

## INTRADEPARTMENTAL CORRESPONDENCE

October 18, 2018

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**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 080-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 080-17. A Use of Force Review Board (UOFRB) was convened on this matter on October 1, 2018. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

**Note:** The investigation identified a number of concerns regarding the off-duty conduct of Officers [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED] Mission Patrol Division, which will be investigated through a Personnel Complaint (CF No. [REDACTED])

### SUMMARY

On December 20, 2017, at approximately 0100 hours, Officers [REDACTED] and [REDACTED] were off-duty, dropping off two [REDACTED] friends, later identified as [REDACTED] and [REDACTED], in front of [REDACTED] residence located at [REDACTED] Orion Avenue, Los Angeles [REDACTED]

**Note:** The investigation revealed that on December 19, 2017, at approximately 2000 hours, Officers [REDACTED] and [REDACTED] completed their assigned shift. Officer [REDACTED] had made prior arrangements to purchase a snake later in the evening from a seller on Craigslist. Officer [REDACTED] agreed to accompany Officer [REDACTED]. The officers picked up [REDACTED] and [REDACTED], went to dinner, purchased the snake and then drove back to [REDACTED]'s residence. Officer [REDACTED] parked [REDACTED] vehicle on the east side of the street, facing north, directly across from the front entrance of [REDACTED]'s apartment building.

According to the officers, when they got the snake, it was really cold, so they decided to put the snake in the front pouch of Officer [REDACTED] sweatshirt to warm it up until they could get it home.

[REDACTED]

According to [REDACTED], [REDACTED] is afraid of snakes. [REDACTED] believed when the officers brought the snake, they placed it in a container and put the container in the trunk of the vehicle.

According to Officer [REDACTED], after they parked in front of the apartment building, [REDACTED] got out of the vehicle and came over to [REDACTED] window to say goodbye. As [REDACTED] rolled down [REDACTED] window, [REDACTED] saw the snake's head sticking out of [REDACTED] sweatshirt pocket, screamed and ran across the street towards the front entrance of [REDACTED] apartment building.

According to Officer [REDACTED], as [REDACTED] continued to scream at the top of [REDACTED] lungs, he handed the snake to Officer [REDACTED] and advised [REDACTED] that [REDACTED] was going to go over to [REDACTED], calm [REDACTED] down, say goodbye and then they would take off. [REDACTED] then got out of the vehicle and walked across the street to apologize to [REDACTED].

According to Officer [REDACTED] made contact with [REDACTED], who had stopped screaming and was standing inside the first pedestrian gate of the apartment building, but outside the security gate that leads to into the actual apartment building.

**Note:** The investigation revealed that the front of the apartment building was surrounded by a wrought iron fence with a pedestrian gate that provided access to an interior concrete courtyard area. The courtyard area was then enclosed by additional wrought iron fencing with a second pedestrian gate that provided access into the interior of the apartment building.

According to Officer [REDACTED], as [REDACTED] apologized to [REDACTED], a woman, later identified as [REDACTED] and a male Hispanic, later identified as F. Rodriguez, appeared on the other side of the interior security gate. [REDACTED] told Officer [REDACTED] and [REDACTED] that [REDACTED] children were trying to sleep. [REDACTED] then told [REDACTED] that [REDACTED] was *sorry* for screaming.

**Note:** According to [REDACTED], [REDACTED] said, *"I have a two-year-old and a newborn. They're sleeping."* [REDACTED] apologized to [REDACTED] and told [REDACTED] that *it would not happen again.* Officer [REDACTED] then told [REDACTED], *"Yeah, be quiet [REDACTED] got kids."*

According to Rodriguez, [REDACTED] said, *"Hey, guys, can you please keep it down because I got kids sleeping?"* Officer [REDACTED] responded, *"Yeah, yeah, yeah, shut the fuck up. Go get out of here. Go back to sleep."*

According to [REDACTED], [REDACTED] said, *"Excuse me can you guys keep it down because I have an infant that's three months and I have a one-year-old and then there's two other kids in my house. Can you guys please keep it down?"* Officer [REDACTED] responded, *"Whatever, bitch."*

According to Officer [REDACTED], Rodriguez then said, *"You being disrespectful?"* [REDACTED] responded, *"No, no, no. [REDACTED] just got scared of a snake. You know, I'm sorry."* Rodriguez then *stepped out of the gate and walked towards [REDACTED] with an object in his right hand. At that point, [REDACTED] just caught a quick glimpse of the object and assumed it was a weapon like a pipe or one of those little wooden souvenir Dodger bats.*

**Note:** The investigation revealed that Rodriguez was armed with a metal flashlight that was approximately 15 inches in length.

According to Officer [REDACTED], Rodriguez walked up to [REDACTED] and stood less than a foot away from [REDACTED] face. In an attempt to de-escalate the situation, [REDACTED] took a step back, put his hands up and said, "Hey, man, no disrespect. We're -- I'm sorry." Approximately two seconds later, Rodriguez hit [REDACTED] in the side of [REDACTED] head with the object.

