

INTRADPARTMENTAL CORRESPONDENCE

January 10, 2019
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 020-18

Honorable Members:

The following is my review, analysis and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 020-18. A Use of Force Review Board (UOFRB) was convened on this matter on December 19, 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 March 19, 2018, Officers [REDACTED], Serial No. [REDACTED], and [REDACTED], Serial No. [REDACTED], Metropolitan Division, were dressed in full police uniform, driving an unmarked, dual purpose police vehicle. The officers were conducting crime suppression operations in Newton Division.

At approximately 1849 hours, Communications Division (CD) broadcasted the following call for service: *"Newton units, shooting just occurred, Griffith and Washington, Griffith and Washington, the AutoZone. Suspect vehicle is a white van, fired two gunshots at PR [Person Reporting]. Code Three, Incident 4627, RD 1313."*

Note: The investigation revealed that the PR and [REDACTED] friend were walking south, from Washington Boulevard, on the east sidewalk of Griffith Avenue, when they observed a white van travelling south on Griffith Avenue. The van slowed down and the driver pointed a handgun out of the driver's side window. The driver then fired two rounds at the PR and [REDACTED] friend. The van continued driving south on Griffith Avenue. The PR and [REDACTED] friend ran into the nearby AutoZone Auto Parts store and telephoned 911 to report the incident. The PR and [REDACTED] friend were not struck by the gunfire.

Surveillance cameras from ASE Industries, located at [REDACTED], captured the Assault with a Deadly Weapon (ADW) shooting incident.

[REDACTED]

According to Officers [REDACTED] and [REDACTED] they heard the broadcast of the shooting call and began to head in that direction to assist the responding Newton Patrol Division units. While Officers [REDACTED] and [REDACTED] were enroute to the radio call, CD broadcasted *additional information*, including a description of the suspect (**Additional Tactical Debrief Topics – Tactical Communication**).

Note: At approximately 1851 hours, CD broadcasted the following information, "Newton units, additional on your shooting just occurred, Griffith and Washington. The suspect vehicle is still in the area. He's on Griffith Street, heading toward 20th. Suspect is a male Hispanic. Suspect is wearing a blue shirt and a black hat."

According to Officer [REDACTED], as [REDACTED] drove northbound on Griffith Avenue approaching 22nd Street, [REDACTED] observed a white van coming southbound in their direction. Officer [REDACTED] then advised Officer [REDACTED] of [REDACTED] observations.

According to Officer [REDACTED], as [REDACTED] drove past the white van in the intersection of Griffith Avenue and 22nd Street, Officer [REDACTED] looked at the driver, later identified as E. Vaquero, and observed that Vaquero matched the description of the suspect in the radio call. Based upon [REDACTED] observations, Officer [REDACTED] conducted a U-turn and advised Officer [REDACTED] to broadcast that they were following the possible suspect vehicle.

According to Officer [REDACTED] as [REDACTED] and Officer [REDACTED] passed the white van in the intersection, Officer [REDACTED] looked at Vaquero and believed that the white van and Vaquero were possibly related to the shooting on Griffith and Washington. Officer [REDACTED] then conducted a U-turn to follow the white van. At that point, Officer [REDACTED] observed that the white van had turned eastbound onto 22nd Street and stopped abruptly, just east of Griffith Avenue.

According to Officer [REDACTED], as [REDACTED] finished [REDACTED] U-turn, [REDACTED] observed that the white van had stopped eastbound on 22nd Street, just east of Griffith Avenue. Officer [REDACTED] then observed a pedestrian running away from the front of the van, in a southwest direction, and realized that the van had stopped for the pedestrian.

Note: A review of Officer [REDACTED] Body Worn Video (BWV) captured an unidentified male running in a southwesterly direction across 22nd Street, in front of the officers' police vehicle, as they came to a stop behind Vaquero's van.

