

## INTRADEPARTMENTAL CORRESPONDENCE

July 5, 2018  
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**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 060-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 060-17. A Use of Force Review Board (UOFRB) was convened on this matter on June 18, 2018. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### **SUMMARY**

On August 9, 2017, at approximately 2255 hours, West Los Angeles Patrol Division personnel responded to a radio call of a *Shooting Just Occurred*. at [REDACTED] Alta Mura Road. The comments of the call indicated the *suspect fired 4 shots* at the [REDACTED] *victim*, who was now *standing by* with a *security guard*. Additional comments of the call indicated that the *suspect was still inside the residence armed with a shotgun and two handguns*.

**Note:** The investigation revealed that [REDACTED] Alta Mura Road was an approximately 9300 square foot, two level, horseshoe shaped residence situated on a large lot. The house was elevated from street level and was surrounded by tall and dense hedges and vegetation on all sides. The front door to the house was located at the center of the horseshoe, blocked from view and access from the street by separate vehicle and pedestrian gates.

Upon arrival, officers met with the Victim, [REDACTED] in front of a neighbor's house. [REDACTED] advised the officers that [REDACTED] was involved in a domestic violence incident with [REDACTED] boyfriend, later identified as E. Bogart, who was *extremely drunk* and still inside the home.

According to the officers, [REDACTED] told them that Bogart had access to several weapons inside the house and had fired several rounds during the incident. [REDACTED] also told them he may attempt *suicide by cop*. A Command Post (CP) and perimeter was established around the residence and telephonic contact was made with Bogart.

[REDACTED]

During the contact, Bogart shouted profanities at the officers and refused to exit the residence. The officers at scene determined that the situation met the criteria for a barricaded suspect and Metropolitan Division, Special Weapons and Tactics (SWAT) was notified of the incident and advised they would respond.

Lieutenant [REDACTED] Serial No. [REDACTED], Sergeant [REDACTED] Serial No. [REDACTED], along with Officers [REDACTED] Serial No. [REDACTED], [REDACTED] Serial No. [REDACTED] and [REDACTED] Serial No. [REDACTED] Metropolitan Division, SWAT, responded, along with additional personnel assigned to both SWAT and Metropolitan Division, K9 Platoon.

Additionally, Deputy Chief [REDACTED] Serial No. [REDACTED] Operations West Bureau (OWB) also responded and assumed the role of Incident Commander (IC).

Upon arrival, Metropolitan Division officer replaced West Los Angeles Patrol Division officer from their perimeter positions.

At approximately 0350 hours, Officer [REDACTED] broadcast that containment had been established. Officers from the Crisis Negotiation Team (CNT) then began to make multiple attempts to reach Bogart by telephone, but received no answer.

At approximately 0405 hours, Sergeant [REDACTED] began utilizing a bullhorn to order Bogart to exit the house. Sergeant [REDACTED] ordered Bogart to exit the residence multiple times. Bogart did not respond and did not exit.

According to Officer [REDACTED], standard operating procedure would be to *introduce gas* into the residence, *but because of the size of this structure, and not having any specific known location for Bogart, to deploy gas at this point would have been fruitless*. [REDACTED] stated they didn't *have enough gas to saturate the residence safely and get a positive response where Bogart would be forced out.*

According to Officer [REDACTED], negotiation efforts were at an impasse. Their *positions were too far away from the actual property to gain anymore of a tactical advantage*, so [REDACTED] developed a plan to enter the courtyard of the property in two armored vehicles. This would allow the team to obtain a better layout of the structure and *try to locate where Bogart was inside the residence.*

According to Officer [REDACTED], once they determined Bogart's location, they *were going to move forward with gas* to lock him down to a particular area, while an entry team made its way into the residence from the opposite end of the structure.

According to Officer [REDACTED], the tactical plan also included an option of firing a 40-millimeter less lethal impact round at the house, if necessary, to gain Bogart's attention and locate him.

At approximately 0430 hours, Officer [REDACTED] briefed the *entry team* on the plan which included Officers [REDACTED] and [REDACTED], and Sergeant [REDACTED]. Sergeant [REDACTED] relayed the plan to Lieutenant [REDACTED] who then received overall approval to implement the plan from the IC, Deputy Chief [REDACTED].

**Note:** Negotiation efforts via telephone and bullhorn continued throughout the planning and initiation of the entry.

According to Officer [REDACTED], at approximately 0435 hours, [REDACTED] broadcast the plan to officers on the perimeter and advised that they were *transitioning back to tactics*. [REDACTED] then had armored vehicle, Rescue-4, with Officer [REDACTED] positioned in the roof hatch to provide cover, entered the courtyard via the vehicle gate.

