

## INTRADEPARTMENTAL CORRESPONDENCE

January 18, 2018

3.2

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

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 014-17

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 014-17. A Use of Force Review Board (UOFRB) was convened on this matter on January 8, 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 in regards to Officer [REDACTED] statements and off-duty conduct, that will be investigated through a personnel complaint, [REDACTED]

### SUMMARY

On February 21, 2017, at approximately 1430 hours, Officer [REDACTED] Serial No. [REDACTED] Hollywood Patrol Division, was off-duty, engaged in a conversation with [REDACTED] outside in front of their garage, in the City of Anaheim.

According to Officer [REDACTED] as [REDACTED] was having a chat with [REDACTED] a [REDACTED], later identified as [REDACTED] entered their property from the east and walked across their driveway, passing in between two of their vehicles that were parked in the driveway.

Upon noticing [REDACTED] [REDACTED] made the statement, "You're going to just walk across our driveway like that? You can't use the sidewalk?" [REDACTED] continued walking through their driveway, then looked over [REDACTED] shoulder, and responded with profanity.

According to Officer [REDACTED] then ordered [REDACTED] to use the sidewalk and to get off their driveway, and interjected profane language in [REDACTED] commands. [REDACTED] walked to the end of the

[REDACTED]

driveway, proceeded west on the sidewalk and then turned and faced [REDACTED] and [REDACTED] and *kind of stared at them*. [REDACTED] then *raised* a three-ring binder as if [REDACTED] was going to throw it at [REDACTED] and stated, *you can't talk to people like that*.

**Note:** According to Officer [REDACTED] while [REDACTED] was involved in the *verbal altercation* with [REDACTED], [REDACTED] observed [REDACTED] later identified as [REDACTED] and [REDACTED] along with a second [REDACTED] later identified as [REDACTED] walking south in the roadway, east of their property.

According to Officer [REDACTED] approached [REDACTED] and directed [REDACTED] to *keep walking*. When [REDACTED] ignored [REDACTED] direction, and *continued to be verbally abusive*, [REDACTED] tried to establish *some kind of command presence* by *speaking loudly* and *using a few curse words* to get [REDACTED] to leave the area.

As [REDACTED] backed away from their property line, [REDACTED] noted [REDACTED], [REDACTED] and [REDACTED], were standing in the roadway south of [REDACTED] residence. [REDACTED] observed that [REDACTED] was wearing a baggy black hoodie, baggy shorts and carrying a backpack, and believed his attire was typical of some of the gang members in the area.

According to Officer [REDACTED] continued to advance toward the sidewalk to make sure that [REDACTED] continued to walk away. [REDACTED] then stated *something to the effect of you can't talk to [REDACTED] / [REDACTED] like that or you can't say that to [REDACTED]*. [REDACTED] then directed [REDACTED] to leave or *keep moving*. [REDACTED] then reached into the front pockets of [REDACTED] and stated, *"if you come out here and touch me I'm going to shoot you."*

According to Officer [REDACTED] directed [REDACTED] to leave again and told [REDACTED] to take [REDACTED] hands out of [REDACTED] pockets, [REDACTED] then *made the threat a second time*.

**Note:** According to [REDACTED] advised Officer [REDACTED] *"Don't touch me. You're not allowed to. I'm going to sue you."* According to [REDACTED] heard [REDACTED] state, *"If you touch me I'm going to sue you."* According to [REDACTED], [REDACTED] almost fell and said, *"Oh shoot."*

During [REDACTED] interview from which the above excerpt was obtained, Detective [REDACTED] Anaheim Police Department (APD), believed [REDACTED] stated to Officer [REDACTED] that [REDACTED] was going to *"shoot"* [REDACTED]. Upon further discussion, [REDACTED] clarified that [REDACTED] stated, *"sue"* not shoot.

According to Officer [REDACTED] concerned that [REDACTED] was armed, [REDACTED] focus was on [REDACTED] and where [REDACTED] hands were. If [REDACTED] were to *divert* [REDACTED] attention and call the police it would place [REDACTED] at a *greater risk*. Additionally, [REDACTED] also *perceived backing away* and the *risk of turning [REDACTED] back to [REDACTED] as relinquishing [REDACTED] position of advantage* and *wanted to maintain some sort of presence between [REDACTED] and the potential threat*.

