September 4, 2019

3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 061-18

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 061-18. A Use of Force Review Board (UOFRB) was convened on this matter on August 19, 2019. I have reviewed and adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

SUMMARY

On November 11, 2018, at approximately 2223 hours, Officers [redacted] and [redacted], Metropolitan Division, were dressed in full police uniform and driving an unmarked dual-purpose police vehicle. The officers were assigned crime suppression duties in Harbor Area in the vicinity of Halldale Avenue and 225th Street.

Note: As the officers patrolled in the area, two suspects, later identified as J. Vargas and [redacted], were dropped off in the area of the Normandale Park Recreation Center (NPRC) by an unknown driver in a Hyundai Sonata. Unbeknownst to Officers [redacted] and [redacted] as they drove southbound on Halldale Avenue, from 224th Street, J. Vargas and [redacted] were involved in the attempt murder of victims [redacted] and [redacted]. During the attempt, J. Vargas and [redacted] approached [redacted] and [redacted], who were standing on the east side of the NPRC and fired multiple shots striking [redacted] in her left calf. J. Vargas and [redacted] ran southbound along the eastside of the NPRC building and then west toward Halldale Avenue.

According to Officer [redacted] and [redacted] partner were to the west of the NPRC as [redacted] drove southbound on Halldale Avenue, when heard what [redacted] believed to be either firecrackers or two to three gunshots. Unsure of what the sound was, [redacted] asked Officer [redacted], “Did you hear that? I don’t know if those were gunshots or not?” Officer [redacted] continued to drive southbound Halldale Avenue toward the NPRC driveway when [redacted] observed two individuals (later identified as J. Vargas and [redacted]) running. Officer [redacted] asked Officer [redacted], “Did you see that?”
Unsure if J. Vargas and H were victims or suspects, made a left into the driveway of the parking lot.

According to Officer as J. Vargas and H ran toward them, holding a black handgun and pointed it in direction, observed the barrel of the gun and heard at least two shots. Fearing for life, and the life of partner, Officer simultaneously exited police vehicle and drew service pistol. Officer utilized door for cover and fired approximately two rounds at H to stop his actions (Drawing/Exhibiting and Lethal Use of Force).

Note: The investigation determined Officer fired a total of five rounds, in two sequences during the incident.

Statements provided by Officers and during the investigation revealed they both observed J. Vargas and H during the incident, but each officer directed their attention to a different suspect. The investigation revealed that while both J. Vargas and H shot at the officers, Officer focused on J. Vargas and Officer focused on H.

According to Officer , they were travelling south on Halldale Avenue next to a park (NPDC), when heard approximately four to five popping sounds. looked at partner and asked, “Hey were those gunshots?” Officer wanted to make sure that they were not fireworks before broadcasting anything over the radio. Almost immediately, Officer drove into the driveway of the park (NPDC) and said, “Oh, there they are. Here they come.”

According to Officer , drew service pistol while seated in police vehicle due to the sound of possible gunshots, two figures (J. Vargas and H) running toward and partner and because believed that someone in the park was involved in a shooting, which could result in the use of deadly force (Drawing/Exhibiting).

According to Officer , while still seated in vehicle, observed J. Vargas raise the gun up and fire in direction. also observed muzzle flash in front of H and a felt bullet impact their police vehicle, causing to fear life and the life of Officer . Officer exited the vehicle, dropped to one knee, took cover behind door and fired one to two rounds at J. Vargas to stop the deadly threat (Lethal Use of Force).

Note: The investigation determined Officer fired a total of nine rounds, in three sequences during the incident.

According to Officer did not have time to put Officer Code Six due to them being fired upon. According to Officer did not have time to place them Code Six due to hearing possible gunfire and observing J. Vargas with a gun in his hand. Officer explained that decided to draw service pistol instead of broadcasting (Debriefing Point No. 1).
According to Officer [redacted], after firing initial rounds, J. Vargas and [redacted] continued running diagonally and firing as they ran across the parking lot toward [redacted] side of the police vehicle. Officer [redacted] had no time to redeploy and was aware that [redacted] cover was becoming compromised as the suspects advanced toward [redacted] side of the police vehicle. Fearing for life, Officer [redacted] fired one to two rounds at J. Vargas to stop the lethal threat (Lethal Use of Force).