According to Officer [REDACTED] along with the *entry team* followed Rescue-4 on foot and entered the courtyard through a pedestrian gate and hallway located on the right side of the vehicle gate. Upon entering the courtyard, Officer [REDACTED] assumed a position in the pedestrian entrance hallway facing the residence, utilizing the building for cover and concealment. A second armored vehicle, Rescue-2, then entered the courtyard, backed up and took up a position facing the house.

According to Officer [REDACTED] then utilized a K-9 to conduct a systematic search of the courtyard and clear the area. Once the courtyard was clear, the officers on foot took up positions of cover behind the armored vehicles and two vehicles that were parked in the courtyard.

According to Officer [REDACTED], officers at the rear of the house broadcast that they could see a *TV on*, possibly in a second-floor bedroom area. [REDACTED] then instructed officers at the rear to deploy *two 40-millimeter less lethal* impact rounds into the window of the bedroom. Immediately after firing the rounds, officers at the rear broadcast they had movement.

According to Officer [REDACTED], the officers broadcast that Bogart had exited the house onto a rear, second-floor balcony overlooking the southern portion of the property. An officer in the rear yard directed Bogart to show his hands; however, Bogart ignored the commands and re-entered the house.

According to Officer [REDACTED], CNT officers then called the telephone for the residence. Bogart answered the telephone, yelled profanities and stated, *come and get me* before hanging up the phone.

According to Officer [REDACTED], within a minute or two of Bogart hanging up the phone, [REDACTED] heard a *distinct muffled pop somewhere inside the residence*. [REDACTED] then overheard other officers ask if the *muffled pop* was *shots fired inside the house?*

**Note:** The residence was equipped with a video surveillance system that included interior and exterior cameras. A review of video footage after the incident revealed at approximately

0502 hours, Bogart entered an interior room, retrieved a pistol and fired multiple rounds into the walls of the room before exiting back into the interior of the home.

According to Officer [REDACTED], as the officers were attempting to determine if the *muffled pops* were shots fired, an officer advised the team Bogart was in a front window, overlooking the courtyard.

According to Officer [REDACTED] then heard *two distinct shots ring out*. When [REDACTED] heard the *shots*, [REDACTED] knew they *didn't come from us (Police)*. They were *louder than the first two muffled shots as if somebody's shooting out the window now*.

According to Officer [REDACTED] then heard rounds being fired to [REDACTED] right coming from the area where Officer [REDACTED] was deployed in the *hatch*. [REDACTED] also heard an additional round being fired and believed the rounds were fired by officers. [REDACTED] broadcast they had *shots fired* and then an officer to the rear of the house reported [REDACTED] had *movement*. Believing that the suspect had moved to another location, [REDACTED] broadcast that *the suspect was armed in a position of advantage and had full run of the property*.

According to Officer [REDACTED] was positioned in the roof hatch of one of the armored vehicles to provide *cover* as the officers entered the courtyard through the vehicle gate. [REDACTED] utilized the *ballistic hatch* on the roof to provide *cover* on [REDACTED] left side and was focused *generally on all the windows to [REDACTED] right side*.

According to Officer [REDACTED], after the 40-millimeter less lethal impact round was fired at the rear of the residence [REDACTED] heard a broadcast that there were possible shots being fired from within the house. [REDACTED] then heard *at least two popping sounds* but did not know the origin of the sound. [REDACTED] *leaned out* to his right to look past the *hatch* and observed the silhouette of Bogart standing in an upper level window, firing a handgun in a *downward trajectory toward our area*. [REDACTED] observed Bogart's *muzzle flash and glass breaking from the window*. [REDACTED] *turned the turret towards Bogart* and raised [REDACTED] police rifle; however, Bogart had moved out of view.

According to Officer [REDACTED] *lit up the entire area* with [REDACTED] weapon mounted light and within seconds, observed the *curtains moving in the window to the right of the original window*. Bogart then appeared again, *pointing a dark colored pistol at [REDACTED] or the cover officers that were around the armored vehicles*. [REDACTED] again observed muzzle flash, as [REDACTED] simultaneously raised [REDACTED] rifle and *fired two rounds toward the suspect's torso to stop his actions (Lethal Use of Force)*.

According to Officer [REDACTED], as [REDACTED] fired [REDACTED] observed Bogart's *shoulders collapse towards the center of his body* as [REDACTED] *turned towards [REDACTED] left* and out of view. [REDACTED] then lowered [REDACTED] rifle and continued to provide *cover*.

According to Officer [REDACTED], once the armored vehicles were placed, [REDACTED] assumed a position in the pedestrian entrance hallway *using the actual structure wall and the shrubbery* as cover and concealment. After being in position for some time, the 40-millimeter less lethal impact rounds were used to get Bogart's attention.