**Note:** According to [REDACTED], after Rodriguez and Officer [REDACTED] started fighting, [REDACTED] turned around and walked back towards [REDACTED] apartment.

According to [REDACTED] began to experience a loud ringing noise in [REDACTED] ears, and for a second, everything was white and then started to kind of go black and fuzzy. [REDACTED] had never been hit with anything that hard and knew immediately that the object was heavier than a Dodger bat and was metallic.

According to Officer [REDACTED], Rodriguez continued attacking and swinging at [REDACTED] and believed Rodriguez was not going to stop and was going to kill [REDACTED]. [REDACTED] assumed Officer [REDACTED] was still back at the car and believed that if [REDACTED] did not stop Rodriguez, [REDACTED] was going to die. In fear for [REDACTED] life, [REDACTED] fired two rounds from [REDACTED] personally owned, five-shot revolver at Rodriguez to stop the threat (**Lethal Use of Force**).

**Note:** According to Officer [REDACTED] did not recall drawing [REDACTED] revolver prior to the OIS. However, prior to the OIS [REDACTED] revolver was secured in a pocket holster in the right front pocket of [REDACTED] blue jeans (**Drawing/Exhibiting**).

According to [REDACTED], [REDACTED] did not know where the gunshots came from.

According to Officer [REDACTED], after firing, Rodriguez stopped attacking [REDACTED] and fell to [REDACTED] side. Rodriguez then got up and retreated backwards through the pedestrian gate and into the apartment complex. [REDACTED] didn't know where [REDACTED] went.

According to Officer [REDACTED], [REDACTED] turned and went back towards the car. Officer [REDACTED] then helped [REDACTED] into the car and they drove northbound on Orion Avenue towards Nordhoff Street. Approximately halfway up the block, [REDACTED] advised Officer [REDACTED] that [REDACTED] just shot Rodriguez. Officer [REDACTED] then drove to the corner of Orion and Nordhoff and pulled into the 7-11 parking lot. [REDACTED] then called 911 and requested help.

**Note:** According to Officer [REDACTED], at some point after [REDACTED] entered the vehicle, [REDACTED] placed [REDACTED] revolver back into the pocket holster and then set the gun and the holster on the floorboard in front of [REDACTED] (**Additional Tactical Debrief Topics – Maintaining Control of Equipment**).

According to Officer [REDACTED], [REDACTED] was standing on the passenger side of the vehicle and had a difficult time seeing Officer [REDACTED] and [REDACTED] because they were blocked by parked cars. In

addition, [REDACTED] could not hear what they were saying, due to the distance. As [REDACTED] was wrangling the snake to keep it under control, [REDACTED] heard two gunshots and observed a dark complected male Hispanic, wearing a white T-shirt, run into the apartment complex.

According to Officer [REDACTED], [REDACTED] had no idea where the gunfire was coming from, but believed somebody was shooting at them. [REDACTED] told [REDACTED] to get out of the car and then started walking in Officer [REDACTED] direction.

**Note:** Surveillance video from an apartment building located at [REDACTED] Orion Avenue captured [REDACTED] exiting [REDACTED] vehicle and running south, with [REDACTED] on the west sidewalk of Orion Avenue.

According to Officer [REDACTED] observed Officer [REDACTED] slowly come out to the street and did not know [REDACTED] was hit or what was going on. [REDACTED] then told Officer [REDACTED] "Let's go. Let's go." As Officer [REDACTED] walked towards [REDACTED] [REDACTED] observed that Officer [REDACTED] kind of staggered and seemed a little bit out of it.

According to Officer [REDACTED], they got in the car and drove up the street. Officer [REDACTED] then advised [REDACTED] a male had come out and hit [REDACTED] in the head with a bat. Officer [REDACTED] further advised that after he was struck in the head, [REDACTED] started losing consciousness and fired two rounds at the male.

Sergeant [REDACTED] Serial No. [REDACTED] Van Nuys Patrol Division, responded to the 7-11, ensured the involved officers were separated and obtained a Public Safety Statement (PSS) from Officer [REDACTED].

Rodriguez was subsequently taken into custody at the scene of the OIS without further incident.

Los Angeles Fire Department (LAFD) personnel responded and transported Rodriguez to Providence Holy Cross Medical Center where he was treated for gunshot wounds to his abdomen and right hand.

Officer [REDACTED] was transported by LAFD personnel to Providence Holy Cross Medical Center where he was treated for head trauma.

## FINDINGS

**Tactics** – Tactical Debrief, Officer [REDACTED].

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

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

## **ANALYSIS**

### **Detention**

Does not apply.

### **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."*

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 [REDACTED] 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 off-duty officer was confronted by a suspect who was armed with an object, which he believed to be a pipe or a small bat. In an attempt to de-escalate the situation, the officer took a step back, put his hands up and attempted to verbalize with the suspect to calm him down. The suspect then struck the off-duty officer on the side of the head with the object and then punched the off-duty officer multiple times in the face with his hands.