According to Officer [REDACTED] Officer [REDACTED] stopped their police vehicle behind the white van. As Officer [REDACTED] began to exit the police vehicle, [REDACTED] heard Officer [REDACTED] advising [REDACTED] to broadcast their location. Believing Vaquero was the shooting suspect and was armed, Officer [REDACTED] held [REDACTED] police radio in [REDACTED] left hand, drew [REDACTED] service pistol with [REDACTED] right hand and assumed a position of cover behind the passenger side door of the police vehicle (**Drawing/Exhibiting, Debriefing Point No. 1 and Additional Tactical Debrief Topics – Maintaining Control of Service Pistol in Right Hand and Radio in Left Hand**).

According to Officer [REDACTED], Vaquero opened the driver's door of the van and was about to exit. Believing that Vaquero was an ADW suspect who may still be armed, Officer [REDACTED] placed the police vehicle in park, exited and drew [REDACTED] service pistol (Drawing/Exhibiting and Debriefing Point No. 2).

According to Officer [REDACTED], Vaquero exited the van and was facing away from [REDACTED] Officer [REDACTED] could only see the left side of Vaquero's body. As Officer [REDACTED] began to give Vaquero commands to put his hands up, Vaquero quickly turned around towards Officer [REDACTED]. At that point, Officer [REDACTED] observed that Vaquero was holding a blue steel pistol in his right hand. [REDACTED] further observed that Vaquero's right hand was at waist level and was moving in [REDACTED] direction. Believing that Vaquero was going to start shooting at [REDACTED] and [REDACTED] partner, Officer [REDACTED] believed [REDACTED] fired three rounds from [REDACTED] service pistol at Vaquero to stop the threat (Lethal Use of Force).

According to Officer [REDACTED], after firing, [REDACTED] assessed and observed that Vaquero was still holding the handgun and was looking in Officer [REDACTED] direction. Officer [REDACTED] further observed that Vaquero started to move closer to the van, with the gun raised in Officer [REDACTED] direction, and believed that Vaquero was trying to gain cover. Believing that [REDACTED] initial rounds were ineffective and that Vaquero was still a threat, Officer [REDACTED] believed [REDACTED] fired three additional rounds from [REDACTED] service pistol at Vaquero to stop the threat (Lethal Use of Force).

Note: A review of Officer [REDACTED] BWV revealed that Officer [REDACTED] fired five rounds from [REDACTED] service pistol in one continuous sequence of fire.

According to Officer [REDACTED], after firing, [REDACTED] assessed and observed Vaquero enter back into the driver's side of the van. At that point, Officer [REDACTED] was able to see through the rear window of the van and observed Vaquero in the driver's seat. Officer [REDACTED] observed that Vaquero's face and hat were raised higher than the headrest and Vaquero was looking back at [REDACTED] and [REDACTED] partner. Based upon [REDACTED] training and experience, Officer [REDACTED] believed that Vaquero was trying to get a better position of advantage to assess Officer [REDACTED] and Officer [REDACTED] position. In fear that Vaquero was preparing to engage [REDACTED] and [REDACTED] partner, Officer [REDACTED] fired one additional round from [REDACTED] service pistol at Vaquero's head to stop the threat (Lethal Use of Force).

Note: Officers [REDACTED] and [REDACTED] BWV did not capture Vaquero's movements once he entered the van.

According to Officer [REDACTED] heard Officer [REDACTED] giving Vaquero commands, but [REDACTED] could only see the passenger side of the van due to the positioning of [REDACTED] police vehicle. Vaquero then appeared for a brief second, from behind the rear driver side of the van, with a black handgun in his right hand. Officer [REDACTED] then heard Officer [REDACTED] fire a quick volley of gunshots. Vaquero disappeared back behind the driver side of the van and out of [REDACTED] view. Officer [REDACTED] broadcasted a help call and their location; however, [REDACTED] did not believe CD received the broadcast.

Note: A review of Metropolitan Division base frequency captured Officer [REDACTED] broadcast, "*Shots fired, Griffith and 22nd*."

According to Officer [REDACTED], Vaquero closed the driver's side *door* of the van and *drove* east on 22nd Street. Officer [REDACTED] holstered [REDACTED] service pistol, entered the police vehicle and advised Officer [REDACTED] to *broadcast a help call*. Officer [REDACTED] then *activated* the overhead emergency lights and *siren* of their police vehicle and followed Vaquero east on 22nd Street.