**Note:** According to Officer [REDACTED] suffers from a *degenerative muscle disease* and as a result is *greatly disabled*, requiring *crutches to walk at a basic level*.

According to Officer [REDACTED] did not identify [REDACTED] as a police officer because [REDACTED] felt if [REDACTED] had any intention to do bodily harm or kill [REDACTED] with a gun, stating that [REDACTED] was a police officer would only exacerbate the situation. Furthermore, [REDACTED] believed that if [REDACTED] was a gang member, [REDACTED] would be more inclined to use a firearm against [REDACTED] if [REDACTED] knew [REDACTED] was a police officer.

**Note:** According to witness [REDACTED] was parked approximately three houses west of the [REDACTED] residence picking up an item from a client when [REDACTED] heard an altercation going on in front of [REDACTED]. As the group of juveniles and Officer [REDACTED] moved west in [REDACTED] direction, [REDACTED] heard the adult [Officer [REDACTED] say, I'm a cop and the kid said, "Well, I don't know that." ]

According to Officer [REDACTED] closed in a little on [REDACTED] and continued to give [REDACTED] orders to take [REDACTED] hands out of his pockets. When [REDACTED] finally removed his hands from [REDACTED] pockets, [REDACTED] noted there was nothing in [REDACTED] hands. In an effort to avoid escalating to any further violence, [REDACTED] rushed toward [REDACTED] and wrapped [REDACTED] arms around [REDACTED] torso area in a bear hug to prevent [REDACTED] from reaching back into [REDACTED] pockets or in [REDACTED] backpack to draw a weapon and use it against [REDACTED] (Non-Lethal Use of Force – Debriefing Point No. 1).

**Note:** Video footage obtained from a surveillance camera located at [REDACTED] [REDACTED] captured [REDACTED] walking backwards, west, with [REDACTED] hands in [REDACTED] pockets, accompanied by [REDACTED] and [REDACTED]. As [REDACTED] and the three juveniles passed [REDACTED] [REDACTED] turned to walk west and Officer [REDACTED] is seen entering the video, walking west, following the group.

The video then captured Officer [REDACTED] and [REDACTED] involved in a struggle in the roadway west of [REDACTED] that progressed east, and onto the sidewalk in front of [REDACTED]. [REDACTED] broke free from Officer [REDACTED] grasp and then ran west out of the camera's view.

When FID showed Officer [REDACTED] the video to address the discrepancies, Officer [REDACTED] acknowledged that the video captured [REDACTED] initial physical contact with [REDACTED] and [REDACTED] but [REDACTED] still recalled walking out toward [REDACTED] by [REDACTED] residence, adding that it seemed like a very short distance, a few steps and it happened pretty quickly.

According to Officer [REDACTED] [REDACTED] was twisting his body and shoulders back and forth trying to break free. They moved west into the middle of the street. During the ongoing struggle, [REDACTED] felt a hard object in one of [REDACTED] shorts pockets.

Based on the size and weight of the object, [REDACTED] felt that it could have reasonably been a handgun. [REDACTED] was then able to break free and fled down the street in a southwesterly direction (Non-Lethal Use of Force).

[REDACTED]

**Note:** The investigation revealed that [REDACTED] was carrying a cellular telephone in [REDACTED] pocket.

According to Officer [REDACTED] believing [REDACTED] was possibly armed, [REDACTED] continued west *to try to go after* [REDACTED]. Simultaneously, [REDACTED] tried to keep an eye on the other juveniles, one of whom had retrieved [REDACTED] backpack. Because the other juveniles were *trying to maintain control of* [REDACTED] backpack, [REDACTED] was concerned that the backpack may contain *a weapon* (Debriefing Point No. 1).

**Note:** Video footage obtained from a surveillance camera located at [REDACTED] captures [REDACTED] breaking free from Officer [REDACTED] grasp and running in the street. The video depicts Officer [REDACTED] initially appearing to follow [REDACTED], then turning attention toward [REDACTED] and [REDACTED]. Officer [REDACTED] then followed [REDACTED] and [REDACTED] as they ran west and out of the camera's view. The video also captures [REDACTED] holding a cellular telephone to this ear, walking with the assistance of a crutch (Additional Tactical Debrief Topics – Reverence for Human Life).

