

INTRADEPARTMENTAL CORRESPONDENCE

December 13, 2019

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TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 005-19

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 005-19. A Use of Force Review Board (UOFRB) was convened on this matter on November 7, 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 14, 2019, at approximately 0645 hours, Officers [REDACTED], Serial No. [REDACTED], Pacific Area, Gang Enforcement Detail (GED), and Officer [REDACTED], Serial No. [REDACTED], Northeast Patrol Division, were attired in full uniform, working an overtime detail at Transit Services Division (TSD). They were assigned a foot beat at the Metropolitan Transit Authority (MTA) train station located at 660 South Figueroa Street (**Additional-Required Equipment**).

According to Officer [REDACTED], the concepts of command and control and the Tactical De-escalation concepts in Use of Force Tactics Directive No. 16 were reviewed and discussed during roll call at TSD. Officers [REDACTED] and [REDACTED] discussed de-escalation, the role of contact and cover, and tactics on the *platform* as they travelled to their assigned post. Although each of the officers had previously worked TSD overtime details, they had never worked together prior to the day of the incident.

According to Officer [REDACTED] and Officer [REDACTED] were assigned to a foot beat at *7th and Metro* on the *mezzanine level*. Their responsibility was to assist MTA Transit Security Officers (TSOs) and provide *high-visibility* crime prevention. Upon their arrival at their assigned location, Officer [REDACTED] advised Communications Division (CD) of their Code Six location at 7th Street and Metro. Officer [REDACTED] then advised CD of their updated location upon their arrival at *platform one*.

[REDACTED]

Note: The investigation revealed that Level 2 of the MTA station is also referred to as the mezzanine level and consists of two platforms, which are divided by the north and south Blue Line train tracks.

According to Officer [REDACTED] and Officer [REDACTED] were assisting TSOs [REDACTED] and [REDACTED] with passenger unloading for a recently docked *blue line* train on *platform one*.

Note: The investigation revealed that TSOs [REDACTED] and [REDACTED] were concurrently positioned approximately 150 feet away, in the area of the Transit Access Pass (TAP) turnstiles. At 0645:08 hours, the suspect, later identified as W. Hernandez, contacted TSO [REDACTED] and requested to ride the train for free. TSO [REDACTED] denied Hernandez entry through the turnstiles. Hernandez then produced multiple TAP cards and attempted to scan them at the turnstile. The turnstiles did not open, possibly due to insufficient funds on the TAP cards. At 0647:08 hours, Hernandez walked away from the turnstiles and briefly stood against a wall before approaching to the turnstile a second time.

According to TSO [REDACTED], as Hernandez approached, [REDACTED] appeared to get upset and raised his voice. Hernandez produced a folding knife, which he opened and locked into a fixed position. Hernandez proceed to walk through the Americans with Disability Act (ADA) accessible turnstile without paying the fare.

According to TSO [REDACTED], Hernandez stated in Spanish, "Well, you better shoot me because I'm still coming in here." TSOs [REDACTED] and [REDACTED] both observed the knife in Hernandez' right hand. TSO [REDACTED] ordered Hernandez to drop the knife multiple times, however, he did not comply. Hernandez advanced toward TSOs [REDACTED] and [REDACTED] as they redeployed backward. TSO [REDACTED] observed Hernandez holding the knife in his right hand with the blade pointed in an upward direction. TSO [REDACTED] broadcast over the MTA radio frequency that there was a man with a knife and they needed police assistance. TSOs [REDACTED] and [REDACTED] expanded their collapsible batons because they believed Hernandez was going to stab them.

According to TSO [REDACTED] ordered Hernandez to *get back* and put down the knife multiple times, but Hernandez refused to comply. Hernandez continued walking toward [REDACTED] stating, "Yeah. Yeah," and began jabbing the knife in the direction of TSOs [REDACTED] and [REDACTED].

According to TSO [REDACTED] heard yelling coming from the area of the turnstiles and observed Hernandez moving toward TSO [REDACTED], who had [REDACTED] collapsible baton deployed. [REDACTED] heard an unknown TSO yell, "Stop." TSO [REDACTED] advised TSO [REDACTED] of [REDACTED] observations and advised [REDACTED] to inform LAPD officers that assistance was needed.

According to Officer [REDACTED] was *advised by* TSO [REDACTED] that they needed *help* with a *guy with a knife*.

