

INTRADEPARTMENTAL CORRESPONDENCE

June 14, 2018
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 054-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 054-17. A Use of Force Review Board (UOFRB) was convened on this matter on May 30, 2018. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY¹

On July 15, 2017, at approximately 0123 hours, Officers [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED], Foothill Patrol Division, were in full uniform, driving a marked black and white police vehicle. The officers responded to a radio call of a *Domestic Dispute* at [REDACTED] [REDACTED]. Additional comments of the call stated, "*Son in law, male Hispanic, arguing with [REDACTED] who is pregnant, unknown if 242 [Battery] involved, ongoing problem.*"

According to Officer [REDACTED] upon arrival, they met with [REDACTED] in the *driveway* of the residence. [REDACTED] advised them that [REDACTED] was involved in a *verbal argument* with [REDACTED], later identified as Gerber Dieguez, after [REDACTED] discovered *narcotics and narcotics paraphernalia* inside [REDACTED] residence. [REDACTED] further stated Dieguez had a history of using *methamphetamine* and described him as being *extremely paranoid* because of his drug use.

According to Officer [REDACTED], after speaking with [REDACTED] and [REDACTED] partner determined that the incident was a verbal dispute only and *no crime had occurred*. [REDACTED] also advised them that Dieguez had *grabbed a few items of clothing and left on foot* prior to their arrival. [REDACTED] advised [REDACTED] that they would *look around the area* and if they located Dieguez, they would *stop and talk to him*. [REDACTED] obtained a description of Dieguez and they left the location.

[REDACTED]

Note: According to Officer [REDACTED] [REDACTED] also told them Dieguez drove a white sedan and a silver pickup truck, which were both parked in the driveway.

According to Officer [REDACTED], as they drove *west on Van Nuys Boulevard*, passing O'Melveny Avenue, [REDACTED] looked to [REDACTED] left and observed a *vehicle coming towards them, northbound on O'Melveny Avenue, with no headlights on*, in violation of California Vehicle Code (CVC), Section 24250, Lighting Equipment.

According to Officer [REDACTED] drove past O'Melveny Avenue, *conducted a U-turn* and then drove *back eastbound Van Nuys Boulevard*. As they approached O'Melveny Avenue, [REDACTED] looked south and observed that the *vehicle was now traveling in the opposite direction, southbound on O'Melveny Avenue*. The vehicle was *200 to 300 yards ahead* of them and *was still blacked out*.

According to Officer [REDACTED] drove south on O'Melveny Avenue to try to *catch up* to the vehicle. [REDACTED] *passed* [REDACTED] and Dieguez' residence and *noticed right away that the white car that was parked in the driveway* was gone. [REDACTED] then *started to think* that they may be following Dieguez.

[REDACTED] continued to follow the vehicle from a distance as the driver committed several additional vehicle code violations. The driver then *increased his speed and turned on his headlights*, which led [REDACTED] to believe that the driver now *realized the police* were following him.

According to Officer [REDACTED], based upon [REDACTED] observations, [REDACTED] believed that the driver was driving in a *reckless manner*, so [REDACTED] *activated* [REDACTED] *forward-facing lights and siren* in attempt to conduct a traffic stop on the vehicle. The driver did not stop and then entered the southbound Interstate 5 Freeway from Terra Bella Street. [REDACTED] then directed [REDACTED] partner to *broadcast* they were in *pursuit* of a *reckless driver*.

According to Officer [REDACTED] as they approached the State Route 170 Freeway, [REDACTED] partner conducted a want and warrant inquiry on the license plate via the Mobile Digital Computer (MDC). The query revealed that the vehicle was not reported stolen and was registered to [REDACTED] and Dieguez' residence *address*. [REDACTED] then directed [REDACTED] partner to broadcast that the vehicle was *possibly related* to their prior *domestic dispute* radio call.

Note: According to Officer [REDACTED] when the vehicle exited the freeway, [REDACTED] observed that the driver was a *male*, which *confirmed* [REDACTED] *suspicion* that Dieguez was *probably* the driver.

Officers [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Foothill Patrol Division, responded and became the secondary unit in the pursuit. In addition, [REDACTED] arrived overhead and assumed responsibility for broadcasting the pursuit.

