time period.

The UOFRB noted that upon arrival, Sergeant [REDACTED] was faced with an ongoing tactical incident, involving a perimeter, an outstanding suspect, and an active crime scene. Sergeant [REDACTED], who had been a field supervisor for approximately one month at the time of this incident, began to monitor the radio and assess the scene in an effort to gain situational awareness of the incident.

During this time, Sergeant [REDACTED] assisted with setting up perimeter containment, securing the scene and requesting additional Metropolitan Division resources. Sergeant [REDACTED] established a Command Post at 29<sup>th</sup> Street and Kenwood Avenue. Lieutenant [REDACTED] assumed the role of IC. Sergeant [REDACTED] obtained a Public Safety Statement (PSS) from Officer [REDACTED] and Sergeant [REDACTED] obtained a PSS from Officer [REDACTED].

[REDACTED]



I recognize this was a complex and rapidly unfolding situation and acknowledge that Sergeant [REDACTED] attention was focused on perimeter containment and establishing a Command Post, which contributed to the delay in the post OIS separation, monitoring, and PSS protocols. As such, based upon the totality of the circumstances, the UOFRB determined, and I concur, that while identified as an area for improvement, Sergeant [REDACTED] actions during this incident were not a substantial deviation from approved Department supervisory training.

The UOFRB noted that the issues regarding timely separation, monitoring and obtaining a PSS were brought to the attention of Captain [REDACTED], Serial No. [REDACTED] Commanding Officer, Southwest Patrol Division. Captain [REDACTED] advised the UOFRB that Sergeant [REDACTED] was provided divisional training, which was documented on a Comment Card. The commanding officers of Operation-South Bureau (OSB) and the Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

The actions of Lieutenant [REDACTED], along with Sergeants [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were consistent with Department supervisory training and met my expectations of field supervisors during a critical incident.

I will direct that the topic of Command and Control, and my expectations of supervisors during critical incidents, be specifically addressed with Sergeant [REDACTED] during the Tactical Debrief.

### **Tactical Debrief**

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

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

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

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

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

On August 9, 2018, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered including Force Option Simulator.

### Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: *“An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified” (Los Angeles Police Department Manual, Volume 1, Section 556.80).*

According to Officer [REDACTED], as he was talking with [REDACTED], he heard a gunshot. He turned around to the northeast and observed a blue Toyota Rav4, with tinted windows, traveling southbound in the number one lane of Normandie Avenue. He then heard two or three more gunshots and observed one muzzle flash coming from the driver side of the Toyota. Believing that the gunshots were directed towards him and his partner or [REDACTED] and [REDACTED], Officer [REDACTED] drew his service pistol.

**Note:** A review of Officer [REDACTED] BWV captured the sound of four gunshots, but did not capture any muzzle flash due to his position in the roadway.

Officer [REDACTED] recalled,

*And when we arrived on scene, we met with the PR and a fellow witness that she had with her. While conducting our investigation, we heard shots and -- I heard approximately three shots. And when I turned facing to the northeast, I observed a blue Toyota RAV4 with tinted windows driving towards our direction [REDACTED]*

*I was facing eastbound. But when I looked up, I looked up at the northeast direction as soon as the first shot went off. And then the approximately two or three more shots after that, I did see the muzzle flash and simultaneously the vehicle was heading westbound towards us on 29th. I believed -- as soon as I saw the muzzle flash, I believed that we were getting shot at at that point, sir [REDACTED]*

*I unholstered when I -- when the vehicle was turning and when I observed the muzzle flash. Because, I mean, at that point I believed we were getting shot at, sir. [REDACTED]*

According to Officer [REDACTED] [REDACTED], as the Toyota approached the north crosswalk of the intersection and began to negotiate a right turn from southbound Normandie Avenue to westbound 29<sup>th</sup> Street, [REDACTED] heard a gunshot, followed by several other gunshots. [REDACTED] simultaneously observed several muzzle flashes coming from outside the driver’s front window and observed the driver of the Toyota with his left hand extended out of the driver side window, reaching over in front of the windshield, and pointing a blue steel semi-automatic handgun across the windshield in their direction. [REDACTED] dropped the court documents, sidestepped to his left, crossing behind his partner, and drew his service pistol.

[REDACTED]

**Note:** A review of Officer [REDACTED]'s BWV captured the sound of four gunshots and four muzzle flashes emitting from the area of the driver side window of the Toyota.