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

### **Additional Tactical Debrief Topics**

**Maintaining Control of Equipment**— The investigation revealed that after the OIS, Officer [REDACTED] entered Officer [REDACTED] vehicle and placed his holstered revolver on the floorboard

[REDACTED]

of the vehicle. Although, it is understandable that Officer [REDACTED] was feeling the physical effects of being struck several times on the head, [REDACTED] is reminded of the importance of ensuring [REDACTED] firearms are properly secured. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

Sergeant [REDACTED] responded to the 7-11, separated the involved officers and obtained a PSS from Officer [REDACTED].

Lieutenant [REDACTED] Serial No [REDACTED] Watch Commander, Mission Patrol Division, responded to the scene of the OIS and assumed the role of IC. [REDACTED] also ensured that the involved personnel were separated and monitored.

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

### **Tactical Debrief**

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made 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 Officer [REDACTED], attend a Tactical Debrief and that the specific identified topics are covered.

**Note:** Additionally, the Tactical Debrief shall 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 December 29, 2017, Officers [REDACTED] attended a GTU. In addition to the mandatory topics, the officer received training on Force Option Simulator and Off-Duty Tactics.

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[REDACTED]

### 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], Rodriguez hit [REDACTED] on the side of [REDACTED] head with a hard object. [REDACTED] then began to experience a loud ringing noise in [REDACTED] ears, and for a second, everything was white and then started to go black and fuzzy. Rodriguez continued attacking and swinging at Officer [REDACTED]. Officer [REDACTED] believed Rodriguez was not going to stop and was going to kill him.

**Note:** According to Officer [REDACTED] did not recall drawing [REDACTED] revolver prior to the OIS. However, prior to the OIS, [REDACTED] revolver was secured in a pocket holster in the right front pocket of his blue jeans.

Officer [REDACTED] recalled,

*At that point, I -- I saw that he had - he had something in his hand. I knew it wasn't long enough to be a baseball bat, but I -- I assumed it was a weapon. I don't know if it was a pipe or what it was that he had in his right hand. And he walked up to me. And I kind of took a step back and I just put my hands up, and I said, "Hey, man, no disrespect. We're-- I'm sorry." And the next thing I knew, I got hit in the side -- in the side of the head with -- with the -- with the object. And, I mean, it was -- it was a solid hit. I -- I had ringing, like a loud ringing noise in my -- in my ears. And everything was white for a second, and then started to kind of go like black and fuzzy. And I was being attacked. █*

*I remember thinking, you need to stop him. You need to shoot him to stop him. But it was almost like -- it was almost like I didn't even -- like the gunshot woke me up almost, kind of brought me back to, okay, you're going to survive type of thing. You know? I don't know how any -- know how to describe it other than that. █*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED] while faced with similar circumstances, would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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

[REDACTED]

### 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] – .38 caliber, two rounds in a northwesterly direction from a distance of one to two feet.

According to Officer [REDACTED], Rodriguez continued attacking and swinging at [REDACTED] and [REDACTED] believed Rodriguez would not stop and was going to kill [REDACTED]. Officer [REDACTED] assumed Officer [REDACTED] was still back at the car. Officer [REDACTED] believed that if he did not stop Rodriguez, [REDACTED] was going to die. In fear for [REDACTED] life, [REDACTED] fired two rounds from [REDACTED] revolver at Rodriguez to stop the threat.

Officer [REDACTED] recalled,

*I knew is he was attacking me, and he wasn't going to stop. And at that point, I -- I thought -- I thought to myself, he's going to kill me. There's -- either -- either I'm going to die. I -- I didn't know where where my partner was at that point. I assumed he was still back at the car. I thought if I don't stop him, I'm -- I'm going to die. And -- and -- and that's when I fired two rounds at the suspect.*

*I didn't know what I was getting hit with at that point. I -- I mean, I thought I was going to die. I thought he's -- I -- he was already being irrational. He -- there was no no absolutely no reason for him to hit me. I had no -- I didn't know him. I didn't know who he was or what -- what -- what set him off, because there was absolutely -- I mean, I didn't say a negative word to him. I wasn't confrontational at all. And he just out of nowhere hit me with that thing. No one's going hit you that hard unless they're going to try to kill you. I've never been hit with anything that hard.*

*And I thought -- I mean, I almost didn't have enough time to have this lengthy thought*

[REDACTED]



*process. I just knew if I didn't stop him, he would kill me. That's that's the thought that went through my mind.*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED], would reasonably believe Rodriguez's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

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

**Audio/Video Recordings**

**Digital In-Car Video System (DICVS)/Body Worn Video (BWV)** – Officer [REDACTED] was off-duty and therefore, not equipped with DICVS or BWV at the time of the OIS.

**Outside Video** – Surveillance cameras located on the exterior of [REDACTED] Orion Avenue captured events that occurred on the street. The surveillance cameras did not capture the events leading up to the OIS or the OIS.

Respectfully,



MICHEL R. MOORE  
Chief of Police

Date: 10-18-18

[REDACTED]