When FID showed Officer [REDACTED] the video to address the discrepancies, Officer [REDACTED] acknowledged *being kind of split between getting control of that backpack in case there were additional weapons in it and maintaining control of* [REDACTED], but *did not recall turning and walking away from* [REDACTED] direction.

According to Officer [REDACTED] followed [REDACTED] to the south side of the street where [REDACTED] was *able to grab ahold of* [REDACTED] again. As [REDACTED] struggled to control [REDACTED], they moved toward the middle of the street. *By that point,* [REDACTED], [REDACTED] and [REDACTED] had *caught up* with them (Non-Lethal Use of Force – Debriefing Point No. 1).

**Note:** According to Officer [REDACTED] with the nearby middle school *letting out,* [REDACTED] noticed *a crowd gathering.*

According to Officer [REDACTED] freed [REDACTED] again and ran north across the street, onto the front lawn of [REDACTED] and stopped. [REDACTED] then turned toward [REDACTED] and was *reaching around for something, trying to reach into his sweatshirt, a pocket or some part of* [REDACTED] clothing. *At one point,* [REDACTED] observed that [REDACTED] hands were *kind of away from* [REDACTED] so [REDACTED] ran toward [REDACTED] and tackled [REDACTED] to the ground.

According to Officer [REDACTED] [REDACTED] landed on [REDACTED] back and [REDACTED] maintained [REDACTED] lower body on top of [REDACTED] legs. With [REDACTED] elbows *kind of free,* [REDACTED] *wiggled around, shimmied up, freed* [REDACTED] and they were *back upright struggling again.* [REDACTED] *became much more aggressive, much more violent in his actions,* and began *swinging and punching at* [REDACTED] (Non-Lethal Use of Force and Debriefing Point No. 1).

**Note:** Cellular telephone video taken by Witness [REDACTED] captures [REDACTED] in a seated position on the front lawn of [REDACTED] with Officer [REDACTED] kneeling behind [REDACTED] and was attempting to maintain control of [REDACTED] by holding onto [REDACTED] sweatshirt and arms.

According to Officer [REDACTED] as [REDACTED] continued *wrestling* with [REDACTED], trying to maintain control, a *large group* was *crowding around* them on the lawn. The group had formed *like a C-shape* around them and [REDACTED] specifically remembered two [REDACTED] later identified [REDACTED] and [REDACTED] grabbing ahold of [REDACTED] and yanking on [REDACTED] (Non-Lethal Use of Force).

**Note:** Cellular telephone video taken by Witness [REDACTED] captures Officer [REDACTED] struggling to control [REDACTED] as they moved onto the front lawn of [REDACTED] with a group of juveniles gather around them. Although voices could be heard demanding that Officer [REDACTED] release [REDACTED], no one from the group was physically intervening at this time.

According to Officer [REDACTED] the group had *blocked* [REDACTED] in and [REDACTED] was *forced to move* toward the east property line of [REDACTED]. At this point, [REDACTED] had been calling out [REDACTED] dad to call 911. [REDACTED] felt that [REDACTED] needed help from the PD [Police Department] to detain [REDACTED] because [REDACTED] had a *large group of people* that were now *ganging up* on [REDACTED]. The group was *15 to 20 people strong*.

**Note:** An approximate three-foot tall hedge divided the properties of [REDACTED] and [REDACTED].

According to Officer [REDACTED] [REDACTED] approached [REDACTED] and stated, "*What's going on? Let him go. You can't do that.*" [REDACTED] told [REDACTED] and the rest of the group to *back up*, and [REDACTED] either *backed off* or as I moved east with [REDACTED] it created distance from [REDACTED].

**Note:** Cellular telephone video taken by [REDACTED] [REDACTED] approaching and placing [REDACTED] right hand on Officer [REDACTED] left arm, and Officer [REDACTED] directing [REDACTED] to remove [REDACTED] hand. [REDACTED] complied and then Officer [REDACTED] continued pulling [REDACTED] east across the driveway, coming to a stop next to the hedge.

According to Officer [REDACTED] felt *the situation was bad*. [REDACTED] was *facing a large crowd* that was *getting violent and agitated* toward [REDACTED], while still *fighting* with [REDACTED].