According to Officer [REDACTED] Dieguez drove *back into the neighborhood* near his residence and [REDACTED] *started thinking* that Dieguez *may try to go back to his house*. [REDACTED] believed that Dieguez was *paranoid* and *possibly under the influence of drugs* and did not want him *running into the house*

and putting [REDACTED], who was pregnant, [REDACTED], [REDACTED] and [REDACTED] in some kind of danger.

[REDACTED] then advised [REDACTED] partner if Dieguez stopped in front of his house and got out of his vehicle, they would need apprehended him before he runs into the house. Shortly thereafter, the pursuit terminated when Dieguez drove into the driveway of his residence and stopped.

According to Officer [REDACTED] stopped the police vehicle short of the driveway and advised [REDACTED] partner to get ready to run because [REDACTED] believed Dieguez was going to bail out of the car and they needed to grab Dieguez before he got in the house. [REDACTED] then exited the vehicle, drew [REDACTED] service pistol and assumed a position of cover behind [REDACTED] driver side ballistic door panel (Drawing/Exhibiting).

According to Officer [REDACTED] after approximately three to four seconds, Dieguez exited his vehicle and turned towards [REDACTED] with a stainless-steel firearm in his hand. [REDACTED] yelled out to [REDACTED] partner, "He's got a gun," as Dieguez ran around the front of [REDACTED] vehicle towards the rear of the property. [REDACTED] and [REDACTED] partner then moved past Dieguez vehicle and [REDACTED] cleared it from the driver's side.

According to Officer [REDACTED] biggest concern was that Dieguez was going to try to run into the residence armed with a gun. Believing that Dieguez' family members were in danger and to keep him from going into the house, [REDACTED] holstered [REDACTED] service pistol and immediately pursued Dieguez eastbound through the rear of the property in apprehension mode (Debriefing Point No. 1).

According to Officer [REDACTED] exited the vehicle, but could not see Dieguez' hands because of [REDACTED] position. [REDACTED] then heard [REDACTED] partner broadcast that Dieguez was armed with a gun. Fearing for the safety of the occupants inside the residence, [REDACTED] drew [REDACTED] service pistol and immediately pursued Dieguez as he ran through the backyard of the residence (Drawing/Exhibiting and Additional Tactical Debrief Topics – Running with Service Pistol Drawn).

According to Officer [REDACTED] Dieguez exited his vehicle and ran eastbound through the property, while holding his front waistband. [REDACTED] then heard the Air Unit broadcasting that Dieguez had an object in his hand. Believing Dieguez was possibly armed with a firearm, [REDACTED] exited the vehicle, drew [REDACTED] service pistol and followed Officers [REDACTED] and [REDACTED] into the rear driveway. [REDACTED] then holstered [REDACTED] service pistol as [REDACTED] and [REDACTED] partner followed Officers [REDACTED] and [REDACTED] into the rear yard (Drawing/Exhibiting).

According to Officer [REDACTED] exited [REDACTED] vehicle and observed Dieguez enter the rear yard of the residence. [REDACTED] drew [REDACTED] service pistol, entered the driveway and cleared Dieguez' vehicle. [REDACTED] then holstered [REDACTED] service pistol, and [REDACTED] and [REDACTED] partner followed Officers [REDACTED] and [REDACTED] into the rear yard (Drawing/Exhibiting).

Note: The investigation revealed that [REDACTED] broadcast the foot pursuit.

According to Officer [REDACTED] was approximately 5 to 10 feet behind [REDACTED] partner when [REDACTED] observed Dieguez *run out* of the rear yard, *through an open sliding gate*, and then run *eastbound on Carl Street*. As they *approached the gate*, [REDACTED] drew [REDACTED] service pistol and advised [REDACTED] partner to *slow down*, because [REDACTED] *wanted to make sure that Dieguez was not waiting to ambush them from the sidewalk (Drawing/Exhibiting)*.

According to Officer [REDACTED] partner then *pied the opening* of the gate, conducted a *quick peek*, and advised [REDACTED] that Dieguez was *still running east* on Carl Street. [REDACTED] then *holstered* [REDACTED] service pistol and followed [REDACTED] partner *through the gate*.

According to Officer [REDACTED], as [REDACTED] *ran onto Carl Street*, [REDACTED] observed Dieguez *turning the corner* onto Haddon Avenue. Dieguez was now *out of the vicinity* of his residence and [REDACTED] determined that because he was still armed with a handgun, they should transition into *containment mode* and *begin setting up a perimeter*.