Officer [REDACTED] recalled,

*During our investigation with the PR from our radio call, I observed a blue Toyota CRV coming southbound in the number two lane of Normandie just at the -- just north of the intersection at 29th Street. As the vehicle was approaching the -- that would be the north crosswalk to -- that is -- goes from the west side to the east side of the intersection of 29th and Normandie, I heard a gunshot, which was followed by several other gunshots. I observed a muzzle flash coming from outside the driver's -- driver's front window across -- across the windshield in our direction as if the suspect was reaching around the windshield. Not just pointing the gun out the -- out the window, but more reaching over in front of the windshield in front as the vehicle was also negotiating a right turn coming from southbound Normandie to westbound 29th Street in our direction. There was [sic] several gunshots, several muzzle flashes. I dropped the court order I had in my hands and began to draw my service weapon. As I was drawing out my service weapon, I sidestepped to my left to create more of an offset from my partner and myself, so that way there wouldn't be any -- any downrange issues with my partner being in front of my muzzle.*

*I did not draw my weapon out into a low ready or anything. I undid the push down rocker strap on my double retention holster as I sidestepped to the left, putting my partner -- crossing behind my partner, putting him off to my right side further off at an angle. At the same time I simultaneously drew my weapon out to a low ready and came up on target as -- once I saw that my partner was completely out of the way of my muzzle.*

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 that 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;*
- *Prevent escape; or,*

[REDACTED]

- *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

*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.*

***Shooting At or From Moving Vehicles.*** *Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer*

*threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.*

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

Officer [REDACTED] – 9mm, seven rounds, in a northeasterly to northerly direction, from an approximate decreasing distance of 69 feet to 14 feet.

According to Officer [REDACTED] observed a person in the driver's seat of the Toyota, but could only see a hand on the steering wheel. Although [REDACTED] did not see a weapon, [REDACTED] believed the driver of the Toyota was shooting at them. Additionally, at the speed the Toyota was traveling in [REDACTED] direction, Officer [REDACTED] believed [REDACTED] did not have enough time to move to cover. In fear for [REDACTED] safety, [REDACTED] partner's safety, and the safety of [REDACTED] and [REDACTED], Officer [REDACTED] believed [REDACTED] fired approximately four rounds from [REDACTED] service pistol at the driver to stop the threat.

**Note:** The investigation revealed that Officer [REDACTED] fired seven rounds from [REDACTED] service pistol.

Officer [REDACTED] recalled,

*I heard approximately three shots. And when I turned facing to the northeast, I observed a blue Toyota RAV4 with tinted windows driving towards our direction. And at that point I feared for my safety and my partner's safety and also the PR's safety at that point. I believed that we were getting shot at at that time, and I shot back, sir. [REDACTED]*

*I saw -- I saw a person in the driver seat, but all I saw was a hand, sir. On the steering wheel. [REDACTED]*

*I believe I -- at the time I believed I fired approximately four rounds, sir. [REDACTED]*

[REDACTED]

*I fired my weapon at the suspect to protect myself and my partner and then also to protect the PR and [REDACTED] -- the witness there, sir.*

*I believe that the driver was shooting at us, ma'am.*

Officer [REDACTED] -- .45 caliber, four rounds, in a northeasterly to northerly direction, from an approximate decreasing distance of 69 feet to 14 feet.

According to Officer [REDACTED] believed the driver of the Toyota was actively shooting at them and, at that split-second moment, believed he had no chance of getting to cover. At that point, Officer [REDACTED] believed [REDACTED] and [REDACTED] partner or [REDACTED] and [REDACTED] were going to get shot. In fear that the driver was trying to kill them, Officer [REDACTED] came up on target and fired four rounds from [REDACTED] service pistol at the driver to stop the threat.

Officer [REDACTED] recalled,

*I observed my partner drawing [REDACTED] and beginning to engage the suspect who was in a moving vehicle but was firing a handgun at us. So it was something other than just a moving vehicle that was a threat. As I was drawing out my service weapon, I sidestepped to my left to create more of an offset from my partner and myself, so that way there wouldn't be any -- any downrange issues with my partner being in front of my muzzle. As well as an initial thought of if there was a way for me to seek some sort of cover in order to try to deescalate the situation with not returning -- returning fire with deadly force if I was able to find cover. Unfortunately with the positioning of where we were at, I wasn't able to get in between any vehicles in that split second moment. I then fired four rounds at the suspect, that was firing rounds at us, inside the vehicle.*

*My mindset was I thought my partner and I or even the PR and the wit were going to get shot. I felt at that point we -- he had already fired several rounds at us. I fired my weapon fearing that he was -- he was trying to kill us.*

In this case, the UOFRB minority noted that Officer [REDACTED] heard gunshots and observed a muzzle flash coming from the driver side of the Toyota. However, Officer [REDACTED] was only able to see the driver's right hand on the steering wheel and he was unable to describe any of the physical attributes of the driver including ethnicity, age, clothing or gender. The UOFRB minority opined that Officer [REDACTED] violated one of the Four Basic Firearm Rules, "Be sure of your target," when [REDACTED] made the decision to fire seven rounds from his service pistol with minimal information and without acquiring a specific target.