According to Officer [REDACTED] then removed [REDACTED] backpack and sweatshirt and advanced toward [REDACTED]. To [REDACTED], *this signified* [REDACTED] was preparing to *get into a fight*. [REDACTED] rapidly closed the distance between them with [REDACTED] fists clenched. In addition, [REDACTED] also approached [REDACTED] and demanded that [REDACTED] be released. [REDACTED] then told [REDACTED] to *back up* and advised [REDACTED] *police were on their way*.

According to Officer [REDACTED] directed [REDACTED] attention to [REDACTED], who punched [REDACTED] on the left side of [REDACTED] face. [REDACTED] felt a *stabbing pain*, saw *flashes*, and *it took everything* [REDACTED] had to *not black out*. The punch knocked [REDACTED] *backwards over the hedge*. [REDACTED] maintained [REDACTED] grasp on [REDACTED], as they both fell over the hedge, and [REDACTED] fell on [REDACTED] back.

**Note:** Cellular telephone video taken by [REDACTED] and a YouTube video captured [REDACTED] rushing at Officer [REDACTED] and pushing [REDACTED] over the hedge, followed by [REDACTED] delivering a punch to the left side of Officer [REDACTED] face.

According to Officer [REDACTED] looked up and saw a group of people rushing toward [REDACTED]. Fearing for [REDACTED] safety, [REDACTED] assumed either a kneeling or standing position and drew [REDACTED] service pistol (Drawing/Exhibiting Additional Tactical Debrief Topics – Drawing a Service Pistol While Maintaining Physical Control of a Suspect/Basic Firearm Safety Rules).

[REDACTED] observed an open patch of grass between [REDACTED] and the group, and fired a single warning shot into the grass. After firing the warning shot, the *group immediately began to scatter* (Lethal Use of Force– Additional Tactical Debrief Topics – Drawing a Service Pistol While Handling a Suspect).

**Note:** According to Officer [REDACTED] drew and fired [REDACTED] service pistol with [REDACTED] primary, right hand. However, multiple video recordings taken by witnesses at the scene revealed that Officer [REDACTED] drew [REDACTED] service pistol and fired the warning shot with [REDACTED] left hand as [REDACTED] held onto [REDACTED] with [REDACTED] right hand.

According to Officer [REDACTED] when [REDACTED] fired the warning shot, [REDACTED] was *pretty close* [REDACTED] gun, because [REDACTED] still had a hold of [REDACTED]. [REDACTED] got scared and began saying, “Hey, you shot me. You shot me.” With the group now a couple houses away, and the *deadly threat mostly swelled down*, [REDACTED] placed [REDACTED] service pistol in [REDACTED] rear shorts pocket. [REDACTED] then directed [REDACTED] to *calm down* and verified that [REDACTED] had not sustained an injury as a result of the warning shot (Additional Tactical Debriefing Topics – Utilizing a Holster).

Officers [REDACTED] and [REDACTED] APD, equipped with Body Worn Video (BWV), were the first officers to arrive on scene. Upon their arrival, Officer [REDACTED] identified [REDACTED] as an off-duty officer and advised them of the location of [REDACTED] service pistol.

Personnel from Anaheim Fire and Rescue responded and treated Officer [REDACTED] at scene for a cut under [REDACTED] chin. Following treatment, Officer [REDACTED] was transported to APD Station for further investigation. [REDACTED] and [REDACTED] were taken into custody at the scene and transported to APD for further investigation.

Sergeant [REDACTED] Serial No. [REDACTED] Hollywood Patrol Division, responded to the APD Station and obtained a Public Safety Statement (PSS) from Officer [REDACTED]

## FINDINGS

**Tactics** – Administrative Disapproval, Officer [REDACTED]

**Drawing/Exhibiting** – Out of Policy, Administrative Disapproval, Officer [REDACTED]

**Non-Lethal Use of Force** – Out of Policy, Administrative Disapproval, Officer [REDACTED]

**Lethal Use of Force – Out of Policy, Administrative Disapproval, Officer [REDACTED]**

**ANALYSIS**

**Detention**

While off-duty, an officer directed a juvenile to remove herself from [REDACTED] private property and utilize the public sidewalk. According to the officer, another juvenile intervened, threatened to shoot [REDACTED] and placed both hands in the front pockets of [REDACTED] shorts. Believing the juvenile was armed and had threatened to shoot [REDACTED] the officer detained the juvenile. In this case, the officer never identified [REDACTED] as a police officer during the incident.