Note: The investigation revealed that Officer [REDACTED] activated the overhead emergency lights of [REDACTED] police vehicle, but did not activate the siren.

According to Officer [REDACTED] after the OIS, *the van started moving eastbound on 22nd from Griffith*. Officer [REDACTED] holstered [REDACTED] service pistol, entered the police vehicle and he and Officer [REDACTED] followed the van. Officer [REDACTED] *again broadcasted officer needs help, shots fired*.

Note: A review of Metropolitan Division base frequency captured Officer [REDACTED] broadcast: "*Officer needs help. Griffith and 22nd. Shots fired. We're heading (inaudible) hand out the window, 22nd just east of Griffith.*"

According to Officer [REDACTED] the van *stopped* and Vaquero *had his hands out of the window*. Officer [REDACTED] exited [REDACTED] police vehicle, drew [REDACTED] service pistol and *ordered Vaquero to keep his hands out the window (Drawing/Exhibiting)*.

According to Officer [REDACTED], Vaquero *pulled over and put his hands out the window*. Officer [REDACTED] exited [REDACTED] police vehicle, drew [REDACTED] service pistol and *ordered Vaquero out of the vehicle*. Additional officers arrived at their location and they *conducted a felony stop*. The officers *cleared* Vaquero's van and took Vaquero into custody without further incident (**Drawing/Exhibiting and Additional Tactical Debrief Topics – Non-Conflicting Simultaneous Commands**).

Note: The investigation revealed that Vaquero stopped his van on 22nd Street, west of Central Avenue. A blue steel handgun was recovered on the driver's seat of Vaquero's van. Vaquero was later identified as the suspect in the original ADW shooting radio call.

Sergeant [REDACTED] Serial No. [REDACTED] Newton Area Gang Enforcement Detail, arrived and assumed the role of Incident Commander (IC). Sergeant [REDACTED] ensured that Officers [REDACTED] were separated and monitored. Additionally, Sergeant [REDACTED] obtained a Public Safety Statement (PSS) from Officer [REDACTED].

FINDINGS

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

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

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

ANALYSIS

Detention

As the officers were responding to an ADW shooting radio call, they observed a suspect and vehicle which matched the description provided in the radio call. As they attempted to follow the vehicle, the suspect abruptly stopped and exited the vehicle armed with a handgun, resulting in an OIS. The officers' actions were appropriate and within Department policies and procedures.

Tactics

Department policy relative to a Tactical Debrief is: *“The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance” (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, when the suspect exited his van, one of the officers gave the suspect commands to put his hands up in an attempt to get the suspect to surrender and to resolve the situation peacefully, without the use of force. However, the suspect did not comply with the officer's commands and turned in the officer's direction while holding a handgun.

[REDACTED]

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

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

Debriefing Point No. 1 Back-Up Request

Back-up Unit Request. *This emergency call shall be broadcast when an officer requires additional units immediately, but the situation does not rise to the level where serious bodily injury, death or serious threat to public safety is imminent. The officer requesting shall include the location, followed by the unit designation and all other pertinent information, including the reason for the request (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers [REDACTED] and [REDACTED] did not conduct a broadcast requesting a back-up unit as they stopped behind Vaquero's van.

The officers intended to follow the van until additional units could arrive to assist them with conducting a high-risk traffic stop. However, after the officers conducted the U-turn, Vaquero abruptly stopped his van in the roadway. At this point, Officer [REDACTED] had [REDACTED] radio in [REDACTED] left hand and intended to broadcast their location. However, when Vaquero exited the van armed with a handgun, Officer [REDACTED] made the decision to maintain [REDACTED] tactical advantage and focus [REDACTED] attention on the immediate deadly threat of an armed suspect.

Although officers are given discretion regarding the appropriate time to request additional resources based on the ongoing tactical situation, a request for a back-up would have been tactically advantageous based on the information contained in the initial radio call broadcast. In this case, due to the dynamic and dangerous nature of the incident, Officer [REDACTED] was unable to complete his broadcast.

