

## INTRADEPARTMENTAL CORRESPONDENCE

August 5, 2019

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

**FROM:** Chief of Police

**SUBJECT:** IN-CUSTODY DEATH NO. 003-19

Honorable Members:

The following is my review, analysis and findings for In-Custody Death (ICD), Force Investigation Division (FID) No. 003-19. A Use of Force Review Board (UOFRB) was convened on this matter on July 29, 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 February 12, 2019, at approximately 1521 hours, Lieutenant [REDACTED], Serial No. [REDACTED] Internal Affairs Group (IAG), Criminal Investigation Division, was off-duty, in full uniform and driving an unmarked police vehicle. Lieutenant [REDACTED] was driving to [REDACTED] residence and entered the southbound 101 Freeway via the Los Angeles Street onramp.

According to Lieutenant [REDACTED], [REDACTED] immediately noticed that the traffic was backed up. As [REDACTED] drove down the onramp, [REDACTED] observed a black and white California Highway Patrol (CHP) police vehicle stopped across the southbound lanes of traffic, conducting what [REDACTED] opined to be a traffic break. Lieutenant [REDACTED] crept forward in [REDACTED] police vehicle and observed Officer [REDACTED], Serial No. [REDACTED], CHP, exit the police vehicle. Officer [REDACTED] then walked toward the center divider and made contact with a male, later identified as O. Rojas, in the northbound lanes of traffic.

**Note:** According to Officer [REDACTED], [REDACTED] was driving southbound on the 101 Freeway when [REDACTED] observed Rojas rolling down the embankment on the north side of the 101 Freeway. Rojas stood up, then walked into the northbound lanes of traffic of the 101 Freeway, causing vehicles to stop. Officer [REDACTED] exited [REDACTED] police vehicle and approached the center divider as Rojas started walking over.

A review of the CHP frequency captured Officer [REDACTED] broadcast [REDACTED] location, that Rojas was not complying, and a request for the response of an additional CHP unit. CHP dispatch then

[REDACTED]

contacted Los Angeles Police Department (LAPD) Communications Division (CD) and requested the response of LAPD personnel.

According to Lieutenant [REDACTED], because Officer [REDACTED] and Rojas were involved in a *discussion* at the center divider, [REDACTED] opined Rojas was a *stranded motorist* or an individual involved in a traffic *accident*, whom Officer [REDACTED] was attempting to *render aid* to. However, Lieutenant [REDACTED] noted the situation *doesn't look right* when [REDACTED] observed Officer [REDACTED] put on gloves. Lieutenant [REDACTED] then removed [REDACTED] seatbelt and began focusing [REDACTED] attention on Rojas.

According to Lieutenant [REDACTED], as [REDACTED] continued to monitor the unfolding situation, Officer [REDACTED] appeared to be *motioning* for Rojas to *hop over the center divider* and *directing* Rojas' attention to the southbound *shoulder* of the freeway. Rojas did not appear to be *fully cooperating*. Ultimately, Rojas hopped over the center divider and Officer [REDACTED] and Rojas began to walk toward the shoulder of the freeway.

According to Lieutenant [REDACTED], Rojas' demeanor appeared *very strange*, as if Rojas was possibly *under the influence* of a controlled substance. Believing Officer [REDACTED] *could use [REDACTED] help*, Lieutenant [REDACTED] exited [REDACTED] police vehicle and broadcast, "Rover 39433, show me Code Six, 101 Freeway at Alameda on a citizen call," (**Debriefing Point No. 1**).

According to Lieutenant [REDACTED], [REDACTED] approached Officer [REDACTED] and Rojas as they continued walking toward the shoulder of the freeway. As Lieutenant [REDACTED] closed the distance to them, Officer [REDACTED] looked in Lieutenant [REDACTED]'s direction and *appeared relieved*. As Officer [REDACTED] *continued to verbalize* with Rojas, all three parties reached the shoulder of the freeway.