According to Officer [REDACTED] then heard a broadcast that Bogart responded, but did not comply with commands. [REDACTED] then observed Bogart walk pass the *threshold* of a window above the courtyard and notified officers around [REDACTED] of [REDACTED] observations.

According to Officer [REDACTED] then observed a *silhouette with a black handgun in a hand* appear in a second story window above the courtyard. [REDACTED] observed *muzzle flash* and then heard *shots being fired down into the courtyard area*.

According to Officer [REDACTED], as [REDACTED] came up on target, Bogart disappeared from the window and was no longer visible. A few seconds later, Bogart re-appeared in a window immediately to the right of the first window. [REDACTED] again observed Bogart's silhouette, heard *muffled* gunshots, and observed muzzle flash. Believing that Bogart was *shooting at the officers down below*, [REDACTED] took a step, came up on target, and *in defense of [REDACTED] teammates*, fired one round from [REDACTED] Police Rifle at Bogart's center mass (Lethal Use of Force).

**Note:** Video footages from home's surveillance system captured Bogart entering the second-floor hallway and step into the window overlooking the courtyard. Bogart then extended his arms in a two-hand shooting stance while pointing a handgun toward the courtyard. He then moved to his left and approached the second window and assumed a shooting stance with the handgun extended outward toward the courtyard. He then turned to his right and collapsed to the floor.

According to Sergeant [REDACTED], the OIS occurred at 0503 hours and after the OIS they did not know if the suspect was wounded or incapacitated. [REDACTED] made the decision, *due to the very active ongoing tactical situation*, to not take the Public Safety Statement from either Officer [REDACTED] or Officer [REDACTED] at the time.

According to Sergeant [REDACTED] broadcast to initiate the *gas plan* and to use *ferret* rounds, *because they could shoot them from a launcher to keep their distance*, rather than using *hot gas*, which they would *physically have to throw in*.

The officers deployed gas into all sides of the house as he continued efforts to communicate with Bogart by utilizing a bullhorn. As they were deploying the gas, an officer on the *east side of the residence* reported that he had *movement* and saw *the curtains move*.

According to Sergeant [REDACTED] broadcast, *everyone be aware, it appears suspect is up. He's not down. He's moving around that structure*.

**Note:** The investigation later revealed that there were several dogs loose inside the residence during the incident.

At approximately 0530 hours, Lieutenant [REDACTED] contacted Emergency Services Division (ESD), Bomb Squad and requested them to respond to the scene with an Andros robot and the Bomb Assessment Tactical Counter Assault Tool (BATCAT).

At approximately 0630 hours, Sergeant [REDACTED] replaced Officers [REDACTED] and [REDACTED] with additional SWAT officers and then obtained a Public Safety Statements (PSS) from both officers and advised them not to talk about the incident.

At approximately 0700 hours, with the scene still active and no additional supervisors at scene to assist, Sergeant [REDACTED] sent Officers [REDACTED] and [REDACTED] in an armored vehicle back to the CP where separation and monitoring began (Additional Tactical Debrief Topics – Public Safety Statement).

At approximately 0900 hours, on the approval of the IC, Deputy Chief [REDACTED] the BATCAT and Andros robot were deployed into the courtyard. The telescopic boom of the BATCAT was then inserted into a second-floor window to locate Bogart via remote camera, but they were unable to locate him.

The Andros robot was then used to breach the front door. The officers then maneuvered the robot up a flight of stairs and at approximately 1030 hours, officers located Bogart lying on the floor unresponsive, beneath the hallway windows where the OIS occurred.

Officers then entered the residence and contacted Bogart, who appeared to be suffering from gunshot wounds to the torso. Los Angeles Fire Department (LAFD), Tactical Emergency Medical Services (TEMS) personnel responded and treated Bogart. Bogart failed to respond to medical treatment and was pronounced dead at the scene.

The investigation revealed that Borgart was armed with a .40 caliber handgun that was loaded with 9mm ammunition during the OIS. The handgun and two spent 9mm casing were located and recovered from the hallway floor near Bogart's body.

## FINDINGS

**Tactics** – Tactical Debrief, Deputy Chief [REDACTED], Lieutenant [REDACTED], and Sergeant [REDACTED] along with Officers [REDACTED], [REDACTED], and [REDACTED].

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

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

## ANALYSIS

### **Detention**

The officers responded to radio call for a shooting that just occurred. Upon arrival they spoke with the victim and learned the suspect who had shot at [REDACTED] was still inside the location and had

[REDACTED]

access to several weapons. The suspect refused to exit the residence and surrender. SWAT was summoned to scene for a barricaded suspect. The officers' actions were appropriate and within Department policies and procedures.