Based upon the totality of the circumstances, I have determined that Officers [REDACTED] and [REDACTED] actions were reasonable and not a substantial deviation from approved Department tactical training. However, in an effort to enhance future tactical performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Debriefing Point No. 2 Tactical Vehicle Deployment

Because of their shape and concealment possibilities, vans, campers, and motor homes provide a unique set of circumstances that officers should be aware of in order to protect their own safety and conduct an effective vehicle pullover.

There are a number of officer safety considerations when effecting a vehicle stop involving vans and campers because of their size and visibility limitations. Because of these, extra caution is required regardless of the reason for the pullover.

- *Position of the patrol vehicle related to the target vehicle, pullover locations, use of lights, etc. may need to be modified.*
- *Traditional patrol vehicle positioning (e.g. offsetting) may obscure the officer's view of the passenger's side door of the target vehicle (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).*

Officer [REDACTED] stopped the police vehicle in a position offset to the passenger side of Vaquero's van.

The positioning of a police vehicle is critical in order to provide the officers a tactical advantage should the incident escalate. Generally, while conducting traffic stops on larger vehicles, such as a van, the officers should not offset their police vehicle so that their view of the suspect(s) is not obscured.

In this case, Vaquero abruptly stopped his van in the roadway as Officer [REDACTED] was conducting [REDACTED] U-turn. As Officer [REDACTED] completed the U-turn, [REDACTED] observed that Vaquero was opening the driver's side door. As a result, Officer [REDACTED] made the decision to immediately stop and exit the police vehicle to address a possibly armed ADW suspect. Due to Vaquero's actions, Officer [REDACTED] was not afforded the time necessary to place the police vehicle in a position of tactical advantage.

Based upon the totality of the circumstances, the UOFRB determined, and I concur, that Officer [REDACTED] positioning of the police vehicle was reasonable and not a substantial deviation from approved Department tactical training. However, in an effort to enhance future tactical performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

Tactical Communication – The investigation revealed that Officer [REDACTED] did not broadcast on Newton Division frequency that they were responding to the ADW shooting radio call to assist Newton Patrol Division units. Although Metropolitan Division personnel are not required to broadcast on the base frequency of the geographical division in which they are assigned, Officers [REDACTED] and [REDACTED] are reminded that effective communication should be established when working in conjunction with officers from other divisions. I will direct that 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 Officer [REDACTED] drew [REDACTED] service pistol in [REDACTED] right hand while holding [REDACTED] hand-held radio in [REDACTED] left hand. Due to the rapidly evolving and dynamic events of the incident, this was unavoidable. Officer [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. I will direct that this be a topic of discussion during the Tactical Debrief.

Non-Conflicting Simultaneous Commands – The investigation revealed that Officers [REDACTED] and [REDACTED] gave simultaneous commands to the suspect during the incident. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance by the suspect. I will direct that this be a topic of discussion during the Tactical Debrief.

Command and Control

Sergeant [REDACTED] arrived and assumed the role of IC. [REDACTED] ensured Officers [REDACTED] and [REDACTED] were separated and monitored. Additionally, [REDACTED] obtained a PSS from Officer [REDACTED].

The actions of this supervisor were consistent with Department supervisory training and met my expectations of a field supervisor 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 Officers [REDACTED] and [REDACTED] attend a Tactical Debrief and 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 5, 2018, Officers [REDACTED] and [REDACTED] attended a GTU. All mandatory topics were covered including Vehicle Stop 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], Vaquero opened the driver's door of the van and was about to exit. Believing that Vaquero was an ADW suspect who may still be armed, Officer [REDACTED] exited [REDACTED] police vehicle and drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

So at that point, I saw that the - - the van's driver side door opened up, and the suspect was about to exit. At that point, I put the vehicle in park, exited my vehicle, and drew my weapon believing that I'm dealing with an ADW suspect that may still be armed and that could escalate to a deadly situation, so I withdrew my - - my pistol.█

According to Officer [REDACTED], after the OIS, Vaquero entered his van and drove away from the scene. Vaquero subsequently pulled over and put his hands out the window. Officer [REDACTED] exited his police vehicle and drew his service pistol.