According to Officer [redacted], J. Vargas and [redacted] continued moving together as they crossed the parking lot and approached the grass parkway on the west side of the NPRC parking lot. Officer [redacted] attention was drawn to J. Vargas who was pointing a gun at him as he was running on the grass parkway. Afraid for life, Officer [redacted] fired an additional four to five rounds at J. Vargas to stop the lethal threat (Lethal Use of Force).

According to Officer [redacted], repositioned behind the engine portion of the driver side of [redacted] police vehicle for better cover [redacted] observed [redacted] continue to run with his arm extended while pointing a gun in [redacted] direction. Officer [redacted] fired two to three additional rounds at [redacted] stop his actions (Lethal Use of Force).

According to Officer [redacted], J. Vargas went down to the ground on the grass parkway and crawled behind a truck parked on the east side of Halldale Avenue. [redacted] ran between parked cars on Halldale Avenue and fled the location. Officer [redacted] then redeployed and moved around to the driver side of their police vehicle for cover.

Note: The investigation revealed that a 9mm pistol was located and later recovered lying on the grass area where the officers initially observed J. Vargas collapse.

The investigation revealed that Officers [redacted] and [redacted] police vehicle was struck by gunfire. The Forensic Science Division (FSD) Firearms Analysis Unit (FAU) recovered a spent bullet from the engine compartment. An analysis later determined the spent bullet had been fired from the recovered 9mm pistol.

According to Officer [redacted], observed [redacted] continue to run southwest across the parking lot, but [redacted] lost sight of [redacted] as he ran between the cars that were parked along the east curb of Halldale Avenue. Officer Vargas then focused on J. Vargas, who had collapsed onto the grass and was starting to crawl between the cars parked on Halldale Avenue.

According to Officer [redacted], as they were attempting to broadcast a help call, realized that service pistol was at slide lock. While Officer [redacted] provided cover for [redacted], Officer [redacted] immediately conducted an out of battery speed reload from behind the cover of police vehicle (Additional Tactical Debrief Topic - Service Pistol Manipulations).

According to Officer [redacted] provided cover for Officer [redacted] while conducted a tac reload. Once Officer [redacted] completed the reload, Officer [redacted] communicated to [redacted] “Hey, I’m reloading, reloading” (Additional Tactical Debrief Topic - Maintaining Control of Equipment).
Note: The investigation revealed that at 2223:26 hours, Officer [redacted] initially broadcast, “Officer needs help. Shots fired.” Officer [redacted] then conducted a follow-up broadcast, “We are at 225 and Plaza Del Amo,” which was an incorrect location. The investigation revealed that Officer [redacted] subsequently holstered service pistol and utilized cellular phone to obtain their correct location. Approximately one minute and 46 seconds after broadcasting the incorrect location, Officer [redacted] broadcast, “I’m at 224 and Halldale. We are going to need a perimeter around this area. We have two suspects down. Have units respond southbound from 224” (Additional Tactical Debrief Topic – Situational Awareness).

According to Officer [redacted], could not see J. Vargas as he had crawled into the street (Halldale Avenue). Officer [redacted] told partner that [redacted] was going across the street (Halldale Avenue) to triangulate on J. Vargas and obtain a visual on him. [redacted] then crossed Halldale Avenue and utilized another vehicle for cover.

According to Officer [redacted], when J. Vargas crawled into the street, Officer [redacted] moved forward and repositioned behind a parked car for cover while [redacted] waited for backup units to arrive.

Note: A review of Officer [redacted] BWV revealed that [redacted] drew service pistol a second time prior to moving forward and repositioning behind the parked car that [redacted] was utilizing for cover (Drawing/Exhibiting).

In response to the officers’ broadcasts, Sergeant [redacted], Serial No. [redacted], Harbor Patrol Division and Sergeants [redacted], Serial No. [redacted], and [redacted], Serial No. [redacted], Metropolitan Division, responded to the scene. Additional personnel from Metropolitan Division, Harbor Patrol Division, and the Torrance Police Department also responded.

