

## INTRADEPARTMENTAL CORRESPONDENCE

October 31, 2018  
3.2

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

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING FID NO. 083-17

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 083-17. A Use of Force Review Board (UOFRB) was convened on this matter on October 15, 2018. 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 December 31, 2017, at approximately 0010 hours, Officers [REDACTED], Serial No. [REDACTED] and [REDACTED], Serial No. [REDACTED], Olympic Patrol Division, were in full uniform, driving a marked black and white police vehicle. The officers received a radio call of a *415 man with a gun* at 9<sup>th</sup> Street and Western Avenue in the parking lot of the BCD Tofu House. Comments of the call indicated *a male Hispanic, dark complexion with a red cap, black jacket, white pants had brandished a gun at the Person Reporting (PR)*.

**Note:** Sergeant [REDACTED], Serial No. [REDACTED], Gang Enforcement Detail (GED), Olympic Area, and an additional Olympic Patrol unit also advised Communications Division (CD) they were responding to the radio call.

According to Officer [REDACTED], upon arrival, [REDACTED] observed a male matching the suspect's description, later identified as R. Jimenez, walking north in the parking lot on the northwest corner of 9<sup>th</sup> Street and Western Avenue. [REDACTED] also observed another police vehicle approaching the location and *directed* Officer Jimenez *to turn into the driveway*.

According to Sergeant [REDACTED], upon arrival, [REDACTED] observed Jimenez walking north in the parking lot on the northwest corner and a police vehicle approaching the location (**Additional – Digital In-Car Video System (DICVS)**).

[REDACTED]

According to Officer [REDACTED] upon arrival, [REDACTED] observed Jimenez walking north through the parking lot. [REDACTED] entered the parking lot from Western Avenue, driving west towards Jimenez. When it appeared that Jimenez saw the police vehicle, he changed direction and *walked away* from them. Officer [REDACTED] stopped the vehicle, exited, and drew [REDACTED] service pistol as Jimenez continued to walk away (**Drawing/ Exhibiting and Additional Tactical Debriefing Topic – Tactical Vehicle Deployment**).

According to Officer [REDACTED], as they entered the parking lot, Jimenez looked at them and then *started walking* west in the parking lot, *away* from the officers. As the police vehicle stopped, Officer [REDACTED] exited and drew [REDACTED] service pistol as Jimenez continued to walk away from them (**Drawing/Exhibiting and Debriefing Point No. 1**).

According to Officer [REDACTED], [REDACTED] directed Jimenez to, “*stop*,” and, “*put your hands up*.” Jimenez stopped and *turned his body slightly to his left*. Officer [REDACTED] then observed Jimenez holding a *black pistol in his right hand*. [REDACTED] gave Jimenez multiple commands to, “*drop it*.” Jimenez then turned *his body more to the left* as he moved the handgun *upwards, pointed in the direction* of Officer [REDACTED].

According to Officer [REDACTED], [REDACTED] believed that Jimenez *would fire a round* at Officer Jimenez, then turn [REDACTED] body *further*, and *possibly shoot* [REDACTED] (Officer [REDACTED]). As a result, Officer [REDACTED] fired one round from [REDACTED] service pistol at Jimenez to stop the lethal threat (**Lethal Use of Force**).

According to Officer [REDACTED], [REDACTED] heard Officer [REDACTED] give commands to, “*drop it*” and observed Jimenez *turn to his left* while holding *a gun in his right hand*. Jimenez then pointed the handgun in Officer [REDACTED]’ direction. Fearing [REDACTED] was about to be shot, Officer [REDACTED] placed [REDACTED] finger on the trigger with the intention of firing [REDACTED] service pistol. At the same time, [REDACTED] heard one gunshot and observed Jimenez drop the handgun and fall to the ground. Officer [REDACTED] then, without firing, took [REDACTED] finger off the trigger of [REDACTED] service pistol.

According to Sergeant [REDACTED], [REDACTED] drove in the parking lot behind the officers and stopped *to the left* of the officers’ vehicle. [REDACTED] heard the officers give Jimenez verbal commands and observed Jimenez look over his shoulder towards the officers. Jimenez then reached inside his waistband area. As Sergeant [REDACTED] exited [REDACTED] vehicle, [REDACTED] heard one gunshot and observed Jimenez fall to the ground, dropping *what appeared to be a handgun*.

According to Officer [REDACTED], after firing [REDACTED] service pistol, [REDACTED] observed Jimenez fall to the ground and *ordered him, “not to move.”* [REDACTED] then observed that the handgun had fallen to the ground and was not *in his control anymore*.

According to Sergeant [REDACTED], after hearing the single gunshot, he broadcasted a *help call* for *shots fired* (**Holding Service Pistol in Right Hand and Hand-Held Radio in Left Hand**).

**Note:** A review of Olympic base frequency revealed Sergeant [REDACTED] requested a *backup* and *assistance* for *shots fired* (**Additional Tactical Debriefing Topics – Backup Request vs. Help Call**).