According to Lieutenant [REDACTED], Officer [REDACTED] said, "Let's cuff him up," and Lieutenant [REDACTED] agreed. While Rojas faced south toward the shoulder wall and Officer [REDACTED] stood behind Rojas, Lieutenant [REDACTED] positioned [REDACTED] to the right of Rojas. Lieutenant [REDACTED] placed a *firm grip* above Rojas' right elbow with [REDACTED] right hand and placed [REDACTED] left hand on Rojas' right wrist area. Lieutenant [REDACTED] held Rojas' arm *in place* as Officer [REDACTED] handcuffed Rojas.

According to Lieutenant [REDACTED], once Rojas was handcuffed, Rojas began uttering incoherent statements and repeatedly stated, "They're in the bushes." Lieutenant [REDACTED] believed Rojas was *hallucinating* and further noted Rojas was exhibiting a *blank stare* and his *pupils were like pins*. Lieutenant [REDACTED] attempted to *calm* Rojas down by advising Rojas, "You're okay, we're going to try to get you help," however, Rojas was *unresponsive*.

According to Lieutenant [REDACTED], [REDACTED] recommended to Officer [REDACTED] that they place Rojas in the back seat of the CHP police vehicle. Officer [REDACTED] agreed to this plan. Lieutenant [REDACTED] believed the CHP police vehicle was equipped with a cage and that Rojas would be *controlled* in the back seat. Rojas was escorted to the CHP police vehicle, however, it was not equipped with a cage. Rojas was then placed in the front passenger seat of the CHP police vehicle. With one of Rojas' feet remaining out the open front passenger door, the situation appeared to be *escalating*. Rojas was *looking back* and exhibiting *paranoid* behavior. Rojas stated, "They're going to kill

me. I don't want to get in there." In an effort to *calm Rojas down* and de-escalate the situation, Officer [REDACTED] suggested they escort Rojas back to the shoulder of the freeway and Lieutenant [REDACTED] agreed. Officer [REDACTED] also advised Lieutenant [REDACTED] that additional CHP personnel were responding.

According to Lieutenant [REDACTED], after they returned to the shoulder of the freeway, they *continued holding* Rojas and *verbalized with* Rojas in an attempt to *calm him down*. Officer [REDACTED] asked Lieutenant [REDACTED] if [REDACTED] would monitor Rojas so that [REDACTED] could move [REDACTED] CHP police vehicle out of traffic. Lieutenant [REDACTED] could not *remember* [REDACTED] verbal response, but [REDACTED] recalled *repositioning* [REDACTED] *behind* Rojas and *holding onto him* (Rojas) as Officer [REDACTED] *went to move* [REDACTED] CHP police vehicle.

According to Lieutenant [REDACTED], while *holding onto* Rojas *with both hands*, Rojas turned to [REDACTED] left and attempted to *break free from* [REDACTED] *grasp*. Believing Rojas was attempting to escape and *run back toward the freeway*, Lieutenant [REDACTED] *held onto* Rojas *as hard as* [REDACTED] could and utilized Rojas' forward *momentum* to *pull* Rojas down to the ground. Rojas landed on his stomach and Lieutenant [REDACTED] continued to maintain [REDACTED] grip on Rojas' *forearms* with both hands and placed both knees on Rojas' buttocks and upper thigh area (**Non-Lethal Use of Force**).

According to Lieutenant [REDACTED], [REDACTED] yelled out to Officer [REDACTED], "I need help. He's [Rojas] trying to get away." Officer [REDACTED] responded back to the shoulder of the freeway and *helped* Lieutenant [REDACTED] *with controlling* Rojas. Lieutenant [REDACTED] asked Officer [REDACTED] again if additional CHP units were responding and Officer [REDACTED] replied that CHP units were enroute.

**Note:** A review of the CHP frequency captured Officer [REDACTED] broadcast a request for an additional unit. [REDACTED] was advised by CHP dispatch that there were three CHP units already responding to the location.

According to Lieutenant [REDACTED], as Rojas continued *moving around* and was *trying to get up*, [REDACTED] and Officer [REDACTED] continued to apply *bodyweight* upon Rojas. They also advised Rojas to *calm down* and *relax*, however, all efforts to verbalize with Rojas proved ineffective (**Non-Lethal Use of Force**).