According to Officer [redacted], felt it was necessary to approach and handcuff J. Vargas so that [redacted] could get J. Vargas medical treatment. [redacted] developed a plan to approach and secure J. Vargas, which included the use of a ballistic shield and an arrest team. J. Vargas was then taken into custody without incident (Additional Tactical Debrief Topic – Search of Arrestees).

Note: Los Angeles Fire Department (LAFD) personnel responded and transported J. Vargas to Harbor - University of California Los Angeles (UCLA) Medical Center for treatment via Rescue Ambulance (RA).

Sergeant [redacted] responded and oversaw the officers’ approach and taking of J. Vargas into custody. Sergeant [redacted] ensured that J. Vargas was placed on his side once he was handcuffed and also assisted in establishing a perimeter and with the requesting of resources.

Sergeant [redacted] responded and assumed the role of Incident Commander (IC). [redacted] separated, monitored and obtained a Public Safety Statement (PSS) from Officers [redacted] and [redacted].
Note: The investigation revealed that at 2229 hours, [redacted] walked into the Emergency Room of Kaiser South Bay Medical Center where he was treated for a gunshot wound to his upper back.

Sergeant [redacted] responded to the scene of the OIS and assumed the responsibility of monitoring Officers [redacted] and [redacted] from Sergeant [redacted]. Sergeant [redacted] continued to monitor the officers while transporting them to Kaiser South Bay Medical Center for a Field Show-up to identify [redacted]. The Field Show-up was not completed due to ongoing medical treatment for [redacted] (Additional/Equipment - Protocol Subsequent to Categorical Use of Force).

Note: During the subsequent investigation, [redacted] admitted he fired a revolver in an “enemy park” with another 18-year old male. Additionally, [redacted] admitted he fired at the police who had pulled up in a black car, but stated he did not know they were officers at the time of the OIS. He then drove to the hospital in a stolen vehicle, while his “Homie” who had been shot, remained at the scene. [redacted] stated that the revolver he used in the shootings was now in the ocean, but did not explain how that occurred.

The vehicle (Hyundai Sonata) that [redacted] used was recovered the following day and was determined to contain blood evidence on the rear passenger seat. The blood evidence matched to a Deoxyribonucleic Acid (DNA) sample obtained from [redacted]. The investigation determined that the vehicle was the same vehicle that had dropped off J. Vargas and [redacted] at the NPAC and that the vehicle was determined to have been stolen from the City of Glendale several hours prior to the OIS.

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, Officers [redacted] and [redacted]

ANALYSIS

Detention

While conducting crime suppression operations, the involved officers heard what they believed to be gunshots or fireworks coming from the area of a recreation center. As the officers
negotiated a turn into the parking lot of the recreation center, they observed two suspects running in their direction. The suspects pointed handguns at the officers and fired, 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.*"

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 immediately confronted with two armed suspects who fired upon them without warning or provocation. Due to the rapidly unfolding event, the officers were unable to establish any lines of communication with the suspects prior to the OIS. When they were faced with an imminent threat of serious bodily injury or death, the officers reacted to the suspects’ actions and utilized lethal force to stop the deadly threat.

One suspect was struck by an officer’s gunfire and collapsed, while the second suspect fled from the area. Once feasible, the officers lowered the intensity of the situation by immediately redeploying to alternate cover, which allowed the officers more time to assess, communicate with each other and to formulate a tactical plan. The officers utilized lines of communications with each other and the suspect by communicating the suspect’s location, movements and position with one another and advising the suspect to show his hands and to not move. Additionally, the officers communicated with one another regarding their own actions, such as the reloading of their service pistols and their redeployment to positions of cover. The officers requested additional resources to their location and waited behind cover for their arrival, thus allowing for a methodical and safe approach and eventual handcuffing of the suspect.

Upon the arrival of additional resources, the officers further assessed the situation and
formulated a plan to approach the injured suspect utilizing a ballistic shield as cover. After establishing contact and cover roles, and with consideration of the preservation of life, the officers approached the suspect to take him into custody without unnecessary delay, thereby allowing him to receive medical treatment as soon as possible.

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

Debriefing Point No. 1	Code Six

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include:

- Suspect in custody;
- Primary unit at a crime scene; and/or,
- Required at a backup, assistance, or help location.