According to TSO [REDACTED] was not aware that Hernandez was in possession of a knife when [REDACTED] requested assistance from the LAPD. TSO [REDACTED] did not become aware of the knife until [REDACTED] walked over to Hernandez and observed it in his hand.

According to Officer [REDACTED] and Officer [REDACTED] started walking westbound on the platform towards the Figueroa Street exit to assist the TSOs. Officer [REDACTED] stated he walked fast, but was aware the floors were slippery and wet, due to the rainy day. Officer [REDACTED] walked along the south wall while Officer [REDACTED] walked along the north wall (**Additional Tactical Debrief Topic- Tactical Communication**).

According to Officer [REDACTED], the officers walked along opposite sides of the escalators in order to triangulate on the suspect. The officers did not verbally discuss this tactic, but understood what each other was doing based on their body language. Additionally, Officer [REDACTED] was unaware of the conversation between Officer [REDACTED] and TSO [REDACTED] because it was very loud at the location. Officer [REDACTED] stated [REDACTED] and [REDACTED] partner heard loud screaming and walked towards that direction.

Note: During the UOFRB, it was presented and confirmed by FID that Officers [REDACTED] and [REDACTED] traversed approximately 150 feet from their original location on platform one to where Hernandez was located.

According to Officer [REDACTED] was approximately 20 feet away from Hernandez when [REDACTED] observed him advancing towards the TSOs while holding a knife, pointing it and waving it at them. Officer [REDACTED] directed Officer [REDACTED] to request a backup for a man with a knife (**Additional Tactical Debrief Topic- Tactical Communication**).

According to Officer [REDACTED] did not recall Officer [REDACTED] communicating with him at that time due to it being very loud. Officer [REDACTED] approached from behind the TSOs and saw Hernandez facing the TSOs while in a fighting stance, but didn't see Hernandez holding the knife.

According to Officer [REDACTED], the TSOs appeared scared and were screaming at Hernandez to drop the knife. Officer [REDACTED] observed that Hernandez was within one to two feet of the TSOs and was holding a knife at chest level with it pointing towards the MTA officers [TSOs]. Although Officer [REDACTED] believed the incident had escalated to an immediate defense of life situation, [REDACTED] attempted to deescalate [sic] the situation by drawing [REDACTED] TASER because [REDACTED] believed it would be unsafe to utilize [REDACTED] service pistol due to the TSOs being in his background. Officer [REDACTED] aimed the TASER at Hernandez's center mass and activated it in probe mode for one five-second cycle. According to Officer [REDACTED] was unable to give a verbal warning to Hernandez prior to the deployment of the TASER since the situation had already escalated to an immediate defense of life situation (**Less-Lethal Use of Force**).

According to TSOs [REDACTED] and [REDACTED], Hernandez got within approximately four feet of them. TSOs [REDACTED] and [REDACTED] estimated Hernandez got within five to seven feet.

According to Officer [REDACTED] did not observe Officer [REDACTED] deploy the TASER, did not hear the TASER activation and did not recall if Officer [REDACTED] gave a verbal warning prior to the deployment of the TASER.

According to TSO [REDACTED] *heard* an LAPD officer *scream* at Hernandez to *stop and drop the knife*.

According to Witness [REDACTED], [REDACTED] was at the TAP machine near the northeast corner of the platform when [REDACTED] heard a female TSO yell, "I need help!" [REDACTED] also heard TSO [REDACTED] tell Hernandez to back up. [REDACTED] then observed two LAPD officers approach Hernandez and give Hernandez commands to leave the terminal. [REDACTED] did not observe the knife in Hernandez' hands, but heard an unidentified officer state, "Stop," several times before a TASER was deployed. [REDACTED] believed the TASER hit Hernandez in the chest, but stated that the TASER appeared to have no effect on Hernandez.

Note: The FID investigation determined that the TAP machine [REDACTED] was standing next to was approximately 72 feet from the location where the TASER was deployed and that the LAPD officers he observed were Officers [REDACTED] and [REDACTED].

According to Officer [REDACTED], the TASER had *no effect*, at which point Hernandez, who was still holding the knife, *turned and ran towards* him. Officer [REDACTED] believed Hernandez *was going to hurt* [REDACTED] causing Officer [REDACTED] to *fear* for [REDACTED] life. Officer [REDACTED] *saw the knife coming towards* [REDACTED] and attempted to *redeploy backwards* to find *cover* and create distance.