According to Officer [REDACTED] then ran east on Carl Street, *along the parked cars*, towards Haddon Avenue. When [REDACTED] and [REDACTED] partner *reached Haddon Avenue*, [REDACTED] *looked northbound on Haddon* and *did not see Dieguez*. *Simultaneously*, [REDACTED] *heard the Air Unit broadcast* that Dieguez was running *westbound through the houses, two houses away from the corner*, and observed that the residence at [REDACTED] Avenue was being illuminated by the Air Unit.

According to Officer [REDACTED] exited the gate and ran east on the north *sidewalk* of Carl Street towards Haddon Avenue. Dieguez then ran north on Haddon Avenue. When [REDACTED] *turned onto Haddon Avenue*, [REDACTED] *no longer observed Dieguez*; however, [REDACTED] did observe the Air Unit *shining their light on carport* just north of [REDACTED] location on Haddon Avenue.

Note: According to Officers [REDACTED] and [REDACTED], they followed Officers [REDACTED] and [REDACTED] east on Carl Street and then north on Haddon Avenue.

According to Officer [REDACTED], as [REDACTED] approached the south side of [REDACTED] Avenue, [REDACTED] assumed a position of cover behind a *blue SUV, parked along the west curb* of Haddon Avenue, just *south of the driveway of the residence*. After approximately *10 seconds*, [REDACTED] *looked down the driveway* and observed Dieguez *running back towards their direction from underneath the carport*. Believing that Dieguez was still armed with a *firearm*, [REDACTED] drew [REDACTED] service pistol (Drawing/Exhibiting).

According to Officer [REDACTED], Dieguez continued *running towards them* and *raised his right arm up* in their direction. [REDACTED] then *heard two shots go off* and observed *muzzle flashes*. Believing that Dieguez was *shooting at [REDACTED] and trying to kill [REDACTED]*, [REDACTED] *fired six to seven rounds* from [REDACTED] service pistol at Dieguez to stop the deadly threat (Lethal Use of Force).

After firing, [REDACTED] *assessed* and observed Dieguez *stumble but not go down*. Dieguez *slowed down*, then *veered to his right* and *started to turn his back towards them*. To *maintain sight of Dieguez*, [REDACTED] *took a small step* to [REDACTED] right and then assumed a position of *cover* behind a cinder block *pillar in front of [REDACTED]*

Dieguez then *turned back towards* [REDACTED] *again, raised the firearm and pointed it* [REDACTED] *direction. In fear for* [REDACTED] *life,* [REDACTED] *fired four to five additional rounds at Dieguez to stop the deadly threat (Lethal Use of Force).*

According to Officer [REDACTED], as [REDACTED] approached the south side of [REDACTED] moving to a position of cover behind a cinder block pillar in front of the residence, [REDACTED] *heard a bang and observed muzzle flash* [REDACTED] *observed Dieguez approaching their direction from the carport area, while pointing a handgun in the direction of* [REDACTED] *partner.* [REDACTED] *then heard another shot. Fearing for* [REDACTED] *life and* [REDACTED] *partner's life* [REDACTED] *fired five rounds from* [REDACTED] *service pistol at Dieguez to stop the deadly threat (Lethal Use of Force).*

After [REDACTED] OIS, Dieguez *went to the back of the carport and out of* [REDACTED] *sight.* [REDACTED] *then assumed a position of cover behind the cinder block pillar, assessed and performed a tactical reload.*

According to Officer [REDACTED] was on the north *sidewalk* of Haddon Avenue, south of the blue SUV, when [REDACTED] *heard two to three shots coming from the residence west of* [REDACTED] *location.* [REDACTED] *drew* [REDACTED] *service pistol and assumed a position of cover to the rear of the blue SUV then observed Officer* [REDACTED] *shooting* [REDACTED] *pistol.* [REDACTED] *also observed Officer* [REDACTED] *firing* [REDACTED] *pistol from behind a red Ford SUV, parked north of the driveway of* [REDACTED] *Avenue (Drawing/Exhibiting).*

