

**Pursuant to California Penal Code Section 832.7,  
which was amended by Senate Bill (SB) 1421, effective  
January 1, 2019, and again by Senate Bill (SB) 16,  
effective January 1, 2022,  
a redacted version of this report is subject to disclosure  
under the California Public Records Act.**

## INTRADEPARTMENTAL CORRESPONDENCE

May 18, 2023  
3.2

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

**FROM:** Chief of Police

**SUBJECT:** OFFICER-INVOLVED SHOOTING, FID NO 040-22

Honorable Members:

The following is my review, analysis, and findings for an Officer-Involved Shooting (OIS), Force Investigation Division (FID) No. 040-22. On April 24, 2023, this case was presented to the Use of Force Review Board (UOFRB); however, the recommended findings were not unanimous, with a minority opinion rendered regarding the use of Lethal Force. I have carefully weighed each opinion and considered the case in its entirety. My recommended findings are outlined below, and I hereby submit my findings per Police Commission policy.

### **SUMMARY**<sup>1</sup>

On July 22, 2022, at approximately 1850 hours, Officers C. Hosea, Serial No. 43216, and C. Tovar, Serial No. 43029, Hollenbeck Patrol Division, were traveling west on Eastern Avenue when they observed a black Nissan Rogue without license plates at Eastern Avenue and Whiteside Street. The officers then continued west on Eastern Avenue past Whiteside Street and conducted a U-Turn, positioning their police vehicle behind the Rogue, following it west on Eastern Avenue. The officers observed a female driver but no other occupants. Before the officers could stop the Rogue, it turned into the parking lot of a local business and the officers followed.<sup>2</sup> Suspect L. Soltero exited the Rogue's passenger side armed with a handgun and fled east in the alley north of the parking lot. Officers Hosea and Tovar exited their police vehicle, unholstered their service pistols, and pursued Soltero on foot. As Officer Hosea ran after Soltero in the alley, Officer Tovar followed approximately 15 feet behind, while broadcasting a request for a backup for a man with a gun. The Rogue subsequently fled the scene, striking a Gray Nissan Versa, License No. [REDACTED], which was driving west on Eastern Avenue.<sup>3</sup>

Upon reaching Tim Avenue, Soltero ran north before turning west on Drucker Street. Officers Hosea and Tovar continued to command Soltero to "Drop the gun!" Upon reaching Lansdowne Avenue, Soltero ran north with the officers following behind him. After running approximately

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

<sup>2</sup> The business was the Metro Meat Market at 7120 North Eastern Avenue.

<sup>3</sup> A hit-and-run felony traffic collision report was taken for the Versa's driver, see Division of Records No. [REDACTED]

50 feet, Soltero stumbled forward and fell to the ground on his right side, still armed with the handgun, at which point the OIS occurred.<sup>4</sup> During the OIS, both Soltero and Officer Hosea discharged their firearms; Officer Tovar did not use force. A sound graph analysis determined that during the OIS, a total of 19 rounds were fired in approximately 3.26 seconds, 18 of which were fired by Officer Hosea. It was also determined that Soltero fired one round; however, the exact point at which he fired his round could not be determined.

At 1851:07 hours, Officer Tovar broadcast that shots had been fired, advising Communications Division (CD) that officers needed help. The following personnel responded to the scene: Officers J. Campos, Serial No. 415198, J. Fernandez, Serial No. 37825, M. Garcia, Serial No. 42500, L. Blanco, Serial No. 42648, A. Gruendyke, Serial No. 41669, A. McNeely, Serial No. 41443, and O. Cervantes, and Sergeants J. Vasquez, Serial No. 30976, and D. Lopez, Serial No. 39711, Hollenbeck Patrol Division.

After broadcasting the officer help call, Officers Hosea and Tovar redeployed behind a metal sign and the bushes in the center median of the street. Approximately three minutes later, Officers D. McClement, Serial No. 44065, and E. Amato, Serial No. 43559, Hollenbeck Patrol Division, arrived at the scene. Officers Hosea and Tovar then used the driver-side ballistic door panel of Officers McClement and Amato's vehicle as cover.

At 1858:52 hours, the tactical team approached Soltero, apprehended him without further incident, and rendered medical aid until relieved by Los Angeles County Fire Department (LACFD) personnel.

## **FINDINGS**

**Tactics** – Administrative Disapproval, Officers Hosea and Tovar. Tactical Debrief, Officer Campos and Sergeant Lopez.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Hosea and Tovar.

**Lethal Use of Force** – Out of Policy, Administrative Disapproval, Officer Hosea.

## **ANALYSIS<sup>5</sup>**

### **Detention**

Officers were in the area of Eastern Avenue and Whiteside Street when they observed a black Nissan Rogue with no license plates in front of a known "chop shop." Officer Tovar also recognized the driver as a Metro-13 criminal street gang member, whose moniker was "Chaos." Suspecting that the vehicle may have been stolen, officers intended to investigate further. Before

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<sup>4</sup> Soltero was armed with a Beretta, Model APX, .9mm, semiautomatic handgun. When recovered, the gun's slide was held partially rearward by a discharged cartridge case lodged between the ejection port and the barrel.