According to TSOs [REDACTED] and [REDACTED], they believed the TASER darts contacted Hernandez' front torso.

Note: According to Los Angeles County Department of Medical Examiner- Coroner Autopsy Report No. [REDACTED], Deputy Medical Examiner [REDACTED] conducted the post-mortem examination of Hernandez' remains and noted that Hernandez sustained a puncture wound to his left hand. Additionally, Doctor [REDACTED] recovered a TASER dart from the bottom left sleeve area of Hernandez' jacket during the examination.

During the UOFRB, it was presented that FID investigators were unable to determine if the second TASER dart made contact with Hernandez.

According to Officer [REDACTED], Hernandez was still armed with a knife and had closed to within one to two feet of [REDACTED]. Officer [REDACTED] believed Hernandez *was going to hurt* [REDACTED] causing [REDACTED] to *fear* for [REDACTED] life. Officer [REDACTED] *saw the knife coming towards* [REDACTED] and attempted to *redeploy backwards* to find *cover* and create distance. Officer [REDACTED] dropped [REDACTED] TASER and due to Hernandez's close proximity, [REDACTED] drew [REDACTED] service pistol into a *close contact* position and placed [REDACTED] *finger on the trigger* (Drawing/Exhibiting and Additional Tactical Debrief Topic- Maintaining Control of Equipment).

[REDACTED]

According to Officer [REDACTED], Hernandez had *closed the distance* and was *close* to him. Holding [REDACTED] service pistol at [REDACTED] hip, Officer [REDACTED] fired *approximately two to three rounds* at Hernandez to stop the threat (**Lethal Use of Force**).

Note: The investigation revealed that Officer [REDACTED] fired three rounds.

The FID investigators determined and presented at the UOFRB that approximately five seconds elapsed between Officer [REDACTED] deploying [REDACTED] TASER to when the OIS occurred. Additionally, the FID investigation noted that Officer [REDACTED] redeployed approximately 31 feet from the location of the TASER activation to the location of the OIS.

According to Officer [REDACTED] observed Hernandez fall to the ground, and [REDACTED] stopped firing when [REDACTED] observed there *was no more threat*. Officer [REDACTED] holstered [REDACTED] service pistol when additional units arrived and the scene was safe.

According to Officer [REDACTED] observed Hernandez fall to the ground and saw the knife fall from Hernandez' right hand. Officer [REDACTED] broadcast a Help Call from [REDACTED] handheld radio and requested a supervisor and a Rescue Ambulance (RA) for Hernandez.

According to Officer [REDACTED] Serial No. [REDACTED] Metropolitan Division, [REDACTED] and Officer [REDACTED] Serial No. [REDACTED] Metropolitan Division, were nearby and also working a TSD overtime detail. Officers [REDACTED] and [REDACTED] heard the gunshots and the help call broadcast, responded on foot and began securing the crime scene.

According to Officer [REDACTED] used [REDACTED] foot to move the knife away from Hernandez's hand prior to assisting [REDACTED] partner take Hernandez into custody. Officer [REDACTED] then checked Hernandez' pulse by placing [REDACTED] left fingers on the *radial artery* of Hernandez' left wrist and felt Hernandez *had no pulse*.

According to Officer [REDACTED] used [REDACTED] foot to move the knife closer to its original position because [REDACTED] was worried someone may take the knife as it was *rush hour* and there were many patrons walking nearby (**Additional Tactical Debrief Topic- Preservation of Evidence**).

Note: Hernandez was armed with a black textured folding knife with a three inch stainless steel blade, locked in the open/fixed position. The knife was recovered from the floor, approximately 10 feet west of Hernandez' body.

Detective [REDACTED] Serial No. [REDACTED] Northeast Area, was also working the TSD overtime detail and he responded to the scene and assumed the role of Incident Commander (IC). Detective [REDACTED] identified the officers involved in the use of lethal force, immediately separated them and ordered them not to speak to anyone, including each other, regarding the incident. Detective [REDACTED] then took Officer [REDACTED] Public Safety Statement (PSS).

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

Lieutenant [REDACTED] Serial No. [REDACTED] Transit Services Division, responded to the scene and took over the role of IC from Detective Burcher (**Command and Control**).