According to Lieutenant [REDACTED], [REDACTED] changed the channel on [REDACTED] handheld radio to the Central Area frequency and attempted to broadcast. Despite keying the mic several times, Lieutenant [REDACTED] was unable to make a completed transmission due to radio traffic (**Debriefing Point No. 1**).

According to Lieutenant [REDACTED], suddenly, [REDACTED] observed Rojas *spitting up a mixture of blood and saliva*. Lieutenant [REDACTED] stated to Officer [REDACTED], "Let's put him [Rojas] on his side." Rojas was rolled onto his left side and Lieutenant [REDACTED] asked Rojas if he was *alright*.

**Note:** According to Lieutenant [REDACTED], [REDACTED] initially stated [REDACTED] and Officer [REDACTED] applied bodyweight on Rojas for approximately two minutes prior to Rojas being placed onto his

side, however, upon further consideration, Lieutenant [REDACTED] determined it was approximately 28 seconds.

According to Officer [REDACTED], Rojas was on the ground for approximately 30 seconds before Rojas began to vomit.

The FID investigation was not able to definitively determine the exact amount of time that the officers applied bodyweight to the suspect. A review of the surveillance video from the Federal Prison Metropolitan Detention Center, located at 535 North Alameda Street, captured Officer [REDACTED] running from [REDACTED] CHP police vehicle toward the south shoulder of the freeway to assist Lieutenant [REDACTED] at approximately 1529 hours. At approximately 15:31:07 hours, the video further captured Officer [REDACTED] running back to [REDACTED] CHP police vehicle to retrieve medical equipment. A review of the timeline from the video would indicate that the use of force, placement of Rojas onto his side and into a seated position, along with the initiation of CPR all transpired within a total time of approximately two minutes and seven seconds.

According to Lieutenant [REDACTED], [REDACTED] noted Rojas' *breathing was labored* and stated to Officer [REDACTED], "Let's get him [Rojas] up." Once Rojas was placed into a seated position, Lieutenant [REDACTED] *remembered holding him* and repeatedly asking Rojas if he was *alright*. Rojas failed to respond, continued to display labored breathing and his pupils began to dilate.

According to Lieutenant [REDACTED], Rojas' face became increasingly *pale* and he *wasn't blinking*. Believing Rojas may be *losing consciousness* due to a *narcotic overdose*, Lieutenant [REDACTED] began *shaking* Rojas and *slapping him on the face*, attempting to *shake Rojas out of it*.

**Note:** Captain [REDACTED], Serial [REDACTED] Commanding Officer, Criminal Investigation Division, advised the UOFRB that during his walkthrough with Lieutenant [REDACTED] they discussed the manner in which Lieutenant [REDACTED] slapped Rojas' face. Lieutenant [REDACTED] clarified the act as being more consistent with a "tap," rather than a slap.

According to Lieutenant [REDACTED], *based on* [REDACTED] observations, [REDACTED] believed they were *losing* Rojas due to his labored breathing. At that point, *believing there was still time* to bring Rojas *back to consciousness*, they placed Rojas on his back and Lieutenant [REDACTED] began to administer the chest compressions for CPR, while Officer [REDACTED] stated, "Hey come on. Stay with us" **(Additional Tactical Debrief Topics – Performing CPR).**

**Note:** According to Officer [REDACTED], when Rojas ceased breathing, [REDACTED] and Lieutenant [REDACTED] began performing CPR. [REDACTED] determination was based on [REDACTED] assessment that Rojas' *stomach wasn't moving* and Rojas' body was *motionless*.

According to Lieutenant [REDACTED], as [REDACTED] administered the chest compressions, Officer [REDACTED] ran to his CHP police vehicle, returned with a breathing apparatus and began the rescue breaths. As Lieutenant [REDACTED] was becoming fatigued, they switched roles. Lieutenant [REDACTED] asked Officer [REDACTED] if an RA was responding and Officer [REDACTED] reassured [REDACTED] an RA was *enroute*.