Additional personnel arrived at the scene. A plan to approach was formulated and initiated. Jimenez was taken into custody without further incident. Sergeant [REDACTED] then requested a Rescue Ambulance (RA) for Jimenez (**Additional – Preservation of Evidence**).

Sergeant A. [REDACTED], Serial No. [REDACTED] Olympic Patrol Division, responded and assumed the role of Incident Commander (IC). [REDACTED] separated, monitored and obtained a Public Safety Statement (PSS) from Officer [REDACTED] (**Additional – PSS and Protocols Subsequent to a Categorical Use of Force**).

Sergeant [REDACTED], Serial No. [REDACTED], Hollywood Patrol Division, responded, separated, monitored and obtained a Public Safety Statement (PSS) from Officer [REDACTED].

Los Angeles Fire Department (LAFD) personnel responded and transported Jimenez to Cedars-Sinai Medical Center where he was treated for a single gunshot wound to his groin area.

**Note:** The investigation revealed Jimenez was armed with a black-colored airsoft replica pistol. The airsoft pistol's barrel had been original manufactured with orange coloring on its tip. The tip of Jimenez's airsoft pistol had been partially colored blue, obscuring its marking and color.

## **FINDINGS**

**Tactics** – Tactical Debrief, Sergeant [REDACTED], along with Officers [REDACTED] and [REDACTED]

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

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

## **ANALYSIS**

### **Detention**

The officers responded to a radio call of a man armed with a gun. The officers located the suspect and attempted to detain him. The officer's actions were appropriate and within Department policies and procedures.

[REDACTED]

## **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 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 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 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 officers responded to a radio call of a man with a gun. The officers located the suspect and gave him verbal commands to stop. The suspect did not comply with the commands and brandished a handgun. The officers gave multiple commands to drop the weapon. The suspect then turned and pointed a handgun towards the officers.

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

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

#### **Debriefing Point No. 1 Code-Six**

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

*Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include.*

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a back-up, assistance, or help location.*

*Note: The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers [REDACTED] and [REDACTED] did not advise Communications Division (CD) they were Code Six upon arrival to the radio call location.

The purpose of going Code Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, the officers responded to the same location as identified in the original radio call. The officers also had knowledge that multiple additional units were responding to the same location. Upon their arrival, they observed another unit approaching the location. Officers located the suspect within the same area, who was armed with a handgun, and initiated contact without notifying CD.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers [REDACTED] and [REDACTED] actions were a substantial deviation, with justification, from approved Department tactical training. I will direct that this topic be discussed during the Tactical Debrief.

#### **Additional Tactical Debrief Topics**

**Tactical Vehicle Deployment** – The investigation revealed that Officer [REDACTED] stopped the police vehicle in close proximity to a suspect reportedly armed with a handgun. The officers are reminded of the importance of deploying their police vehicle in a more tactically advantageous position. I will direct this be a topic of discussion during the Tactical Debrief.

**Holding Service Pistol in Right Hand and Hand-Held Radio in Left Hand** – The investigation revealed that Sergeant [REDACTED] held [REDACTED] service pistol in [REDACTED] right hand while holding [REDACTED] hand-held radio in [REDACTED] left hand. Sergeant [REDACTED] is reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand. In this case, it is understandable because the situation was rapidly evolving and Sergeant [REDACTED] needed to broadcast information, while simultaneously being concerned about the potential for a deadly threat. While it was unavoidable in this case, I will direct that this be a topic of discussion during the Tactical Debrief.

**Backup Request vs. Help Call** – The investigation revealed that Sergeant [REDACTED] broadcasted a backup request after the OIS. Although I understand [REDACTED] was faced with a rapidly unfolding tactical situation, it would have been more tactically prudent for Sergeant [REDACTED] to broadcast a *help call* rather than a request for *back-up* in order to alert responding officers of the

seriousness of the incident. I will direct that this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

After the OIS, Sergeant [REDACTED] formulated a tactical plan of approach and monitored the officers as they took Jimenez into custody.

Sergeant [REDACTED] responded and assumed the role of IC [REDACTED] separated, monitored and obtained a Public Safety Statement (PSS) from Officer [REDACTED].

**Note:** The investigation revealed there was a delay in the separation and monitoring of Officers [REDACTED] and [REDACTED]. The actions of Sergeant [REDACTED] were brought to the attention of Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Olympic Area, and was addressed through corrective action at the divisional level (**Chief's direction**).

Sergeant [REDACTED] responded, separated, monitored and obtained a PSS from Officer [REDACTED]

The actions of Sergeants [REDACTED] and [REDACTED] 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. 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 Sergeant [REDACTED], as well as 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;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.



### General Training Update (GTU)

On January 11, 2018, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered.

#### 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).*

Sergeant [REDACTED] did not believe [REDACTED] drew [REDACTED] service pistol during the incident. However, Body Worn Video (BWV) revealed Sergeant [REDACTED] drew his service pistol after the OIS.