According to Officer [REDACTED], after the OIS [REDACTED] *heard Officer* [REDACTED] *broadcast help for shots fired.* [REDACTED] *then redeployed to Officer* [REDACTED] *location and observed Dieguez running westbound in the driveway, towards the rear yard, while holding what appeared to be a handgun in his right hand.*

According to Officer [REDACTED], as [REDACTED] approached [REDACTED] [REDACTED] *drew* [REDACTED] *service pistol.* [REDACTED] *was approximately 10 feet behind Officer* [REDACTED] *when* [REDACTED] *heard three or four gunshots and then heard* [REDACTED] *partner yell out, "He's shooting at us. Take cover."* [REDACTED] *then assumed a position of cover behind a vehicle parked just south of* [REDACTED] *(Drawing/Exhibiting).*

According to Officer [REDACTED] then *heard five to eight more shots* and observed Officer [REDACTED] *discharging* [REDACTED] *firearm.* After the OIS, [REDACTED] *redeployed to cover behind the blue SUV and then moved to a cinder block pillar, located north of Officer* [REDACTED] *location.*

According to Officer [REDACTED], after the OIS, Dieguez ran *west down the driveway underneath the carport* and out of sight. [REDACTED] *then redeployed and assumed a position of cover behind the first cinder block pillar south of the driveway.* [REDACTED] and the other officers then held their positions of containment as they waited for the additional units to arrive.

According to Officer [REDACTED], Officer [REDACTED] advised them that [REDACTED] *could see Dieguez next to a vehicle parked underneath the carport.* [REDACTED] *then redeployed across the driveway, and assumed a position of cover next to Officer* [REDACTED]. [REDACTED] *then observed Dieguez stumbling towards the passenger side of the vehicle parked beneath the carport.*

█ illuminated Dieguez with █ flashlight and observed that Dieguez no longer had the *gun in his hand* and his shirt was *covered in blood*. Dieguez then *slumped down along the passenger side of the vehicle*. █ observed that Dieguez' right hand was *still up on the side of the car*. Believing that Dieguez could *still be armed*, █ advised the other officers of █ observations and directed them *to hold* their positions and wait for additional resources.

Note: The investigation revealed that the fingers on Dieguez' right hand had become wedged in a gap between the hood and front windshield of the vehicle.

Sergeant █, Serial No. █ Foothill Patrol Division, responded and assumed the role of Incident Commander (IC).

According to Sergeant █ assessed the situation and ensured the officers were not injured. The officers then advised █ that Dieguez was *hit and he was lying down underneath the carport*. █ then directed an officer to move a police vehicle into the *mouth of the driveway* to illuminate Dieguez and *see what he was doing*.

█ observed that Dieguez was *moving* and was *wounded*. However, Dieguez was *not complying with any commands* and they still *did not know where the gun was located*. █ then heard the Air Unit broadcast that Metropolitan Division K-9 officers were *enroute* and they were equipped with *ballistic shields*. Believing that Dieguez could still be armed █ made the decision to *wait* for K-9 personnel before approaching Dieguez.

According to Sergeant █, while waiting for the additional resources, █ ensured that the involved officers were separated and that Public Safety Statements (PSS) were obtained from the involved officers. █ also ensured that the occupants of the residence where the OIS occurred were *evacuated* and that a Rescue Ambulance (RA) had been requested.

According to Sergeant █, upon the arrival of K-9 personnel, they *formulated a plan to approach* Dieguez, using a ballistic shield for cover, and take him into custody. Sergeant █ approved the tactical plan. The contact team approached Dieguez, determined that he was not armed and took him into custody.

Note: The investigation revealed that while taking Dieguez into custody, an officer utilized a pry tool to open the gap between the hood and front windshield of the vehicle so they could dislodge Dieguez' fingers. When the officers removed Dieguez' fingers, they observed that the tip of his right index finger was dismembered.

Los Angeles Fire Department personnel responded and began treating Dieguez for a gunshot wound to his chest. Dieguez failed to respond to treatment and was pronounced dead at the scene at 0247 hours.

FINDINGS

Tactics – Tactical Debrief, Officers █, █, █ and █.

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

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

ANALYSIS

Detention

The officers observed the suspect driving a vehicle without headlights in violation of CVC Section 24250. As they followed the vehicle from a distance, the officers observed the suspect commit several additional vehicle code violations and attempted to conduct a traffic stop on the vehicle. The officers' actions were appropriate and within Department policies and procedures.