*Note: The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers [redacted] and [redacted] did not advise Communications Division (CD) of their Code Six location prior to engaging J. Vargas and [redacted].

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in the case being reviewed, their actions can be unpredictable.

In this case, the officers were reassigned to conduct crime suppression from Valley Bureau to Harbor Area, an area unfamiliar to them. The officers heard the sounds of what they believed to be either gunshot or fireworks coming from the area of the recreation center. The officers briefly communicated with one another regarding the nature of the sounds then observed the suspects running toward them as they turned into the parking lot. The incident rapidly escalated as the suspects fired upon the officers.

According to Officer [redacted] heard what she thought were gunshots, but was unsure if they were gunshots or fireworks. [redacted] communicated to Officer [redacted], “Did you hear that? I don’t know if those were gunshots or not.” [redacted] continued driving and turned into the driveway, where she observed two individuals running at them. Officer [redacted] observed one individual with his hand up, gun up, and firing at them. [redacted] didn’t have time to put out a
Code-6 location because of the shooting.

According to Officer [REDACTED], it was a short amount of time from when they heard the sound of shots or fireworks, to the time they observed the suspects engage them. Due to the possibility that the sounds were gunshots, he figured there was a likelihood that the situation could result in the use of deadly force. Officer [REDACTED] had to make a decision whether to reach for his gun or reach for his mic. He decided to draw his service pistol and protect their lives when he observed that a suspect had a gun in his hand. Officer [REDACTED] believed couldn't have gone Code 6.

Note: According to the FID presentation at the UOFRB, it was approximately eight seconds from the time Officer [REDACTED] heard the sounds that were either gunshots or fireworks, to the time he observed the armed suspects.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers [REDACTED] and [REDACTED] not advising CD of their Code Six location 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

Searches of Arrestees – The investigation revealed that Officer [REDACTED] did not complete a search of J. Vargas when he was taken into custody because Officer [REDACTED] could see portions of J. Vargas’ front and rear midsections. Officer [REDACTED] also believed J. Vargas was seriously injured and did not want to move him until the RA was at-scene. It was noted that Officer [REDACTED] also did not advise responding officers that a thorough search had not been completed due to the suspect’s injuries. Although, in this case J. Vargas had been shot, secured in handcuffs and portions of his front and rear midsections were visually searched, the officers are reminded of the importance of searching all arrestees to ensure that they are not in possession of any weapons. I will direct this be a topic of discussion during the Tactical Debrief.

Note: According to the FID investigation, J. Vargas was treated for gunshot wounds to his chest and right hip area, further treatment resulted in the amputation of his right leg, above the knee.

Situational Awareness – The investigation revealed that Officer [REDACTED] incorrectly broadcast the officers’ location as “225th Street and Plaza Del Amo,” instead of 224th Street and Halldale Avenue. In this case, the officers were re-assigned to this area for crime suppression operations and were unfamiliar with the area. The officers are reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner. I will direct that this be a topic of discussion during the Tactical Debrief.

Service Pistol Manipulations – The investigation revealed that Officer [REDACTED] service pistol went to slide lock during the OIS. A review of Officer [REDACTED] BWV indicated that approximately 40 seconds elapsed before he conducted an out of battery speed reload. Although this incident was dynamic and rapidly evolving, Officer [REDACTED] is reminded of the importance of
maintaining a loaded service pistol during a tactical incident. I will direct this be a topic of discussion during the Tactical Debrief.

**Maintaining Control of Equipment** – The investigation revealed that after conducting a tactical reload of her service pistol, Officer [REDACTED] left a partially-loaded magazine on the hood of her police vehicle. Officer [REDACTED] is reminded of the importance of maintaining control of her equipment whenever tactically feasible. I will direct that this be a topic of discussion during the Tactical Debrief.

**Command and Control**

Sergeant [REDACTED] responded and oversaw the officers’ approach to take J. Vargas into custody, after which [REDACTED] ensured that J. Vargas was placed onto his side while waiting for the response of the LAFD RA. Sergeant [REDACTED] also assisted in establishing a perimeter and the request for resources.

Sergeant [REDACTED] responded to the scene and assumed the role of IC. [REDACTED] separated, monitored and obtained a PSS from Officers [REDACTED] and [REDACTED].