Officer [REDACTED] recalled,

The vehicle pulled over on its - - on its own right away. The suspect put his hands out the window. Once again, I withdrew my weapon since I - - I know he was armed, we need to be armed. And we ordered the suspect out of the vehicle, conducted a felony stop with addition - - with assistance of a few other Newton officers.█

According to Officer [REDACTED] Officer [REDACTED] stopped their vehicle behind the white van. Officer [REDACTED] exited the police vehicle. Believing Vaquero was the shooting suspect and was armed, Officer [REDACTED] drew [REDACTED] service pistol with [REDACTED] right hand and assumed a position of cover behind the passenger side door of the police vehicle.

Officer [REDACTED] recalled,

And unholstered my weapon due to, I believe the - - due to I believe the tactical situation - - tactical situation would escalate to the use of deadly force, and we believe this was a shooting suspect from Washington and Griffith, and he was armed.█

According to Officer [REDACTED] after the OIS, the van started moving eastbound on 22nd Street from Griffith Avenue. The van subsequently stopped and Vaquero had his hands out of the window. Officer [REDACTED] exited [REDACTED] police vehicle and drew [REDACTED] service pistol.

Officer [REDACTED] recalled,

At that point, the van had stopped, and the suspect had his hands out. From what I see at the part, the suspect had his hand out the window with the van stopped. I exit from my vehicle,

[REDACTED]

in which I unholstered again believing the tactical situation could escalate to the use of deadly force. Armed suspect, which we - - I had seen the gun in his right hand

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] 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] 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] – .40 caliber, six rounds in two sequences of fire in a northeasterly direction from an approximate decreasing distance of 27 to 25 feet.

First Sequence – five rounds in a northeasterly direction from an approximate distance of 27 feet.

According to Officer [REDACTED] Vaquero exited the van and was facing away from him. As Officer [REDACTED] began to give Vaquero commands to put his hands up, Vaquero quickly turned around towards him. At that point, Officer [REDACTED] observed that Vaquero was holding a blue steel pistol in his right hand. [REDACTED] further observed that Vaquero's right hand was at waist level and was moving in his direction. Believing that Vaquero was going to start shooting at [REDACTED] and [REDACTED] partner, Officer [REDACTED] believed [REDACTED] fired three rounds from [REDACTED] service pistol at Vaquero to stop the threat.

[REDACTED]

According to Officer [REDACTED], after firing, [REDACTED] assessed and observed that Vaquero was still holding the handgun and was looking in [REDACTED] direction. [REDACTED] further observed that Vaquero started to move closer to the van, with the gun raised in [REDACTED] direction. Officer [REDACTED] believed that Vaquero was trying to gain a position of cover. Believing that [REDACTED] initial rounds were ineffective and that Vaquero was still a threat, Officer [REDACTED] believed [REDACTED] fired three additional rounds from [REDACTED] service pistol at Vaquero to stop the threat.

Note: A review of Officer [REDACTED] BWV revealed that Officer [REDACTED] fired five continuous rounds from [REDACTED] service pistol.

Officer [REDACTED] recalled,

I saw the suspect exit. I first saw a glimpse of his blue T-shirt. And I began to give him commands. I think I said, "Let me see your hands," or, "Put your hands up." I can't recall the exact phrase. Shortly after, I saw the suspect. He was facing away from me. He quickly turned around and I saw he was holding a Blue Steel pistol in his right hand....

He's about -- he's moving -- moving his hand towards my direction and he's (unintelligible) to start shooting, so -- He was kind of -- his hand kind of swung as he turned. And I would say he brought it waist level.

I believe that he was about to engage us with a firearm. So I decided to shoot to stop the threat and shoot before I -- I got shot at by the suspect, so I initially fired a volley of maybe three shots, I be -- from what I call. And as I was shooting, I could see that he's still holding the handgun looking in my direction and starts moving closer to the van....

So he was starting to get into cover and he was still holding the handgun. I realized that my initial volley was ineffective. So I reassessed and continued shooting...I think I fired another volley of three more rounds, I believe.

Additionally, Officer [REDACTED] recalled,

Once I realized that he turned around instead and -- and had his gun out and began to raise it up, I realized that he was not going to comply. So I believe at that point, my life and my partner's life was in danger, and I engaged the suspect as quick as I could.