Tactics

Department policy relative to Tactical Debriefs is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance" (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques).

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 were faced with a rapidly unfolding tactical situation when the suspect fled from the vehicle at the termination of the pursuit, while holding a handgun in his hand. As the officers began to establish a perimeter, the suspect reappeared, pointed a handgun in their direction and fired two rounds at the officers.

[REDACTED]

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 Apprehension vs. Containment Mode /Pursuing Possibly Armed Suspects

***Apprehension versus Containment:** There are two pursuit modes officers may use when a suspect flees on foot, apprehension mode or containment mode. Some factors that will influence an officer's decision to operate in the apprehension or containment mode are the suspect's actions, officer's experience, training, physical fitness level, location and available resources.*

During apprehension mode, officers work as a team, pursue and attempt to overtake a fleeing suspect until apprehending the suspect, making the decision to discontinue the foot pursuit or transition into containment mode. The pursuing officers should assess and communicate with each other before deciding on a course of action.

If the suspect is no longer in sight or enters a structure such as a house, apartment or business, or gains a tactical advantage, officers may make the decision to continue the pursuit in containment mode while coordinating the response of additional units to establish a perimeter. Containing a suspect in a specific area can decrease the opportunity for an ambush and will make it more likely that the suspect will be taken into custody.

When the decision is made to establish a perimeter, officers should act quickly to prevent the suspect's escape and broadcast the following.

- *General location of an incident command post (the end of pursuit location). This location can be moved later.*
- *Boundaries for the perimeter. Remember it is easier to decrease a perimeter than increase one. Initially, even general locations or instructions will suffice. (e.g. 2 blocks to South and North, 2 blocks to East and West of my location).*
- *Request for air unit to assist in establishing or adjusting the perimeter. The presence of the air unit will also encourage the suspect(s) to remain within the perimeter.*
- *Request a supervisor and the necessary resources to safely handle the incident.*

***Pursuing Armed Suspects:** When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be*

appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties (Los Angeles Police Department Use of Force-Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013).

Officers [REDACTED] and [REDACTED] went in foot pursuit of a suspect who was armed with a handgun in apprehension mode.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

It is my expectation that officers are decisive in their actions during a rapidly unfolding, life-threatening situation while taking into consideration police work is inherently dangerous.

In this case, the officers pursued Dieguez together, in apprehension mode, believing that if apprehension was delayed, Dieguez could enter the residence and cause serious bodily injury or death to the occupants. When Dieguez ran past the residence and away from the immediate vicinity of the property, the officers determined that Dieguez was no longer a threat to the occupants they immediately transitioned to containment mode and began to establish a perimeter to contain Dieguez.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the officers' actions were reasonable and their decision to pursue Dieguez in apprehension mode was in the best interest of public safety and, therefore, was a substantial deviation, with justification, from approved Department tactical training. I will direct that this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

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

Command and Control

Sergeant [REDACTED] responded, assumed the role of IC and assessed the ongoing tactical situation. [REDACTED] ensured the well-being of the officers and formulated a tactical plan to evacuate the residence, take Dieguez into custody, and get him medical treatment as soon as possible. Sergeant [REDACTED] then obtained a PSS from Officers [REDACTED] and [REDACTED] and ensured that all involved personnel were separated and monitored.

The actions of this supervisor 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 and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct that Officers [REDACTED], [REDACTED], [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 1, 2017, Officers [REDACTED], [REDACTED], [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], at the termination of the vehicle pursuit, [REDACTED] exited the vehicle, drew [REDACTED] service pistol and assumed a position of cover behind [REDACTED] driver side ballistic door panel.

Officer [REDACTED] recalled,

I drew it because I had a reasonable belief that the situation may escalate to the use of deadly force based on the fact that we were involved in a pursuit with this guy, that he was under the influence, and also that we're basically doing a felony stop and we're going to stand by and wait for backup. So that's the point where I drew - - and drew my firearm.⁴

[REDACTED]

According to Officer [REDACTED], as [REDACTED] and [REDACTED] partner approached the sliding gate [REDACTED] drew [REDACTED] service pistol because [REDACTED] wanted to make sure that Dieguez was not waiting to ambush them from the sidewalk.