**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."*

*Department policy relative to Administrative Disapproval is: "A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training" (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

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

**Tactical De-Escalation**

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

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, the officer was off-duty when [REDACTED] detained a juvenile that [REDACTED] believed had threaten to shoot [REDACTED]. After the initial detention, the juvenile was able to break free from the officer's grasp

[REDACTED]

and then fled from officer, thus giving the officer ample opportunity to safely disengage, and de-escalate the situation, by returning to [REDACTED] residence, and summoning the response of the local law enforcement agency.

Additionally, Officer [REDACTED] had ample time prior to the detention to de-escalate the situation and instead continued to escalate the situation by pursuing the juvenile after [REDACTED] had broken free and ran away from the officer.

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

**Debriefing Point No. 1 Off-Duty Tactics (Substantial Deviation)**

*Under California law, both on-and off-duty officers have peace officer authority as to any public offense committed or which there is probable cause to believe has been committed in his presence and with respect to which there is immediate danger to person or property, or the escape of the perpetrator of such offense.*

*However, on-duty officers outside the City limits who are not acting within the scope of their employment as Los Angeles Police officers on matters of direct concern to the City and off-duty officers both inside and outside of the City limits are to give first consideration to causing the appropriate action to be effected by the responsible law enforcement agency.*

*Such officers should then act only after consideration of the tactical situation and of their possible liability and that of the City of Los Angeles (Los Angeles Police Department Manual, Volume 1, Section 230.10).*

Officer [REDACTED] while off-duty, attempted to affect the arrest of a juvenile without causing the response of the local law enforcement agency.

In this case, with Officer [REDACTED] only equipment readily available being [REDACTED] service pistol and an extra magazine, [REDACTED] should have recognized the risk posed to [REDACTED] safety as [REDACTED] initiated physical contact with an individual [REDACTED] believed to be armed.

By failing to disengage when [REDACTED] broke free from [REDACTED] grasp on three separate occasions, it is clearly apparent that Officer [REDACTED] first consideration was to take enforcement action and not facilitate the response of the local law enforcement agency, contrary to the expectations of the Department.

The UOFRB determined, and I concur, that the Off-Duty Tactics employed by Officer [REDACTED] during this incident were a substantial deviation, without justification from approved Department tactical training. I will direct that this be a topic of discussion during the Tactical Debrief.



### **Additional Tactical Debrief Topics**

**Reverence for Human Life** – While off-duty, Officer [REDACTED] became involved an incident with a group of juveniles that jeopardized the safety of [REDACTED] father. Officer [REDACTED] is reminded that involving a civilian should be avoided at every opportunity. I will direct that this be a topic of discussion during the Tactical Debrief.

**Drawing a Service Pistol While Holding a Suspect** – The investigation revealed that Officer [REDACTED] drew [REDACTED] service pistol with [REDACTED] left hand while holding [REDACTED] with [REDACTED] right hand. Officer [REDACTED] is reminded that drawing a service pistol while engaged in a physical struggle with a suspect, can increase the chances of an unintentional discharge and increases the risk of the suspect getting a hold of the service pistol. I will direct this be a topic of discussion during the Tactical Debrief.

**Basic Firearm Safety Rules** – Officer [REDACTED] drew [REDACTED] service pistol with [REDACTED] left hand, while maintaining control of [REDACTED] with [REDACTED] primary right hand. Additionally, as [REDACTED] drew [REDACTED] service pistol, it appears [REDACTED] may have covered some of the individuals in the crowd prior to assuming a low ready position. Officer [REDACTED] is reminded of the importance of always being aware of [REDACTED] muzzle direction. I will direct that this be a topic of discussion during the Tactical Debrief.