<sup>5</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the FID investigation.

the officers could conduct a traffic stop, a previously unseen passenger (Soltero) exited the Rogue while holding a handgun and fled. Based on the totality of the circumstances, the officers had reasonable suspicion to detain Soltero.

## **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 by reviewing and analyzing Department-wide training, practices, policies and procedures."*

*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<sup>6</sup>**

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

*Tactical de-escalation 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.*

*Tactical De-Escalation Techniques: Planning; Assessment; Time; Redeployment and/or Containment; Other Resources; and, Lines of Communication.*

**Planning and Assessment** – Officers Hosea and Tovar had been partners for approximately [REDACTED]. At the beginning of their shifts, they discussed various topics, including contact and cover roles, tactical de-escalation, and foot pursuit tactics. Both during and after the OIS, Officer Tovar assessed the need for additional resources.

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<sup>6</sup> Los Angeles Police Department, Use of Force Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.



After the OIS, Officer Campos arrived and assumed responsibility for tactical planning. He formed a tactical team that included a Designated Cover Officer (DCO), a less-lethal officer, a shield operator, and an arrest team. Based on Officer Campos and Sergeant Lopez's assessment of the situation, they created a plan to approach Soltero and take him into custody without further incident. Based on his assessment, Sergeant Lopez directed the team to approach Soltero from the east due to the tactical advantage it provided the officers.

**Time and Redeployment/ Containment** – After Soltero exited the Rogue, Officers Hosea and Tovar pursued him on foot, maintaining an approximate distance of 50 to 75 feet. When Soltero turned onto Lansdowne and fell, Officers Hosea and Tovar were approximately 20 feet and 15 feet away from Soltero, respectively. At the time of the OIS, the officers were unable to use available cover. After the OIS, the officers redeployed to the center median of the street, which had a metal sign and a bush, which they used as concealment. When the first unit arrived at the scene, Officers Hosea and Tovar redeployed behind the responding police vehicle's driver-side ballistic door panel.

**Other Resources and Lines of Communication** – Seeing that Soltero was armed with a gun, Officer Hosea advised Officer Tovar, "Gun, gun, gun!" The officers then exited their police vehicle and pursued Soltero on foot. As they did so, the officers repeatedly ordered him to drop the gun. Despite the officers' orders, Soltero maintained possession of the gun. Additionally, Officer Tovar advised CD that officers needed backup units for a 415 man with a gun. Soltero's subsequent actions limited the officers' ability to de-escalate the situation before the OIS.

After the OIS, Officer Tovar advised CD that shots had been fired and that the officers needed help. Officer Tovar also advised CD that one suspect was down and that the gun was still in his hand. In response, CD repeated the officers' location and requested that an air unit respond to the scene. Officer Tovar also requested that the Los Angeles County Sheriff's Department respond, as the scene bordered the two jurisdictions. While awaiting additional resources, the officers ordered Soltero not to move. When additional LAPD units arrived, they helped establish containment. Using available resources, including a ballistic shield, officers apprehended Soltero without additional force.

The UOFRB noted that when Officer Tovar requested backup units, he effectively placed himself and his partner Code Six; however, he did not advise CD that they were in foot pursuit. Although Officer Tovar broadcast his location, the transmission was not clear, and CD was unable to discern what he said, likely because he was running. The Board noted that when CD asked the officers to repeat their location, they did not initially respond, and Officer Tovar's next broadcast did not provide a cross street. The Board also noted that the first clear broadcast regarding their location occurred after the OIS. While the Board would have preferred that the officers had clearly communicated their location and activity, the Board felt that this issue was best addressed during the tactical debrief. To enhance future performance, I will direct this to be a topic of discussion during the Tactical Debrief.

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

**Debriefing Point No. 1      Foot Pursuit Concepts- Apprehension v. Containment**

***Apprehension versus Containment:** There are two pursuit modes officers may use when a suspect flees on foot, apprehension mode or containment mode. Some factors that will influence an officer's decision to operate in the apprehension or containment mode are the suspect's actions, officer's experience, training, physical fitness level, location and available resources.*

***Pursuing Armed Suspects:** When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties.<sup>7</sup>*

Officers Hosea and Tovar observed Soltero exit the vehicle armed with a handgun. Officers Hosea and Tovar then pursued Soltero on foot in "apprehension mode." According to Officers Hosea and Tovar, they were in apprehension mode due to "families outside" their residences and the possibility that Soltero could take a hostage.

While in foot pursuit of Soltero, Officers Hosea and Tovar used minimal cover. At the time of the OIS, both Officers Hosea and Tovar were without cover or concealment.

The UOFRB assessed Officers Hosea and Tovar's tactics during the foot pursuit. The Board noted that the Department's tactical training states that officers generally should not pursue an armed suspect in apprehension mode. Based on the distance between Soltero and the officers, the Board determined they were in apprehension mode while pursuing an armed suspect. The Board did note that Officers Hosea and Tovar's justification for pursuing Soltero in apprehension mode was due to families outside and the possibility that he could take a hostage. However, the Board opined that their justification was insufficient as the reasoning was too general and there was no specific evidence or articulation that Soltero was planning to do so. Based on the totality of the circumstances, the Board opined that the officers should have pursued Soltero in containment mode, using distance and available cover.