Los Angeles Fire Department (LAFD) personnel responded to the location and attempted to render medical aid to Hernandez for gunshot wounds. Hernandez was pronounced deceased at scene at 0710 hours by LAFD personnel (**Additional – Reverence for Human Life**).

Note: The post-mortem examination by Doctor [REDACTED] determined that Hernandez sustained two gunshot wounds. The gunshot wounds were numbered, but do not necessarily reflect the order in which they occurred. Gunshot Wound No. 1 entered through the right side of the neck, with a trajectory of right to left, front to back, and downward. Gunshot Wound No. 2 entered the right side of the abdomen, with a trajectory of right to left, front to back, and downward.

FINDINGS

Tactics – Tactical Debrief, Officers [REDACTED] and [REDACTED].

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

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

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

ANALYSIS

Detention

The involved officers responded to an MTA TSO request for assistance for a man armed with a knife at the turnstiles of a MTA station. As the officers approached, an officer observed the suspect walking towards several TSOs while armed with a knife. An officer observed the suspect jab the knife in the direction of the TSOs. As the suspect closed to within a few feet of the TSOs, an officer attempted to detain the suspect using a less-lethal force option. The suspect turned towards the officer, raised the knife to ear level, with the blade facing the officer and ran towards him resulting in an OIS. The officers' actions were appropriate and within Department standards.

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*

[REDACTED]

actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance” (Los Angeles Police Department Manual, Volume 3, Section 792.05).

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

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

(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, Officers [REDACTED] and [REDACTED] responded to a request for assistance from MTA TSOs in dealing with a suspect who was armed with a knife. As the incident rapidly escalated, Officer [REDACTED] deployed a TASER and subsequently was involved in an OIS.

Planning – While Officers [REDACTED] and [REDACTED] had not previously worked together, they both attended the TSD roll call in which tactical de-escalation and command and control was reviewed and discussed. Prior to working together on the day of the incident, they had each worked numerous TSD overtime shifts and therefore had experience in the specific work duties and environment encountered in MTA stations. Additionally, Officers [REDACTED] and [REDACTED] discussed the roles of contact and cover, tactics related to the MTA location and de-escalation as they travelled to their assigned post. It was noted that the officers utilized non-verbal communication with each other and triangulated on the suspect by walking on opposite sides of the escalators as they approached his location. While it would have been preferred that they discussed more specific plans prior to engaging the suspect, the rapidly unfolding and escalating nature of the incident, along with the loud noise inside the MTA station, limited their ability to communicate with each other as they approached the suspect’s location.

Assessment – Officer [REDACTED] observed that Hernandez was armed with a knife and while Officer [REDACTED] did not observe the knife, [REDACTED] could see that the suspect was in what [REDACTED] described as a “fighting stance.” Due to the suspect’s close proximity to the TSOs, Officers [REDACTED] and [REDACTED] contacted the suspect. Officer [REDACTED] continuously assessed the suspect’s actions, determined that the suspect posed a threat of serious bodily injury or death to some of the TSOs in the area. Officer [REDACTED] believed the situation had arisen to a lethal force situation but chose to deploy [REDACTED] TASER because the TSOs were in his background. Officer [REDACTED] utilized [REDACTED] TASER and assessed that the TASER did not stop the suspect’s actions. The suspect turned toward the officer and began to charge [REDACTED] while holding the knife pointed toward [REDACTED]. Officer [REDACTED] then assessed that the suspect now posed a deadly threat to [REDACTED] resulting in the OIS. During the OIS, Officer [REDACTED] assessed that the suspect had fallen and stopped firing once the suspect ceased being a deadly threat to him.

Time – The officers were faced with a rapidly escalating incident in which the suspect’s actions posed a deadly threat to the TSOs at the scene. Due to the suspect’s actions, the officers had limited opportunity to utilize distance and cover to create more time to make decisions and utilize other options. Approximately five seconds elapsed from the deployment of the TASER to the OIS. A review of the area in which the OIS occurred revealed that there were limited options for cover and there was a rush hour crowd in the MTA station. Officer [REDACTED] attempted to gain more time during the incident by moving backward from the suspect, but the suspect rapidly closed the distance after the deployment of the TASER, resulting in the OIS.