Officer [REDACTED] recalled,

I remember yelling out to [REDACTED] 'Slow down, slow down.' And the reason I was thinking that is, I wanted to make sure that he wasn't going to be waiting for [REDACTED] right on the back side of the gate, waiting for [REDACTED], potentially trying to ambush [REDACTED], or something like that... That's the point where I draw out my firearm again [REDACTED]

According to Officer [REDACTED], from [REDACTED] position of cover behind the blue SUV [REDACTED] looked down the driveway and observed Dieguez running back toward their direction from underneath the carport. Believing that Dieguez was still armed with a firearm, [REDACTED] drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

I now see a male running back towards our direction from underneath that carport that was in front of that house. At this point I believe this is the suspect that we were in pursuit of and also the same person that I believed was - had a firearm when he exited the car. So that's when I draw my firemen once again, as I initially see him in the back of that -- and when I say the back, I guess the furthest west you can be underneath that carport is where I initially see him. But I see him moving towards our direction. That's when I draw my firearm once again. Again, at this point I believe that there's a reasonable likelihood that his actions are going to cause me to have to possibly defend myself, and that's why I draw my firearm at that point [REDACTED]

According to Officer [REDACTED], at the termination of the vehicle pursuit, [REDACTED] exited the vehicle and then heard [REDACTED] partner broadcast that Dieguez was armed with a gun. Fearing for the safety of the occupants inside the residence, [REDACTED] drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

...he actually drove his vehicle all the way back around to where the initial investigation for the domestic incident took place, and he parked his vehicle in that driveway of that house and got out and started running. At that point, my partner announced over the radio that [REDACTED] saw the suspect with a gun. I - - given the tactical situation, it was escalating to the point where deadly force could be necessary. I un-holstered my gun, fearing for the safety of the victim of our domestic incident, knowing that if the suspect we were pursuing went into the house, he could cause harm to [REDACTED] [sic] [REDACTED]

[REDACTED]

According to Officer [REDACTED], at the termination of the vehicle pursuit, Dieguez exited his vehicle while holding his front waistband. He then heard the Air Unit broadcasting that Dieguez had an object in his hand. Believing Dieguez was possibly armed with a firearm, [REDACTED] exited the vehicle and drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

I drew my weapon when we exited on -- when we went into the -- rear driveway of the residence. That's -- that's when I drew out initially. I had a reason to believe that the tactical situation I was involved in could escalate to the use of deadly force due to the fact that when he exited his vehicle, he was holding his -- it appeared that he was holding his front waistband. And then you could -- you heard -- you could hear the airship stating that he had an object in his hand. So, at that point, I believe he could possibly be armed with a firearm or some kind of weapon.

According to Officer [REDACTED], as [REDACTED] walked toward the location where Dieguez was last observed, [REDACTED] drew [REDACTED] service pistol again.

Officer [REDACTED] recalled,

At that point, I holstered. I holstered my weapon back. And then that's when we were running or jogging up to [REDACTED]. And then right before we hit [REDACTED] that's when I unholstered my weapon again.

According to Officer [REDACTED], at the termination of the vehicle pursuit, [REDACTED] exited [REDACTED] police vehicle and observed Dieguez enter the rear yard of the residence. [REDACTED] drew [REDACTED] service pistol, entered the driveway and cleared Dieguez' vehicle.

Officer [REDACTED] recalled,

Due to his violent driving his vehicle violently [sic] and already in the driveway, not in -- not in a normal way, he took off running. We started chasing after -- we stated chasing after him.

As soon as we -- we entered the driveway to start clearing the -- the -- the main residence and the vehicles. I'm holding -- holding the firearm with two- hand grips and, you know, finger on the side -- on the frame.

[REDACTED]

According to Officer [REDACTED] heard two to three shots coming from the residence west of [REDACTED] location. [REDACTED] then drew his service pistol and assumed a position of cover to the rear of the blue SUV.

Officer [REDACTED] recalled,

As soon as I heard the shots fire. [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], [REDACTED], [REDACTED], and [REDACTED], while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers [REDACTED], [REDACTED], [REDACTED], and [REDACTED]'s Drawing/Exhibiting to be In-Policy, No Further Action.

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

Lethal Use of Force

Law enforcement officers are authorized to use deadly force to:

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

Officer [REDACTED] – .45 caliber, 11 rounds in a westerly direction from an approximate distance of 55 feet.