**Utilizing a Holster** – The investigation revealed, after firing the warning shot, Officer [REDACTED] did not secure [REDACTED] service pistol in its holster. Instead, [REDACTED] placed [REDACTED] service pistol in [REDACTED] rear pants pocket. Officer [REDACTED] is reminded there is a heightened concern for an unintentional discharge when securing a service pistol in a pocket without a holster. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

Sergeant [REDACTED] responded to the APD Station, obtained a PSS from Officer [REDACTED] and ensured that [REDACTED] was appropriately monitored. The actions of this supervisor 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 find that the tactics utilized by Officer [REDACTED] substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

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 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 April 3, 2017, Officer [REDACTED] attended a GTU. All mandatory topics were covered, including Firearms, Warning Shots, Arrest and Control, Off-Duty Tactics and Force Option Simulator.

### **Drawing/Exhibiting**

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

According to Officer [REDACTED] after getting punched and falling over a hedge, [REDACTED] looked up and [REDACTED] saw a group of people rushing toward [REDACTED]. Fearing for [REDACTED] safety, [REDACTED] assumed a kneeling or standing position, and drew [REDACTED] service pistol.

[REDACTED] recalled,

*"...the next thing I remember is getting punched...after I got hit, things were a little fuzzy because I as in a lot of pain and I was struggling to maintain my composure and my consciousness...I'm able to get upright as the crowd moves in and they kind of press in on me, and I'm in fear that they're going to press this attack, and that's when I'm able to draw out."*

Based on the totality of the circumstance, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED] while faced with similar circumstances, would not reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified at the time the weapon was drawn.

[REDACTED]

Therefore, I find Officer [REDACTED] Drawing/Exhibiting to be Out of Policy, Administrative Disapproval.

### 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).*

*Strikes and/or kicks can be used when such force is objectively reasonable to accomplish the following:*

- *Overcome active resistance to arrest;*
- *Create distance from a suspect;*
- *Protect self or others from injury;*
- *Stop or stun a suspect; or,*
- *Distract a suspect (Los Angeles Police Department Use of Force – Tactics Directive No. 14, Strikes and Kicks – December 2012).*

**Officer [REDACTED]** – Firm Grip, Physical Force, Kick, Punch, Takedown and Bodyweight.

**Note:** Video footage obtained from [REDACTED] captured Officer [REDACTED] in physical contact with [REDACTED] in the roadway west of [REDACTED] along with an ongoing struggle to pull [REDACTED] east toward [REDACTED] residence. Also captured is what appeared to be Officer [REDACTED] delivering a punch and kick to [REDACTED]'s groin. According to Officer [REDACTED] did not recall delivering any punches during the incident, but did recall trying to feel around [REDACTED] waist and pockets for a weapon.

According to Officer [REDACTED] recalled attempting to knock [REDACTED] off balance by kicking [REDACTED] leg between [REDACTED] legs and hooking around the back of one leg. Due to the fluidity of the altercation, as [REDACTED] kicked out, [REDACTED] went forward and contact may have occurred. Officer [REDACTED] also believed the kick had occurred later in the incident, after the takedown.

### First Contact

According to Officer [REDACTED] when [REDACTED] removed [REDACTED] hands from [REDACTED] pockets, [REDACTED] noted that there was nothing in them. [REDACTED] then grabbed [REDACTED] to prevent [REDACTED] from possibly arming [REDACTED]

Officer [REDACTED] recalled,

*"I kind of rushed toward [REDACTED] ...and I grabbed onto [REDACTED] And the reason I did that was to maintain control of [REDACTED] arms so that if [REDACTED] did have a weapon either in [REDACTED] shorts, the pockets where [REDACTED] had reached already, or in the backpack that [REDACTED] was carrying that [REDACTED] wasn't going to have a chance to draw that weapon...and use it against me. At that point a struggle did ensu [REDACTED]"*

According to Officer [REDACTED], as [REDACTED] attempted to maintain control of [REDACTED], they moved west down the street.

Officer [REDACTED] recalled,

*"... [REDACTED] / [REDACTED] was twisting... [REDACTED] body and shoulders back and forth [REDACTED] was trying...to wrench [REDACTED] arms away from me kind of like throwing them out elbowing back. [REDACTED] was ducking down, squatting down, trying to kind of drop free...of my grasp...I mean, it was like trying to hang onto a tornado almost."*

According to Officer [REDACTED] was unable to maintain [REDACTED] hold on [REDACTED]. [REDACTED] was able to break free and then fled down the street in a southwesterly direction.