Detective [REDACTED], Serial No. [REDACTED], Gang and Narcotics Division, Federal Bureau of Investigation, Fugitive Task Force, off-duty, in plain-clothes attire, was driving southbound on the 101 Freeway in an unmarked police vehicle. [REDACTED] observed Lieutenant [REDACTED] and Officer [REDACTED] performing CPR on Rojas and stopped to assist. Although Detective [REDACTED] was advised that an RA had already been requested, [REDACTED] was directed by Lieutenant [REDACTED] to ensure an RA was enroute. Detective [REDACTED] subsequently broadcast a request for an RA and two additional units for traffic control.

**Note:** The investigation determined that Detective [REDACTED] was not substantially involved and therefore, did not receive formal findings.

Schaffer Advanced Life Support (SALS) private company ambulance personnel, driving southbound on the 101 Freeway, observed Lieutenant [REDACTED] and Officer [REDACTED] performing CPR on Rojas and stopped to assist. SALS personnel requested the handcuffs be removed from Rojas and then took over performing CPR.

Los Angeles Fire Department (LAFD) personnel responded, assumed primary control of medical treatment and continued the lifesaving efforts on Rojas.

Sergeant [REDACTED], Serial No. [REDACTED], Central Patrol Division, responded to the scene. Sergeant [REDACTED] assumed the role of Incident Commander (IC). [REDACTED] determined Lieutenant [REDACTED] was involved in a use of force and noted that LAFD personnel were performing CPR on Rojas.

According to Sergeant [REDACTED] once the investigation was determined to be a Categorical Use of Force (CUOF), [REDACTED] separated and monitored Lieutenant [REDACTED]. [REDACTED] also directed officers to secure the crime scene.

Lieutenant [REDACTED], Serial No. [REDACTED], and Sergeant [REDACTED], Serial No. [REDACTED], IAG, responded to the scene. Lieutenant [REDACTED] assumed the role of IC and directed Sergeant [REDACTED] to assume monitoring duties of Lieutenant [REDACTED] from Sergeant [REDACTED].

LAFD personnel continued with their life saving efforts at the scene. Rojas failed to respond to medical treatment and was pronounced dead by Doctor M. Eckstein, LAFD, Commander, Medical Services Bureau, at 1610 hours.

On February 14, 2019, Los Angeles County Department of Coroner Associate Deputy Medical Examiner Doctor N. Plaza performed a post-mortem examination of Rojas' remains. Rojas' manner of death was classified as accidental and was ascribed to *acute methamphetamine intoxication* with *hypertrophic heart disease* identified as a contributing condition.

**Note:** A toxicology test determined that Rojas had a 1.7 ug/mL (micrograms per milliliter) Methamphetamine in his femoral blood and 3.0 ug/mL Methamphetamine in his heart blood.

Los Angeles County Department of Coroner Chief of the Forensic Science Laboratory Division, Doctor Ruby Ghaffar advised that 0.1 to 1.0 ug/mL of Methamphetamine is in the toxic range and above 1.0 ug/mL Methamphetamine is in the fatal range.

## **FINDINGS**

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

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

## **ANALYSIS**

### **Detention**

The officer observed a CHP officer on the freeway communicating with a subject near the center divider and approached to provide assistance. The officers escorted the subject to the shoulder of the freeway to safeguard the subject's life. The officers noted the subject displayed symptoms consistent with an individual under the influence of a controlled substance and detained him. 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.

[REDACTED]

In this case, the lieutenant and CHP officer escorted the subject out of the freeway lanes of traffic and onto the shoulder of the freeway to safeguard the subject's life. The subject was believed to be under the influence of a controlled substance. Once the subject was handcuffed, the officers escorted him to the CHP police vehicle, as a means to control his actions. When the officers attempted to place the subject in the police vehicle, the subject began to exhibit paranoid behavior and refused to place his entire body in the police vehicle. The personnel verbalized with the subject and resolved the situation peacefully, without the use of force, escorting him back to the shoulder of the freeway in an attempt to de-escalate the situation.