Redeployment and/or Containment – Officers [REDACTED] and [REDACTED] approached the suspect’s area and positioned themselves to triangulate on the suspect in order to contain him. In response to the dynamic and rapid movement of the suspect, Officer [REDACTED] continuously redeployed, and even moved backward in an attempt to maintain distance from the suspect who was moving towards [REDACTED] while armed with a knife. The investigation determined that Officer [REDACTED] redeployed approximately 31 feet from the location where the TASER was deployed to the location of the OIS.

Other Resources – The suspect rapidly escalated the incident with his aggressive actions. Officer [REDACTED] attempted to communicate with Officer [REDACTED] to request additional units, but due to the noisy environment, Officer [REDACTED] did not hear him. Officer [REDACTED] utilized a TASER as a less lethal force option on the suspect with limited effect. While I would have preferred additional resources respond to the incident, the rapid escalation by the suspect limited the officers’ opportunity to request any additional resources. When the opportunity provided itself, Officer [REDACTED] did request additional resources, including a supervisor, to respond to the location.

Lines of Communication – The rapid nature of the incident limited the officers’ ability to establish lines of communication with the suspect and each other. The TSOs who were engaged with the suspect attempted to establish communication with the suspect prior to the officers’ arrival, but he refused to drop the knife and continued to advance toward them. As the officers approached the suspect’s location, they utilized non-verbal communication with each other and triangulated on the suspect by walking on opposite sides of the escalators. Once Officers [REDACTED]

and [REDACTED] arrived at the scene, the suspect already posed a deadly threat to the TSOs, which prevented further communication efforts.

The UOFRB determined, and I concur, that while Officers [REDACTED] and [REDACTED] implemented elements of de-escalation, the dynamic actions of the suspect, along with the environment of the MTA location, limited the officers' ability to fully implement further de-escalation techniques.

During a review of the incident, the following Debriefing topics noted:

Additional Tactical Debrief Topics

Preservation of Evidence – The investigation revealed Officer [REDACTED] used [REDACTED] foot to move the knife approximately 13 feet away from the suspect. Subsequently, Officer [REDACTED] used [REDACTED] foot to move the knife approximately two to three feet closer towards its original position to prevent the possibility of a patron taking the knife. While Officer [REDACTED] actions were understandable, [REDACTED] is reminded that whenever tactically feasible, it is preferable to have someone guard evidence and leave it undisturbed until FID investigators can properly document and preserve the scene. Additionally, Officer [REDACTED] is reminded that once evidence is moved, it should not be placed back into its former position. I will direct that this be a topic of discussion during the Tactical Debrief.

Tactical Communication – While the investigation revealed that the officers used non-verbal communication and attempted to communicate the need for additional resources, Officer [REDACTED] did not verbally advise Officer [REDACTED] of TSO [REDACTED]'s request for assistance. The UOFRB considered the rapidly unfolding nature of the incident and that the officers had limited time to make a tactical plan while responding. While these were factors which led to a lack of verbal communication, the officers are reminded that when tactically feasible it is preferred to advise responding personnel of all pertinent information during a tactical situation. I will direct this be a topic of discussion during the Tactical Debrief.

Maintaining Control of Equipment – The investigation revealed that Officer [REDACTED] dropped [REDACTED] TASER as [REDACTED] transitioned to [REDACTED] service pistol. Officer [REDACTED] was faced with a dynamic deadly force situation with a suspect who charged at [REDACTED] with a knife despite a TASER being discharged at [REDACTED]. Officer [REDACTED] was forced to immediately transition from [REDACTED] TASER to [REDACTED] service pistol in order to stop the deadly threat. In order to complete the transition, Officer [REDACTED] dropped the TASER on the ground and drew [REDACTED] service pistol. While it was reasonable in this case due to the time compressed nature of the incident, officers are reminded of the importance of maintaining control of their equipment when feasible and I will direct that this be a topic of discussion during the Tactical Debrief.

Reverence for Human Life – According to the FID investigation, LAFD Paramedics [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Station No. [REDACTED] responded to the request for a Rescue Ambulance. Paramedics [REDACTED] and [REDACTED] arrived at scene and met with an

unidentified officer who was controlling the perimeter of the crime scene. According to Paramedic [REDACTED] the officer initially allowed only one paramedic into the crime scene in order to prevent the disturbance of evidence.