First Sequence

According to Officer [REDACTED], Dieguez ran towards them and then raised his right arm up in their direction. [REDACTED] then heard two shots go off and observed muzzle flashes. Believing that Dieguez

[REDACTED]

was shooting at [REDACTED] and trying to kill [REDACTED] [REDACTED] fired six to seven rounds from [REDACTED] service pistol at Dieguez to stop the deadly threat.

Officer [REDACTED] recalled,

He was running towards us. And the first thing I remember seeing is the muzzle flashes and seeing his hand up and hearing the cracks of those rounds going off. At that point, I'm in fear for my life. There's no doubt this guy is shooting at me. There's nothing I can do to try to deescalate this at this point. I'm not going there's -- I don't have time to give any kind of verbal commands at this point. This guy is going to try to kill me, and I have to try to defend myself. And that's when I first start firing my weapon, and I've got to fire to protect myself and my partner from serious bodily injury or death. At that point, there's no doubt in my mind this guy is going to try to kill me.¹³

Second Sequence

According to Officer [REDACTED], after firing, [REDACTED] assessed and observed that Dieguez stumble but not go down. Dieguez slowed down, veered to [REDACTED] right and started to turn his back towards them. In order to maintain sight of Dieguez, [REDACTED] took a small step to [REDACTED] right and assumed a position of cover behind a cinder block pillar in front [REDACTED]. Dieguez then turned back towards [REDACTED] again, raised the firearm and pointed it toward [REDACTED] direction. In defense of [REDACTED] life, [REDACTED] fired four to five additional rounds from [REDACTED] service pistol at Dieguez to stop the deadly threat.

Officer [REDACTED] recalled,

I shoot the six to seven rounds, there's a brief pause, maybe -- maybe even less than a second where I take a chance to assess whether or not I'm hitting him and hitting my target and whether or not he's going down and then that kind of -- so I make an assessment, and that's about the time where he turns back towards me. [REDACTED]

...he stopped shooting at us at that point, but then that's when he, again, turned towards us and I could see he still was armed with a gun. He raised up the firearm and was pointing in our direction again- -or in my direction. I felt -- and I don't know if I clarified this in my statement, but I'm not sure if he saw where [REDACTED] was. I felt like he was mostly seeing me and was directing his gunfire and his attention, and it appeared to me that he was looking at me... [REDACTED]

And that's when I fire I would estimate probably another four to five rounds at that point. At that point I feel like I see him getting hit, but he still is on his feet. He never goes down to the ground at this point. [REDACTED]



Officer [REDACTED] – 9mm, five rounds in a westerly direction from an approximate distance of 47 feet.

According to [REDACTED] was moving to a position of cover behind a cinder block pillar in front of the residence, when [REDACTED] heard a gunshot and observed muzzle flash. [REDACTED] then observed Dieguez approaching in their direction from the carport area, while pointing a handgun in the direction of [REDACTED] partner and heard another shot. In defense of h[REDACTED] life and life of [REDACTED] partner, [REDACTED] fired five rounds from [REDACTED] service pistol at Dieguez to stop the deadly threat.

Officer [REDACTED] recalled,

I approached the carport, and I was seeking cover behind one of the brick -- one of the brick facades in the fence. As I was seeking cover there I heard a bang. I turned and looked and saw the suspect that we were pursuing approaching, and I saw a muzzle flash, and another bang. At that point, I returned fire, fearing for the safety of my life and my partner, potentially never getting to go back home to my family. I opened fire to defend all of us. At that point, I fired about five rounds. [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], would reasonably believe Dieguez' 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 Officers [REDACTED] and [REDACTED]'s Use of Lethal Force to be In Policy, No Further Action.

Audio/Video Recordings

Digital In-Car Video System (DICVS) / Body Worn Video (BWV) – Foothill and Mission Patrol Division vehicles, as well as Metropolitan Division vehicles, were not equipped with DICVS at the time of this incident.

Foothill Patrol Division and Metropolitan Division officers were not equipped with BWV at the time of this incident. Mission Patrol Division officers were equipped with BWV; however, the officers arrived after the OIS.

Respectfully,



CHARLIE BECK
Chief of Police

Date: 6-14-18

[REDACTED]