[REDACTED]

Second Sequence – one round in a northeasterly direction from an approximate distance of 25 feet.

According to Officer [REDACTED], after firing, he assessed and observed Vaquero enter back into the van through the driver's side door. At that point, [REDACTED] was able to see through the rear window of the van and observed Vaquero in the driver's seat. [REDACTED] observed that Vaquero's face and hat were raised higher than the headrest and Vaquero was looking back at [REDACTED] and Officer [REDACTED]. Based upon [REDACTED] training and experience, Officer [REDACTED] believed that Vaquero was trying to get a better position of advantage to assess Officer [REDACTED] and Officer [REDACTED] position. In fear that Vaquero was preparing to engage [REDACTED] and Officer [REDACTED] Officer [REDACTED] fired one additional round from [REDACTED] service pistol at Vaquero's head to stop the threat.

Officer [REDACTED] recalled,

Once he [Vaquero] entered the vehicle, he entered the driver's seat. At that point, I was able to see through the rear window that he was now in the driver's seat, and he was -- I could see his -- his silhouette of his -- his face and the hat. It was higher than the headrest. So I figured that he was still looking in my direction trying to get a better position of advantage and engage us... [REDACTED]

I thought maybe he -- it appeared that he was trying to reposition himself and get a good view towards our direction, and that also reinforced it by the way the car was kind of swinging left and right. Just because the whole time he was facing in our direction, he had ample time to drop the gun, where even once he entered the vehicle, he could have tossed the gun or put his hands out the window. But instead, he decided to continue to look back in our direction as he was trying to assess our positioning, maybe acquire better target or be able to shoot in our direction, having a better tactical advantage. So when I saw that he was adjusting, I -- I -- I -- believe just from my training and experience that he was maybe going to position himself and use the vehicle as a stable platform and aim towards our car and begin to engage us. [REDACTED]

At that point, I - - that's when I seen him behind the driver's seat, and he had raised and looked like he was looking - - looking back in our direction, and I figured and I feared that he was going to use that seat as a platform to continue to engage us, so I fired an additional round fearing that he was starting an attack. [REDACTED]

The UOFRB reviewed Officer [REDACTED] discharging of rounds one through five. 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 Vaquero's actions presented an imminent threat of death or serious bodily injury, and that the Use of Lethal Force (rounds 1-5) would be objectively reasonable.

[REDACTED]

Additionally, the UOFRB considered several factors in determining the reasonableness of Officer [REDACTED] sixth round. After Officer [REDACTED] fired [REDACTED] first sequence of rounds, Vaquero had the opportunity to discard his handgun and surrender to the uniformed officers. However, Vaquero held onto the handgun, entered his van and did not immediately attempt to drive away. Officer [REDACTED] then observed Vaquero make several movements inside the van that he believed were consistent with a suspect who was assuming a tactical position in an effort to locate, assess and shoot at the officers.

Based upon Officer [REDACTED] observations, coupled with [REDACTED] belief that Vaquero was just involved in an ADW shooting and was still armed, the UOFRB determined that it was reasonable for Officer [REDACTED] at that moment, to believe Vaquero was intending to shoot and was therefore an imminent threat to [REDACTED] partner and the community.

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], would reasonably believe that Vaquero's actions presented an imminent threat of death or serious bodily injury, and that the Use of Lethal Force (round 6) would be objectively reasonable.

Therefore, I find Officer [REDACTED]'s 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 police vehicles were not equipped with DICVS at the time of this incident. Metropolitan Division personnel were equipped with BWV at the time of the incident. Officers [REDACTED] and [REDACTED] BWV was activated at the time of the incident and captured the OIS. Responding Newton Patrol Division vehicles were equipped with DICVS at the time of the incident, but did not capture the OIS.

Outside Video – Surveillance cameras from the Empire Liquor store, located at [REDACTED] captured portions of the OIS. Surveillance cameras from ASE Industries, located at [REDACTED] captured the ADW shooting incident.

Respectfully,



MICHEL R. MOORE
Chief of Police

Date: 01/10/2019