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

Sergeant [REDACTED] responded to the scene and assumed the monitoring responsibilities of Officers [REDACTED] and [REDACTED] from Sergeant [REDACTED]. The investigation revealed that Sergeant [REDACTED] did not adhere to established Post OIS protocols as he did not separate Officers [REDACTED] and [REDACTED] and instead transported them together in the police vehicle to Kaiser South Bay Medical Center to conduct a Field Show-up of [REDACTED]. It was noted that Sergeant [REDACTED] transported the officers to conduct the Field Show-up without receiving prior approval from FID. The Use of Force Review Board determined and I concur that the actions of Sergeant [REDACTED] were not consistent with Department supervisory training and did not meet my expectations of a field supervisor during a critical incident. I will direct Sergeant [REDACTED] to attend the Tactical Debrief for the topic of Post OIS protocols to be discussed.

**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 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 November 29, 2018, Officers [redacted] and [redacted] attended a GTU. All mandatory topics were covered including Firearms Manipulations, Reverence for Human Life, Command and Control, and Force Option Simulator.

Drawing/Exhibiting

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

According to Officer [redacted] and [redacted] partner were traveling south on Halldale Avenue next to the park when they heard approximately four to five loud popping sounds. Officers [redacted] and [redacted] were unsure if the sounds were gunshots or fireworks. Officer [redacted] drove into the driveway of the recreation center and said, "Oh, there they are. Here they come." Due to the possibility that the sounds were gunshots, Officer [redacted] drew [redacted] service pistol because [redacted] believed there was a likelihood that a deadly force situation could occur.

Officer [redacted] recalled,

Well, we heard the sounds. Not knowing whether they were firecrackers or gunshots at this point, believing that there's a pretty good possibility that they could have been gunshots, and that someone in the park was involved in a shooting. I unholstered believing that the situation could escalate to use of deadly force.

Note: The investigation revealed that after the OIS, Officer [redacted] holstered [redacted] service pistol to utilize [redacted] cellular phone to obtain their location. After determining their location, Officer [redacted] once again drew [redacted] service pistol as [redacted] moved forward and took a position of cover behind a parked car. According to Officer [redacted] was driving southbound on Halldale Avenue and heard the sound of possible gunshots next to the recreation center. Unsure if they were gunshots or firecrackers, [redacted] asked Officer [redacted], "Did you hear that? I don’t know if those were
gunshots or not?” Officer [redacted] continued south and as [redacted] approached the park’s driveway, observed J. Vargas and [redacted] running in the park. [redacted] made a left turn into the parking lot of the recreation center and observed [redacted] running towards [redacted] and [redacted] partner while he fired a handgun at them. Fearing for [redacted] life, [redacted] drew [redacted] service pistol.

Officer [redacted] recalled,

So, I was driving southbound on Halldale. As I'm driving down Halldale, obviously right next to a rec center, I heard what I thought were gunshots. I wasn't sure if they were gunshots, if they were firecrackers. I know I mentioned to [redacted] "Did you hear that? I don't know if those were gunshots or not." As I approached the driveway, I believe I saw two individuals running, which caught my attention. So I made the left into the driveway of the parking lot, and I see two individuals running at us. I don't know if they're shooting suspects, I don't know if they're victims. As they're running towards us, I see one individual hand up, gun up, and firing.

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

Officer [redacted] .45 caliber, five rounds in a southeasterly direction from an approximate decreasing distance of 45 feet to 34 feet.

First Sequence

According to Officer [redacted] as J. Vargas and [redacted] ran toward them, [redacted] was holding a black handgun and pointed it in [redacted] direction. [redacted] observed the barrel of the gun and heard at least two shots. Fearing for [redacted] life, and the life of [redacted] partner, Officer [redacted] exited [redacted] police vehicle and drew [redacted] service pistol. Officer [redacted] utilized [redacted] door for cover and fired approximately two rounds at [redacted] to stop his actions.

Officer [redacted] recalled,
As they're running towards us, I see one individual hand up, gun up, and firing. I know there was two of them out. I heard multiple shots. I got out of the car. The guy that I saw with the gun in his hand, I believe I shot approximately two rounds at him.