After they returned to the shoulder of the freeway, they continued their efforts to verbalize with the subject to de-escalate the situation. However, when the CHP officer responded to [REDACTED] police vehicle to move it out of traffic, the subject attempted to turn and flee. The lieutenant utilized non-lethal Force options to overcome the subject's resistance and prevent his escape.

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

**Debriefing Point No. 1      Tactical Communication/Planning**

*Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues (California Commission on Peace Officers Standards and Training, Learning Domain 22).*

Lieutenant [REDACTED] initially broadcasted [REDACTED] Code Six location on a radio frequency which was not monitored by CD.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Lieutenant [REDACTED] broadcast [REDACTED] status and location on the IAG frequency, Channel 31, which was not monitored by CD, and immediately responded to assist Officer [REDACTED]. When [REDACTED] realized CD may not have received [REDACTED] initial broadcast, [REDACTED] attempted to broadcast on the Central Area base frequency, however [REDACTED] was unable due to radio traffic. Lieutenant [REDACTED] repeatedly confirmed with Officer [REDACTED] throughout the incident that resources were responding. Additionally, upon the arrival of Detective [REDACTED], Lieutenant [REDACTED] directed [REDACTED] to place them Code Six and request a RA.

In this circumstance, Lieutenant [REDACTED] was off-duty and acted to assist personnel from another law enforcement agency. Consistent with the Department's expectation, Lieutenant [REDACTED] acted only after considering the tactical situation, namely a lone officer communicating with an individual possibly under the influence of a controlled substance.

The UOFRB opined, and I concur, that as a best practice and in an effort to have a plan, Lieutenant [REDACTED] should switch to a monitored frequency while driving home in full uniform.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Lieutenant [REDACTED]'s actions were not a substantial deviation from approved Department tactical training. I will direct this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Performing Cardiopulmonary Resuscitation** – The investigation revealed that Lieutenant [REDACTED] began performing CPR when [REDACTED] believed Rojas' breathing was labored. Lieutenant [REDACTED] is reminded that CPR is to be administered when an individual is not breathing and is unresponsive. I will direct that this be a topic of discussion during the Tactical Debrief.

**Protocols Subsequent to a Categorical Use of Force Incident** – A review of the Body Worn Video (BWV) of personnel at scene revealed Lieutenant [REDACTED] discussed the incident with officers at scene as LAFD personnel continued with lifesaving efforts. I noted the incident had yet to be classified as a CUOF incident and therefore separation was not required. Lieutenant [REDACTED] however, understood that the suspect was in grave condition. Therefore, I would have preferred that [REDACTED] initiate CUOF protocols. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

In reviewing this incident, the UOFRB acknowledged Lieutenant [REDACTED]'s overall effectiveness in working with an officer from an outside agency. Lieutenant [REDACTED] communicated with the other officer and attempted to de-escalate the situation. Lieutenant immediately administered the



chest compressions for CPR when Rojas appeared to be under duress and ensured a RA was responding, resulting in the achievement of the Department's goal of preservation of and reverence for human life. Lieutenant [REDACTED]'s demonstration of Command and Control met my expectation as the senior officer at the scene of a critical incident.

Sergeant [REDACTED] responded to the scene and assumed the role of IC. Sergeant [REDACTED] determined that Lieutenant [REDACTED] was involved in a Non-Categorical Use of Force, noted that LAFD were performing CPR on Rojas and made appropriate notifications. Once the investigation was determined to be a CUOF, [REDACTED] ensured Lieutenant [REDACTED] was separated and monitored.

Lieutenant [REDACTED] and Sergeant [REDACTED] responded to the scene. Lieutenant [REDACTED] assumed the role of IC and directed Sergeant [REDACTED] to assume monitoring duties of Lieutenant [REDACTED] from Sergeant [REDACTED].

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

### **Tactical Debrief**

In conducting an objective assessment of this case, I have determined that Lieutenant [REDACTED]'s tactics did not substantially deviate from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified 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 Lieutenant [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 February 25, 2019, Lieutenant [REDACTED] attended a GTU. All mandatory topics were covered, including In-Custody Deaths and Reverence for Human Life.