Although officers at the scene believed that the suspect was already deceased, all involved personnel are reminded that they are not medical professionals and that the reverence for human life is more important than the preservation of any evidence. 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).

Detective [REDACTED] responded to the scene and identified the officers that were involved in the use of lethal force. [REDACTED] immediately separated and monitored the officers and obtained a PSS from Officer [REDACTED]. Detective [REDACTED] appropriately assumed the role of the IC and requested additional supervisors to assist with the monitoring of the involved officers.

Note: The UOFRB also noted that prior to supervision arriving and due to the ongoing tactical incident, Officer [REDACTED] gathered sufficient information from Officers [REDACTED] and [REDACTED] to ensure public safety and the securing of the crime scene.

Sergeant [REDACTED] responded, assumed monitoring responsibilities of Officer [REDACTED] and obtained a PSS.

[REDACTED]

Lieutenant [REDACTED] responded and assumed the role of the IC and ensured that the crime scene was preserved.

Detective [REDACTED] actions during this incident demonstrated active leadership. The UOFRB noted that [REDACTED] displayed a calm and patient demeanor throughout the incident. Detective [REDACTED] utilized assessment, planning, additional resources and communication to effectively manage an ongoing and dynamic tactical incident. Detective [REDACTED] contained the scene and ensured a smooth transition when Lieutenant [REDACTED] arrived and assumed control of the incident.

Lieutenant [REDACTED] actions during this incident demonstrated active leadership. The UOFRB also noted that Lieutenant [REDACTED] displayed a calm and patient demeanor throughout the incident and utilized assessment, planning, additional resources and communication to effectively manage the crime scene until the arrival of FID investigators.

Lieutenant [REDACTED], Detective [REDACTED], and Sergeant [REDACTED] actions 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, the UOFRB determined, and I concur, that Officers [REDACTED] and [REDACTED] tactics did not substantially deviate from approved Department tactical training.

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 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;
- Radio and Tactical Communication (including Code Six);
- Tactical Planning;
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

On February 28, 2019, Officers [REDACTED] and Officer [REDACTED] attended a GTU. All mandatory topics were covered, including Encounters with Mentally Ill, Armed Suspects, Reverence for Human Life, Tactical Planning, Tactical Communication and Edged Weapons.

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 No. 1, Section 556.80).

According to Officer [REDACTED], Hernandez was still armed with a knife and had closed to within one to two feet [REDACTED]. Officer [REDACTED] believed Hernandez was going to hurt [REDACTED] causing [REDACTED] to fear for [REDACTED] life. Officer [REDACTED] saw the knife coming towards [REDACTED] and attempted to redeploy backwards to find cover and create distance. Due to Hernandez’s close proximity, Officer [REDACTED] dropped [REDACTED] TASER, [REDACTED] drew [REDACTED] service pistol to a close contact position and placed [REDACTED] finger on the trigger.

And that's when he -- basically that's when he flipped the knife, and he came -- he closed the distance. He looked at me, he just started closing the distance, which I redeployed. I tried to redeploy and move back. And at which point he closed the distance to -- to close -- the Taser was ineffective, and I had to transition to my gun. And, you know, I was in fear for my life... because he closed the distance so close. He was one to two feet, real close.

He was going to hurt me. He was going to -- I was in fear for my life. I saw the knife coming towards me.

He looked at me, he just started closing the distance, which I redeployed. I tried to redeploy and move back. And at which point he closed the distance

I was only able to unholster it and do like a close contact shoot from my -- basically my hip

In this case, the UOFRB conducted a thorough review and evaluation of the reasonableness of Officer [REDACTED] Drawing/Exhibiting. The UOFRB noted that Officer [REDACTED] had observed the suspect was armed with a knife. Officer [REDACTED] had attempted to use a TASER on the suspect, but it did not subdue the suspect. The suspect, still armed with the knife which was raised and pointing in Officer [REDACTED]’s direction, rapidly closed the distance to Officer [REDACTED]. According

[REDACTED]

to Officer [REDACTED], the suspect came within one to two feet from [REDACTED] prompting Officer [REDACTED] to fear for [REDACTED] life and draw [REDACTED] service pistol.

As such, 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 that 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.

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).*

Less-Lethal Use of Force

Whenever practicable, officers shall exercise de-escalation techniques to resolve potential use of force incidents and seek voluntary compliance from suspects/subjects.