I see a barrel of a gun. I know it was a black handgun pointed in my direction as I'm sitting in the car.

It's just the sounds of the gunshots. Yeah. And the visual of the gun. I need to get out of the car because I don't want myself or my partner to die.

Second Sequence

According to Officer [redacted], repositioned behind the engine portion of the driver side of [redacted] vehicle for better cover, then observed [redacted] continue to run with his arm extended, while pointing a gun in her direction. Officer [redacted] then fired two to three additional rounds at [redacted] to stop his actions.

Officer [redacted] recalled,

I repositioned to get better cover in front of the engine of my vehicle on the driver's side, and I reengaged. And I think I may have fired two or three more.

When asked by FID investigators what the suspect's actions were that caused [redacted] to fire the second volley of rounds, Officer [redacted] responded:

OFFICER [redacted] I remember him running. And I thought I remember him raising up.

FID: Okay. So this time was different. You raised your arm not straight out in front of you, but almost at a 45-degree --

OFFICER [redacted] Yeah.

FID: -- to the right, almost at an angle as if shooting to the side. So in regard to the front or to the right, it's like a 90-degree, so you almost have it like at a 45-degree. It's still parallel. So he's running, and he has his arm out not in front of him like --like before on box number two. But on box three, it's parallel. His arm is stretched out as if holding a gun, which is what you were simulating. And you saw the -- did you see the gun pointed at you there?

OFFICER [redacted] I believe I did.
The Honorable Board of Police Commissioners
Page 14
3.2

**FID:** So box number three, which is in almost in the middle of the parking lot, he has a gun pointed at you where it's stretched out, arm -- your arm's stretched. Tell me --

**OFFICER** Oh, sorry. Yes. 

**Officer** -- .45 caliber, nine rounds in a easterly and southerly direction from an approximate decreasing distance of 51 feet to 47 feet.

**First Sequence**

According to Officer [blank], as [blank] sat in [blank] police vehicle, [blank] observed J. Vargas raise the gun up and fire in [blank] direction. [blank] also observed muzzle flash in front of H [blank] and a felt bullet impact their vehicle, causing [blank] to fear for [blank] life and the life of Officer [blank]. Officer [blank] exited the vehicle, dropped to one knee, took cover behind his door and fired one to two rounds at J. Vargas to stop the deadly threat.

Officer [blank] recalled,

*Immediately as I -- as I look -- look and decide to make the conscious decision to get out of the car, I could see the -- the heavier set suspect raise the gun up and fire. I saw muzzle flash. And then immediately after that, I saw the other suspect who was a little bit taller, I saw muzzle flash in front of him as well. And I -- I could feel the impact of the car, like the bullet impact the car, which -- which caused me -- and is -- you know, the car is kind of tall so it -- my instinct was to -- I was scared for my life. So my instinct was to get out of the car, drop to a knee, take cover behind my door, and -- and then I immediately returned fire from the -- from on the outside of the door, thinking that, you know, my life and my partner's life were -- were in danger. I knew that if we were going to survive this encounter, I had to get rounds downrange.*

**Second Sequence**

According to Officer [blank], after firing [blank] initial rounds, J. Vargas and H [blank] continued running diagonally and firing as they ran across the parking lot toward his side of the police vehicle. Officer [blank] had no time to redeploy and was aware that his cover was becoming compromised as the suspects advanced toward his side of the police vehicle. Fearing for [blank] life, Officer [blank] fired one to two rounds at J. Vargas to stop the lethal threat.

Officer [blank] recalled,

*They were advancing on us. And -- and then I observed them start to come to my side of the vehicle. They started making like an arch across the parking lot and come to my side of the*
vehicle. And, you know, it was happening so fast, there was no time to redeploy. I was -- I
was there, and I was making my stand. And so, I knew that the -- the more that they
advanced towards the -- my side of the vehicle, my cover was disappearing because the
angle. And I remember feeling like scared. So, I returned fire.

Third Sequence

According to Officer [Redacted], J. Vargas and H [Redacted] continued moving together as they crossed
the parking lot and approached the grass parkway on the west side of the NPRC parking lot.
Officer [Redacted] attention was drawn to J. Vargas who was pointing a gun at [Redacted] as [Redacted] stood on
the grass parkway. Afraid for [Redacted] life, Officer [Redacted] fired an additional four to five rounds at
J. Vargas to stop the lethal threat.