According to Officer [REDACTED], as [REDACTED] and Officer [REDACTED] entered the parking lot, Jimenez looked at them and then started walking west in the parking lot, away from the officers. Officer [REDACTED] believed that Jimenez matched the description of the suspect described as having a gun in the radio call. As the police vehicle stopped, Officer [REDACTED] exited and drew [REDACTED] service pistol as Jimenez continued to walk away from them.

Officer [REDACTED] recalled,

*I had seen the suspect already. As soon as [REDACTED] made the right, he started walking away from us, westbound, in the parking lot. At that point, I simultaneously opened the door, drew my pistol, and ordered him to stop [REDACTED]*

According to Officer [REDACTED] as they arrived at the location, [REDACTED] observed Jimenez walking north through the parking lot. [REDACTED] entered the parking lot from Western Avenue, drove towards Jimenez, and observed him walking away from them. [REDACTED] stopped the vehicle, exited, and drew [REDACTED] service pistol as Jimenez continued to walk away.

Officer [REDACTED] recalled,

*Unholstered my weapon once I saw the suspect fitting the description of the radio call and the radio call had stated that he had brandished a gun to the victim leading me to believe that he was potentially armed with a handgun, so I therefore unholstered my gun believing that the situation may escalate to the use of deadly force. [REDACTED]*

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Sergeant [REDACTED], along with Officers [REDACTED] and

[REDACTED]

█ while faced with similar circumstances, would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, I find Sergeant █, along with Officers █ and █ 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 █** – 9mm, one round in a westerly direction from approximately 30 feet.

According to Officer █, █ believed Jimenez would gain an actual location for █ partner, line up the sights of █ pistol and fire a round at Officer █. Jimenez would then turn his body further and possibly shoot Officer █. Officer █ fired one round from █ service pistol at Jimenez to stop the lethal threat.

Officer █ recalled,

*He stopped momentarily and turned his body slightly to his left. When he did that, I observed the black pistol in his right hand by his right side. I ordered him to drop it several times. At that point, he canted his body a little bit more to the left. At that point, the pistol rose upwards, pointing in the direction of my partner. I immediately thought he would -- if he gained an actual location from my partner and was able to line up his sights, that he would fire a round in the direction of my partner, and then turning further, facing us, and then possibly shoot at me. So I didn't give him the opportunity to. As soon as I saw the pistol rise, I fired one shot █*

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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 that Jimenez'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 objectively reasonable and In Policy, No Further Action.

### **Additional/Equipment**

**Probationary Officer Assignment** – The investigation revealed that Officer [REDACTED] an unstructured probationary officer was working with Officer [REDACTED] whom had recently reintegrated to field duties. Although Officer [REDACTED] is to be commended for [REDACTED] command presence and [REDACTED] ability to focus on the tactical situation while still directing [REDACTED] partner, I would prefer more tenured officers be partnered with probationary officers when feasible. This issue was brought to the attention of Captain [REDACTED]. As such, I deem no further action is necessary.

**Protocols Subsequent to a Categorical UOF** – The investigation revealed that Officers [REDACTED] Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED], Olympic Patrol Division, approached Officer [REDACTED] and Officer [REDACTED] and spoke to them regarding the OIS. Captain [REDACTED] addressed the issue through training at the divisional level. As such, I deem no further action is necessary.

**PSS** – The investigation revealed that Sergeant [REDACTED] did not obtain a complete PSS from Officer [REDACTED]. This issue was brought to the attention of Captain [REDACTED] and was addressed through training at the divisional level. As such, I deem no further action is necessary.

**Preservation of Evidence** – The investigation revealed that as the arrest team approached Jimenez to take him into custody, Officer [REDACTED] Serial No. [REDACTED] Olympic Patrol Division, used [REDACTED] foot to move the handgun away from Jimenez to prevent him from re-arming himself. In this case, it is understandable Officer [REDACTED] moved the handgun because the risk of the suspect re-arming [REDACTED] outweighed the benefits of leaving the evidence in place. While it was unavoidable in this case, Captain [REDACTED] reminded Officer [REDACTED] that, whenever tactically feasible, it is preferable to leave evidence undisturbed until FID investigators can properly document and preserve the scene. As such, I deem no further action necessary.

**DICVS** – The investigation revealed that Sergeant [REDACTED] did not activate his DICVS as required. This issue was brought to the attention of Captain [REDACTED] and was addressed through training at the divisional level. As such, I deem no further action is necessary.

### **Audio/Video Recordings**

**DICVS/ BWV** – Olympic Division vehicles were equipped with DICVS at the time of the incident. Olympic Division personnel were equipped with BWV at the time of this incident.

Officers [REDACTED] and [REDACTED] DICVS and BWV were activated during the incident and captured the OIS.

**Outside Video** – A surveillance camera located at [REDACTED] Western Avenue captured Jimenez' actions and the subsequent OIS.

**Chief's Direction**

I will direct Professional Standards Bureau to review the notification process of issues identified during a Categorical Use of Force investigation to include, not only the Command level, but also the respective Bureau and respective Office.

Respectfully,



MICHEL K. MOORE  
Chief of Police

Date: 10-31-18