The courts have held that Less-Lethal force options are "capable of inflicting significant pain and may cause serious injury." Therefore, consistent with the Department's Use of Force Policy, Less-Lethal force options are only permissible when:

- *An officer reasonably believes the suspect or subject is violently resisting arrest or poses an immediate threat of violence or physical harm.*

Less-Lethal force options shall not be used for a suspect or subject who is passively resisting or merely failing to comply with commands. Verbal threats of violence or mere non-compliance by a suspect do not alone justify the use of Less-Lethal force.

An officer may use the TASER as a reasonable force option to control a suspect when the suspect poses an immediate threat to the safety of the officer or others.

The optimal range for the X-26 TASER is 7-15 feet. This range gives the most effective spread of the probes to accomplish neuro-muscular incapacitation (Los Angeles Police Department Use of Force Tactics Directive No. 4.5, Electronic Control Device TASER –July 2018).

Officer [REDACTED] –TASER, one five second activation in probe mode, from an estimated distance of five to six feet.

According to Officer [REDACTED], the TSOs appeared scared and were screaming at Hernandez to drop the knife. Officer [REDACTED] observed that Hernandez was within one to two feet of the TSOs and was holding the knife at chest level with it pointing towards the TSOs. Although Officer [REDACTED] believed the incident had escalated to an immediate defense of life situation, [REDACTED] attempted to de-escalate the situation by drawing [REDACTED] TASER because [REDACTED] believed it would be unsafe to utilize [REDACTED] service pistol due to the TSOs being in [REDACTED] background. Officer [REDACTED] aimed at Hernandez's center mass and activated it in probe mode for one five-second cycle.

Officer [REDACTED] recalled,

As I continued walking in a westbound direction, I see that this suspect is holding a knife towards the four security officers. He's kind of waving it. His demeanor is like I'm going to hurt you, pointing it at them.

...to protect the MTA staff there, you know, from any injury, great bodily injury, or even death -- I deployed my Taser at the time trying to deescalate the situation. I deployed it.

He [Hernandez] was holding the knife, and there was approximately four – three to four officers, MTA, that he was approaching with the knife. And I could see that they're also backing up, because they're scared, you know, for their life. They're screaming...

It [the knife in Hernandez' possession] was at chest level.

...I took it as IDOL, immediate defense of life, at the time, because he was closing the distance between not just the employees and at which point -- you know, I believe that he could cause serious bodily -- even death to them. You know, could cause real harm to them.

I know it hit center. I deployed -- I pointed the laser right at center mass and that's where I deployed.

Officer [REDACTED] was asked questions regarding the deployment of [REDACTED] TASER by [REDACTED].

[REDACTED]: *So what you're saying is that he was in between you and the other MTA people. And if you had shot, you would have killed them, so –*

OFFICER [REDACTED]: *Yeah. Yes, at the time my background wasn't – because they were there, it wasn't – so my best situation was to deploy my Taser. Because, like I said, at that time my background wasn't... a clean background... the background wasn't good because the officers were there... There was four of them there at the time.*

The UOFRB reviewed and conducted an evaluation of Officer [REDACTED] TASER deployment and noted that Officer [REDACTED] observed that Hernandez was armed with a knife and was within several feet of the TSOs. Officer [REDACTED] heard multiple TSOs ordering Hernandez to drop the knife and deployed [REDACTED] TASER to de-escalate the situation and protect the TSOs from being cut with the knife. The UOFRB also evaluated the lack of a verbal warning prior to the deployment of the TASER and noted that prior to the officers' arrival, TSOs had repeatedly commanded Hernandez to drop the knife and [REDACTED] refused to comply. By the time the officers had arrived on the scene, the situation had already escalated to the point where Hernandez' actions posed a threat of serious bodily injury or death to several TSOs and a verbal warning was not feasible.

The UOFRB determined, and I concur, that the lack of verbal warning was not a deviation.

[REDACTED]

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 believe that the same application of less-lethal force would be objectively reasonable.

Therefore, I find Officers [REDACTED] Use of Less-Lethal Force and In Policy, No Further Action.

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*

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force (Los Angeles Police Department Manual, Volume No.1, Section 556.10).

Officer [REDACTED] – 9mm, three rounds in a northwesterly direction from a decreasing distance of four feet to one foot.