#### Second Contact

According to Officer [REDACTED] during the initial struggle, [REDACTED] felt a hard object in one of [REDACTED] shorts pockets [REDACTED] believed that it was a handgun. Concerned for [REDACTED] safety, and the safety of [REDACTED] father, [REDACTED] pursued [REDACTED], grabbed [REDACTED] and a struggle ensued.

Officer [REDACTED] recalled,

*"...to me when I felt it, it would reasonably had been the size of what could have been a small handgun. So, based on that information I did continue to try to go after [REDACTED] to get hands on [REDACTED] again to control [REDACTED] Because at this point I didn't want any of them going back to...my residence and doing anything to my dad... [REDACTED] in a bad physical condition. [REDACTED] not able to defend [REDACTED] at all...at this point not just my own safety is at risk...I can't risk letting them get past me and getting to my [REDACTED] because [REDACTED] won't be able to defend [REDACTED]...I need to protect [REDACTED] just as much I need to protect [REDACTED] we continue kind of westbound down the street...toward the south side of the street where I'm able to grab ahold of [REDACTED] / [REDACTED] again. [REDACTED] continues to struggle."*

According to Officer [REDACTED] [REDACTED] broke from [REDACTED] grasp and ran north across the street.

[REDACTED]

Third Contact

According to Officer [REDACTED] [REDACTED] stopped on the front lawn of [REDACTED] [REDACTED] and then turned and faced [REDACTED] observed [REDACTED] hands away from [REDACTED] body, so [REDACTED] ran toward [REDACTED] and used [REDACTED] bodyweight to take [REDACTED] to the ground to prevent [REDACTED] from possibly arming [REDACTED]

Officer [REDACTED] recalled,

*"...from the middle of the street he [REDACTED] had gun to the north side of the street onto that lawn. [REDACTED] stopped and had kind of turned toward me - - or at least turn toward the street... [REDACTED] was...kind of reaching around for something...it looked like maybe he was trying to go into a pocket or something like that...at one point I saw that [REDACTED] hands were kind of away from [REDACTED]...I was close enough to where...I could close distance [REDACTED] So, I ran toward [REDACTED]...ran my right shoulder into [REDACTED] midsection and I used my bodyweight to just kind of bring [REDACTED] down."*

According to Officer [REDACTED], [REDACTED] landed on [REDACTED] back, and [REDACTED] maintained [REDACTED] lower body on top of [REDACTED] legs. [REDACTED] then utilized [REDACTED] elbows to wiggle around and free [REDACTED] and then they were standing back upright and struggling again.

**Note:** The cellular telephone video recorded by [REDACTED] depicts Officer [REDACTED] kneeling behind [REDACTED] on the front lawn of [REDACTED] [REDACTED] attempting to maintain control of [REDACTED] by holding onto [REDACTED] sweatshirt and arms. At times [REDACTED] and individuals in the background can be heard voicing concern that Officer [REDACTED] was choking [REDACTED].

Officer [REDACTED] recalled,

*"...there was never - - never any attempt or intention to put [REDACTED] in any kind of choke hold or carotid restraint hold...The only thing I was trying to do was to kind of get my arms around [REDACTED] upper body. I didn't have a real good position in relation to [REDACTED] so I was trying to kind of reach over and around [REDACTED]...I do recall...having to grab onto [REDACTED] outer clothing to maintain a grasp on [REDACTED]...some grabbing of like the shoulder area...But it was only in an effort to keep control of [REDACTED] and keep [REDACTED] from turning or getting away from me, not to use that clothing in any manner to, you know, choke [REDACTED] or wrap it around [REDACTED] head or [REDACTED] neck."*

According to Officer [REDACTED] after they both stood up, [REDACTED] became much more aggressive and started swinging and punching at [REDACTED] [REDACTED] was moving [REDACTED] arms around a lot more, and [REDACTED] attempted to control [REDACTED] by holding onto [REDACTED] clothing and trying to grab [REDACTED] arms.

[REDACTED]

#### Fourth Contact

**Note:** The investigation revealed that [REDACTED] broke free from Officer [REDACTED] grasp on the front lawn of [REDACTED] and a fourth contact occurred further east.