The UOFRB minority took into consideration that Officer [REDACTED] believed someone was shooting at them, but noted that there were no additional gunshots and Officer [REDACTED] did not see anyone armed

[REDACTED]

with a weapon as the Toyota made a westbound turn from Normandie Avenue onto 29<sup>th</sup> Street. The UOFRB minority opined that Officer [REDACTED] should have assessed and recognized that [REDACTED] was not in immediate peril and that [REDACTED] had a means of escape and cover behind the vehicles that were parked south of his location. The UOFRB minority opined that Officer [REDACTED] discharged [REDACTED] service pistol at the moving vehicle despite there no longer being an immediate deadly threat coming from inside the vehicle. As such, the UOFRB minority believed that Officer [REDACTED] Use of Lethal Force was not objectively reasonable and therefore, Out of Policy.

With respect to Officer [REDACTED], the UOFRB minority noted that Officer [REDACTED] re-deployed with Officer [REDACTED] in [REDACTED] foreground, creating a crossfire situation, drew his service pistol and fired four rounds at the driver of the Toyota knowing that Officer [REDACTED] had already begun to engage the driver with deadly force. The UOFRB minority opined that an officer with similar training and experience as Officer [REDACTED] would have recognized that Officer [REDACTED] was already utilizing deadly force to stop the threat and therefore, would have re-deployed to a position of cover and not fired [REDACTED] service pistol with Officer [REDACTED] in [REDACTED] foreground. As such, the UOFRB minority believed that Officer [REDACTED] Use of Lethal Force was not objectively reasonable and therefore, Out of Policy.

The UOFRB majority considered several factors in evaluating the reasonableness of Officers [REDACTED] and [REDACTED] Use of Lethal Force. In this case, Officers [REDACTED] and [REDACTED] were faced with a rapidly unfolding tactical situation when they both heard gunshots and observed muzzle flash coming from the driver side of a vehicle that was quickly approaching in their direction. Additionally, according to Officer [REDACTED] observed the driver of the Toyota with his left hand extended out of the driver side window, reaching over in front of the windshield, and perceived that the driver was pointing a blue steel semi-automatic handgun across the windshield in their direction.

The UOFRB majority noted that both officers independently assessed the situation and based upon the speed and the direction of travel of the Toyota, the officers did not believe they had time, at that moment, to re-deploy to a position of cover. The officers both believed that the driver of the Toyota, who was approximately 69 feet away and closing the distance, was shooting at them or the two females and that all their lives were in immediate peril.

**Note:** The investigation revealed that Officer [REDACTED] was the first officer to discharge his service pistol. The duration of time between the driver's first shot and Officer [REDACTED]'s first round was approximately two seconds. Additionally, the duration of time between the driver's first shot and the officers' last round was approximately four seconds. Due to the officers firing their service pistols simultaneously, FID investigators were unable to determine which officer fired the last round.

The UOFRB majority further noted that the officers were forced to make a split-second decision under stressful circumstances to not only protect their lives, but the lives of [REDACTED] and [REDACTED]. The UOFRB majority believed that the officers had a responsibility to safeguard and protect the lives of [REDACTED] and [REDACTED]. As such, based on the totality of the circumstances, the UOFRB majority determined, and I concur, that an officer with similar training and experience as Officers [REDACTED] and [REDACTED], would reasonably believe that the driver's actions

presented an immediate threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

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

### **Additional/Equipment**

**Body Worn Video (BWV) Activation** – The investigation revealed that Officer [REDACTED] did not activate his BWV during his response to the help call. Captain [REDACTED] addressed this issue through counseling and created an Action Item to document the incident. Additionally, Officer [REDACTED] BWV will be audited for a 60-day period, following the Tactical Debrief, to ensure his BWV is being properly activated. The commanding officers of OSB and OO concurred with this action. As such, I deem no further action is necessary.

**Preservation of Evidence** – The investigation revealed that Officers [REDACTED] and [REDACTED] were the first unit to locate the suspect's abandoned vehicle after the OIS. Officers [REDACTED] and [REDACTED] searched the vehicle for weapons, without the use of protective gloves and in the process, moved items from their original positions. Captain [REDACTED] addressed this issue through divisional training, which was documented in the Learning Management System. The commanding officers of OSB and 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)** – Southwest Division patrol vehicles were equipped with DICVS at the time of this incident. Officers [REDACTED] and [REDACTED] responded to a non-coded radio call and did not activate their DICVS consistent with DICVS protocols. Southwest Division patrol personnel were equipped with BWV at the time of this incident. Officers [REDACTED] and [REDACTED] BWV captured their actions before, during and after the OIS.

**Outside Video** – Surveillance video from [REDACTED] South Brighton Avenue captured two individuals running south on Brighton Avenue after the OIS. Force Investigation Division investigators were unable to identify the two individuals.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

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

5-22-19