### **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" (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, a CNT officer attempted to establish a line of communication with the suspect by calling a telephone located inside of the residence. The suspect answered and refused to comply with officers' commands. As officers were attempting to re-contact the suspect, the suspect fired a handgun out of a window in the direction of the officers.

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

### **Additional Tactical Debrief Topics**

**Public Safety Statement** – The investigation revealed that Sergeant [REDACTED] sent the involved officers to the CP, unsupervised. Although, I understand that the ongoing tactical situation was still fluid, Sergeant [REDACTED] is reminded that once a PSS is taken from an involved officer, that officer shall be separated and monitored by supervisor, I will direct this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

Deputy Chief [REDACTED] assumed the role of IC upon [REDACTED] arrival. [REDACTED] approved the tactics employed at scene. Sergeant [REDACTED] directed SWAT tactics at the suspect's location. Lieutenant [REDACTED] advised and approved of SWAT tactics as well as acted as a liaison between SWAT personnel and the IC.

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

### **Tactical Debrief**

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct that Deputy Chief [REDACTED], Lieutenant [REDACTED], and Sergeant [REDACTED], along with Officers [REDACTED], [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;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

On August 24, 2017, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered including the Use of Cover – Armored vehicles.

### **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).*

Officers responded to the location where the suspect had utilized a firearm to assault the victim. The suspect then barricaded himself inside a residence and refused to come out. Metropolitan Division, SWAT officers exhibited their police rifles as they attempted to gain the suspect's compliance and effect an arrest.

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

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

**Note:** In addition to the above listed employees, there were additional personnel that either drew or exhibited firearms during the incident. This Drawing/Exhibiting was appropriate and requires no specific findings or action in regard to these officers.

### Lethal Use of Force

*Law enforcement officers are authorized to use deadly force to:*

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

Officer [REDACTED] – 5.56 semiautomatic rifle, fired two rounds in a southerly direction, from an approximate distance of 44 feet.

According to Officer [REDACTED] observed the curtains moving in the window to the right of the original window. Bogart then appeared again, pointing a dark colored pistol at [REDACTED] or the cover officers that were around the armored vehicles and began shooting again in the courtyard area in a downward trajectory. [REDACTED] could see the silhouette of the suspect and fired two rounds toward the suspect's torso to stop [REDACTED] actions

Officer [REDACTED] recalled,

*And I could see the suspect, basically, the silhouette of a suspect pointing a handgun out the window and glass breaking as he was basically shooting in a downward trajectory toward*

*our area. I immediately turned the turret basically toward the suspect, and he disappeared for a split second. And at that time, he reappeared at an adjacent window, which was located just to – it would be my right, his left. And probably about a foot, foot and a half away from his original shooting position. When the suspect reappeared, I looked up and saw him holding a dark colored pistol. I could see the silhouette of the suspect. And he was shooting again in the courtyard area in a downward trajectory at either myself, or the cover officers that were around the – the armored vehicles. Based on his actions, his demonstration showed the violence of – the propensity of violence and his statements. I fired two rounds toward's his torso to stop his actions*

**Officer** [REDACTED] – 5.56 semiautomatic rifle, fired one round in a southerly direction, from an approximate distance of 65 feet.

According to Officer [REDACTED] observed Bogart's silhouette, heard muffled gunshots, and observed muzzle flash. Believing that Bogart was shooting at officers down below, [REDACTED] took a step away from the hallway, came up on target, and in defense of his teammates, fired one round from [REDACTED] Police Rifle at Bogart's center mass.

Officer [REDACTED] recalled,

*I saw in this window a silhouette with a black handgun in his hand, and I observed several flashes of muzzle flash, and at the same time, hearing bullet shots being fired through the glass at our team towards the bottom. I came up on target because of the defense of my partners and teammate at the bottom believing that they were going to be shot. I came up on target. And the dis – he disappeared. He – the suspect stopped shooting and – and was gone from the window. Shortly thereafter, the window adjacent to it to the right, the suspect appeared again and began shooting again at the team. So, in defense of the – my teammates, I pressed one shot into where the suspect was firing from*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers [REDACTED] and [REDACTED], would reasonably believe Bogart'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 Officers [REDACTED] and [REDACTED] Use of Lethal Force to be In Policy, No Further Action.

### Audio/Video Recordings

**Digital In-Car Video System (DICVS) / Body Worn Video (BWV)** – Metropolitan Division personnel were not equipped with DICVS or BWV at the time of this incident.

[REDACTED]

**Outside Video** – The residence had multiple surveillance camera both inside and outside the residence. An interior camera in a hallway captured Bogart approaching a second story window and pointing a handgun outward as he fired at the officers below. Bogart is then observed falling to the floor below the windows suffering from an apparent gunshot wound.

Respectfully,



MICHEL R. MOORE  
Chief of Police

Date: 7-5-18