Officer [Redacted] recalled,

And -- and then they got to the grassy area that's near the sidewalk, and I could see -- the
whole time I felt like the suspects were staying together, that they were moving together. And
I could see both of them at the same time. And I could see that the -- the heavier set suspect
was closer to me. He was drawing most of my attention because I could see the gun in his
hand and him pointing it at me. So I continued firing at him.

Well, at one point toward the -- when he got close to the grassy area, I specifically saw him
like reach, point the gun at me. I felt like he was targeting -- targeting me specifically.

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
that J. Vargas and H [Redacted] 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] Use of Lethal Force to be In Policy, No Further
Action.

Additional

Preservation of Life - Officers [Redacted] and [Redacted] were involved in an incident in which
J. Vargas and H [Redacted] fired upon them, forcing the officers to utilize lethal force to defend their
lives. J. Vargas fell to the ground as a result of the OIS and H [Redacted] fled the scene to an
unknown location. Despite being the target of an Attempt Murder and not knowing whether the
assault would continue, the officers knew that J. Vargas had been struck by gunfire and
immediately requested an LAFD RA so they could provide medical treatment to J. Vargas.
While maintaining a position of cover, the officers verbalized to J. Vargas that medical aid was enroute. Due to the possibility that J. Vargas may still be armed, a plan was formulated to take him into custody and an arrest team was organized. When the officers took J. Vargas into custody, he told them that he was injured and in pain. The officers demonstrated compassion and placed J. Vargas in a position that was comfortable while waiting for the Rescue Ambulance. Due to the quick actions of Officers [Redacted] and [Redacted] LAFD personnel were on-scene within minutes.

**Service Pistol Loading Standards** – A post-incident weapon/magazine inspection revealed that all three of Officer [Redacted] magazines were loaded with a combination of Department-authorized .45 caliber and Metropolitan Division authorized .45 caliber +P Federal Premium ammunition. One of Officer [Redacted] magazines was loaded with 12 rounds of .45 caliber ammunition and one round of .45 caliber +P Federal Premium ammunition. These two types of ammunition have separate product codes and it was noted that only ammunition of the same product code may be loaded into a single magazine. This issue was brought to the attention of Captain [Redacted] who addressed the issue through divisional training. The Commanding Officer of CTSOB and the Director of OSO concurred with this action. As such, I deem no further action is necessary.

**Audio/Video Recordings**

**Digital In-Car Video System (DICVS)** – The police vehicle driven by Officers [Redacted] and [Redacted] was not equipped with DICVS. Sergeant [Redacted] responded to the scene following the OIS and [Redacted] DICVS captured J. Vargas being taken into custody.

**Body Worn Video (BWV)** – Officer [Redacted] BWV captured the OIS incident. Officer [Redacted] BWV was not activated and it believed [Redacted] BWV was knocked off of [Redacted] uniform as vehicle prior to the OIS. Sergeant [Redacted] along with Officers [Redacted], Serial No. [Redacted] and [Redacted] Serial No. [Redacted], Harbor Patrol Division, activated their BWVs and captured J. Vargas being taken into custody.

Officer [Redacted] Serial No. [Redacted] Metropolitan Division, activated his BWV, which captured locating a 9mm pistol near J. Vargas. The BWV also captured J. Vargas’ transportation to Harbor-UCLA Medical Center.

**Outside Video** – Surveillance cameras located outside of [Redacted] Halldale Avenue captured J. Vargas and [Redacted] being dropped off by an unknown driver in a Hyundai Sonata, the OIS and the Hyundai Sonata driving away.

Surveillance cameras located outside of [Redacted] Halldale Avenue captured the Hyundai Sonata arriving in front of the park and later leaving the scene. FID investigators recovered two videos from Melgar’s cellphone. One video captured the attempt murder of Melgar and Garcia in the park. The second video captured Melgar being transported to the hospital by RA.
FID investigators recovered security video from Kaiser South Bay Medical Center capturing [REDACTED] walking into the lobby area of the emergency room.

Respectfully,

MICHELE K. MOORE  
Chief of Police

Date: 9-4-19