According to Officer [REDACTED] as [REDACTED] continued to struggle with [REDACTED], a large group was crowding around them on the lawn. As [REDACTED] struggled to control [REDACTED], they moved east on the front lawn of [REDACTED], toward the hedge.

Based upon 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 this same application of [REDACTED] to prevent [REDACTED] escape.

Therefore, I find Officer [REDACTED] Non-Lethal Use of Force to be Out of Policy, Administrative Disapproval.

#### **Lethal Use of Force**

***Warning Shots** - The intentional discharge of a firearm off target, not intended to hit a person, to warn others that deadly force is imminent. Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

*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]** – 9mm, one round, from approximately three feet.

According to Officer [REDACTED] after being punched in the face by [REDACTED] [REDACTED] felt a sharp stabbing pain in [REDACTED] face and struggled to maintain consciousness. [REDACTED] observed the large group of people

coming toward [REDACTED]. Fearing that the group was going to overpower [REDACTED] and have access to [REDACTED] gun, [REDACTED] fired a single warning shot into the grass. After firing the warning shot, the group began to scatter.

Officer [REDACTED] recalled,

*“...I had a large group of people that were now basically ganging up on me...that group was 15 to 20 people strong...I’m facing a large crowd that - - that’s getting violent and agitated toward me...At that point the male black...[REDACTED] raising [REDACTED] fist and [REDACTED] hits in the left side of my face...[REDACTED] hit me so hard that...after the initial contact all I could feel was just a sharp...stabbing pain as if somebody...sent an electric shock through my face...I was seeing like flashes and...it took everything I had to not black out...I was literally struggling to maintain my consciousness...At this point I look up and all I can see is this group of people rushing toward me and the first thing that comes into my mind is these guys are going to...gang up on me and they’re going to beat the shit out of me and they’re going to hurt me...I didn’t know what was going to happen.” [REDACTED]*

*“...I see an open space on the grass, and I know that that’s my only clear shot, so I fire one shot into that clear space of grass, as a warning shot, to disburse the crowd and prevent them from coming after me and beating me to death.” [REDACTED]*

The UOFRB concluded that the crowd’s actions did not warrant a warning shot and was critical as to the manner in which it was employed. The UOFRB expressed concern with the officer’s decision to fire [REDACTED] service weapon while physically pulling [REDACTED] over the hedge, and as a result, felt the shot was not directed in a manner that minimizes the risks of injury to innocent persons.

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 not reasonably believe that the crowd’s actions presented an imminent threat of death or serious bodily injury, and would not have fired a warning shot.

Therefore, I find Officer [REDACTED] Lethal Use of Force to be Out of Policy, Administrative Disapproval.

#### **Additional**

The investigation identified a number of concerns in regards to Officer [REDACTED] statements and off-duty conduct, that will be investigated through a personnel complaint, (CF No. [REDACTED])

[REDACTED]

**Audio/Video Recordings**

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

APD Officers [REDACTED] and [REDACTED] BWV cameras captured Officer [REDACTED] attempting to detain [REDACTED] after the OIS, as well as Officer [REDACTED] handcuffing [REDACTED] and Officer [REDACTED] initial contact with Officer [REDACTED]

Video footage was recovered from an exterior camera located at [REDACTED] that captured [REDACTED], [REDACTED], [REDACTED] and [REDACTED] walking west on the north sidewalk of [REDACTED] [REDACTED] being followed by Officer [REDACTED]. It also captured a portion of the Officer [REDACTED] struggle with [REDACTED] in the roadway, [REDACTED] breaking free from [REDACTED] grasp and [REDACTED] running west in the roadway, followed by Officer [REDACTED]

Cellular telephone video taken by witness [REDACTED] captured Officer [REDACTED] as [REDACTED] attempted to restrain [REDACTED] on the lawn of [REDACTED]. Video taken by witness [REDACTED] and [REDACTED] along with a YouTube video identified by investigators, captures portion of the struggle between Officer [REDACTED] and [REDACTED] and the actions of the group, with the YouTube, [REDACTED] and [REDACTED] videos capturing the warning shot.

Respectfully,

  
CHARLIE BECK  
Chief of Police

Date: 1-18-18