### **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).*

### Non-Lethal Use of Force

*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).*

**Lieutenant [REDACTED]** – Firm Grip, Take Down, and Bodyweight.

According to Lieutenant [REDACTED], while holding onto Rojas with both hands, Rojas turned to [REDACTED] left and attempted to break free from [REDACTED] grasp. Believing Rojas was attempting to escape and run back toward the freeway, Lieutenant [REDACTED] held onto Rojas as hard as [REDACTED] could and utilized Rojas' forward momentum to pull Rojas down to the ground. Rojas landed on his stomach and Lieutenant [REDACTED] continued to maintain [REDACTED] grip on Rojas' forearms with both hands and placed both knees on Rojas' buttocks and upper thigh area. As Rojas continued moving around and was trying to get up, [REDACTED] and Officer [REDACTED] continued to apply bodyweight upon Rojas. They also advised Rojas to calm down and relax, however, all efforts to verbalize with Rojas proved ineffective.

Lieutenant [REDACTED] recalled,

*I held onto the suspect and so the CHP officer went over to move his car. And the next thing you know...the suspect turned and saw and then he attempted to - - to run or he, you know, break my grasp and he - - he tried to run toward - - back toward the freeway...So, I grabbed onto him with - - I held onto him with all I could and so he wouldn't get away because all I'm thinking is he's going to jump the center divider again into oncoming traffic...he would be a danger. So, I - - I held onto him as hard as I can and I pulled on him and I used - - I kind of used his momentum and I pulled him down and the next thing you know...he's on the ground and I - - I had continued to hold onto him so he wouldn't get away [REDACTED]*

Based upon the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Lieutenant [REDACTED], while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome Rojas' resistance and prevent his escape.

Therefore, I find Lieutenant [REDACTED]'s Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

[REDACTED]

### **Additional**

**Investigative Responsibilities** – The incident was investigated by both FID and the CHP. Along with FID investigators, the CHP Multidisciplinary Accident Investigation Team (MAIT) also responded to the scene of the incident.

FID investigators handled the administrative investigation of the incident regarding Department personnel.

Sergeant [REDACTED], Serial No. [REDACTED], CHP, completed the administrative investigation regarding CHP personnel.

Officer [REDACTED], Serial No. [REDACTED], CHP, completed the criminal investigation and will be presenting the case to the Los Angeles County District Attorney's Office Justice System Integrity Division (JSID)

All evidence was collected and tested by MAIT.

**Department Operations Center (DOC) Notification** – The investigation revealed that the incident was reported to the DOC approximately two hours after Rojas was pronounced dead at the scene. According to FID investigators, there was a delay in determining the incident was a CUOF. Once the incident was definitively determined to be a CUOF, personnel from FID notified the DOC. As such, I deem no further action is necessary.

### **Audio/Video Recordings**

**Digital In-Car Video System/Body Worn Video** – Central Division vehicles were equipped with DICVS at the time of this incident. However, none of the DICVS captured the use of force incident.

Central Patrol Division personnel were equipped with BWV at the time of this incident. However, none of the BWV captured the use of force incidents.

**Outside Video** – Officer [REDACTED] CHP police vehicle was equipped with a video system which captured Officer [REDACTED] and Rojas on the freeway at the center median. It further captured Rojas climbing over the center median and walking toward the shoulder of the freeway with Officer [REDACTED], then out of view of the video camera. The video system did not capture the use of force incidents.

The surveillance videos from the Federal Prison Metropolitan Detention Center, located at 535 North Alameda Street, captured Rojas running north on Alameda Street from Temple Street, along with a partial view of the incident in the freeway lanes of traffic. The use of force incidents were obstructed by the Alameda Street freeway overpass.

The Honorable Board of Police Commissioners

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A video captured on Instagram captured Lieutenant [REDACTED] and Officer [REDACTED] performing CPR on Rojas.

Respectfully,



MICHEL R. MOORE  
Chief of Police

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

8-5-19