According to Officer [REDACTED], Hernandez had closed the distance and was close to [REDACTED] [REDACTED]. While holding [REDACTED] service pistol at [REDACTED] hip, Officer [REDACTED] fired approximately two to three rounds at Hernandez to stop the threat.

Officer [REDACTED] recalled,

I transitioned to my gun and deployed my gun and shot approximately two to three rounds. It was -- he closed the distance so close -- so close to me that it was almost a close contact -- close contact. [REDACTED]

In this case, the UOFRB conducted a thorough review and analysis of the reasonableness of Officer [REDACTED] use of lethal force and considered the details of the encounter of the TSOs and Hernandez prior to the arrival of the officers. The UOFRB noted that Hernandez had armed himself with a knife and was approaching TSOs as Officers [REDACTED] and [REDACTED] arrived at the location in response to a request for assistance. Officer [REDACTED] believed that the situation had escalated to the point where Hernandez posed a threat of serious bodily injury or death to several TSOs. Officer [REDACTED] assessed the situation as a lethal force situation, but decided to draw [REDACTED]

[REDACTED]

TASER because [REDACTED] knew that the TSOs would be in [REDACTED] background if [REDACTED] utilized [REDACTED] service pistol. Officer [REDACTED] discharged [REDACTED] TASER, but found that it was not effective. Hernandez then turned [REDACTED] attention toward Officer [REDACTED] and charged at [REDACTED] while holding a knife pointed in Officer [REDACTED] direction. In response to Hernandez' attack, Officer [REDACTED] redeployed backward and fired [REDACTED] service pistol from a close contact position at a decreasing distance of four feet to one foot. Officer [REDACTED] ceased firing after [REDACTED] assessed that Hernandez no longer posed a deadly threat. The UOFRB noted that although Officer [REDACTED] used lethal force to defend [REDACTED] life, [REDACTED] also demonstrated a reverence for life by assessing the situation and first utilizing the TASER, redeploying approximately 31 feet before the OIS and then ceasing fire as soon as Hernandez ceased to pose a deadly threat.

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 Hernandez'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.

Additional/Equipment

Required Equipment – The investigation revealed that Officer [REDACTED] was not in possession of a Hobble Restraint Device (HRD) at the time of the incident. This issue was brought to the attention of Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Northeast Patrol Division. Captain [REDACTED] addressed this issue through divisional training, which was entered into the Learning Management System (LMS). The Commanding Officer of Operations-Central Bureau and the Director of the Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

The investigation also revealed that Officer [REDACTED] was not in possession of a HRD at the time of the incident. This issue was brought to the attention of Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Pacific Patrol Division. Captain [REDACTED] addressed this issue through divisional training, which was entered into the LMS. The Commanding Officer of Operations-West Bureau and the Director of OO concurred with this action. As such, I deem no further action is necessary.

Audio/Video Recordings

Outside Video – A MTA surveillance camera, located on Level 2, captured the OIS.

Digital In-Car Video System (DICVS) – Officers [REDACTED] and [REDACTED] were assigned to foot beats and were not assigned a police vehicle at the time of this incident. Central Patrol Division vehicles were equipped with DICVS at the time of the incident. None of the DICVS captured the incident.

Body Worn Video (BWV) – Officers [REDACTED] and [REDACTED] were not equipped with BWV at the time of this incident. Per Office of Operations Notice 1.11, dated September 8, 2017, personnel assigned to TSD overtime details are not required to wear BWV. Central Patrol Division officers who responded to the location were equipped with BWV. None of the BWV captured the incident.

Additional

In order to enhance future tactical performance, the Department has obtained a grant funding, supported by the Los Angeles County Metropolitan Transportation Authority (LACMTA) to acquire 355 BWV cameras, as well as the associated docks and cell phones to be used by full time and overtime personnel assigned to TSD. The installation of hardware and the purchase of the required equipment is in process and it is anticipated that BWV will be implemented by May of 2020. Transit Services Group is currently coordinating a working group to discuss the changes in Department policy that will be required to mandate the wearing of BWV for TSD overtime personnel.

Chief's Direction

Additionally, I have directed the Director of the Office of Special Operations to conduct an evaluation of alternative communication methods, such as the use of standardized hand signals, to be used by officers in the loud environments that are inherent in MTA Stations.

Respectfully,



MICHEL R. MOORE
Chief of Police

Date: _____

12-13-19