As part of their assessment, the Board evaluated Officers Hosea and Tovar's use of cover. While in foot pursuit of Soltero, Officers Hosea and Tovar used limited cover. As a result, they were without the benefit of cover for most of the foot pursuit as well as during the OIS. The Board opined that by not using cover, the officers unnecessarily risked their safety, placed themselves at a significant tactical disadvantage, and limited their options to respond to Soltero's actions.

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<sup>7</sup> Los Angeles Police Department, Use of Force-Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the tactics employed by Officers Hosea and Tovar were a substantial deviation, without justification, from Department-approved tactical training. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

### **Debriefing Point No. 2      Foot Pursuit Concepts- Suspects Fleeing from a Vehicle**

*If a foot pursuit begins with a suspect fleeing from a vehicle, officers need to consider the possibility of additional suspects remaining in the vehicle. Therefore, officers should clear or cover the suspect vehicle before running past it unless other circumstances necessitate running past an uncleared vehicle.<sup>8</sup>*

After exiting the Rogue, Soltero fled while armed with a handgun. As Officers Hosea and Tovar pursued Soltero, they ran past the vehicle. At the time, both officers were cognizant that the vehicle was still occupied. According to Officer Tovar, he conducted a quick visual clearance of the vehicle and saw that the only occupant was the driver and that he could see her hands. Officer Tovar stated he felt comfortable running past the vehicle at that point. Officer Hosea did not clear the Rogue. Unbeknownst to Officer Hosea, Officer Tovar recognized this female as "Chaos", a Metro-13 criminal street gang member. Officer Hosea stated his reasoning for running past the vehicle was because he wanted to apprehend Soltero who was fleeing with a handgun.

The UOFRB assessed Officer Hosea and Tovar's decision to run past the suspect vehicle. The Board noted that officers need to consider the possibility of additional suspects remaining in the vehicle and the potential of an ambush. As such, the Board was critical of the officers' decision to run past the Rogue, especially given Officer Tovar's knowledge of the female driver being a known Metro-13 gang member. The Board felt that the female driver presented a danger to the officers and that running past her and the vehicle without properly clearing or holding on them placed the officers at a significant tactical disadvantage and unnecessarily risked their safety. It was also noted that the speed at which the officers ran past the vehicle would have made it difficult to determine if additional suspects were inside the vehicle.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the tactics employed by Officers Hosea and Tovar were a substantial deviation, without justification, from Department-approved tactical training. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Lines of Communication** – See Tactical De-Escalation, above.

**Fire Discipline/Fire Control** – The FID investigation revealed that Officer Hosea discharged 18 rounds in 3.26 seconds. As officers are responsible for every round they discharge, they must

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<sup>8</sup> Los Angeles Police Department, Use of Force-Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013.

balance speed with accuracy. As this is a worthy topic, I will direct that it be discussed during the Tactical Debrief.

**Running with a Firearm** – While in foot pursuit, Officers Hosea and Tovar ran with their service pistols in their right hand. Alternatively, they could have kept their service pistols holstered as they ran, reducing the risk of an unintentional discharge. To enhance future performance, I will direct this to be a topic of discussion during the Tactical Debrief.

**Non-Conflicting Simultaneous Commands** – During the foot pursuit, Officers Hosea and Tovar gave simultaneous non-conflicting commands to Soltero. Alternatively, one officer should have been designated as the contact officer to avoid the potential for confusion and to allow the other officer to focus on additional tasks. To enhance future performance, I will direct this to be a topic of discussion during the Tactical Debrief.

**Tactical Language** – While in foot pursuit, Officer Tovar told Soltero, “Drop the gun! We’re gonna shoot you. Drop the gun!” Whether intended as a warning or a ruse, it was unlikely to cause Soltero to stop and drop the gun and could have escalated the incident. To enhance future performance, I will direct this to be a topic of discussion during the Tactical Debrief.

**Securing Police Vehicle** – When Officers Hosea and Tovar went in foot pursuit of Soltero, Officer Tovar exited the police vehicle and left the keys in the ignition. Officers are reminded that the security of police vehicles is an important component of officer safety as there are tools and weapons in police vehicles that could be accessed by unauthorized persons. To enhance future performance, I will direct this to be a topic during the Tactical Debrief.

## **Command and Control**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives, and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct officers, and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness, shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*



*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources, and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).*

Officer Campos arrived at the scene at 1855:20 hours. He met with Officers Hosea and Tovar and began to form a tactical team. At 1856:17 hours, Sergeant Lopez was the first supervisor to arrive at the scene. At 1856:24 hours, Officer Campos directed Officer Tovar to request a ballistic shield. Approximately 20 seconds later, Officer Campos advised Sergeant Lopez that he was putting together an arrest team and a plan to approach Soltero and take him into custody.

At 1857:30 hours, Officer Campos delegated roles to the team, including a ballistic shield, DCO, less-lethal options, and handcuffing officers. Officer Campos communicated to the team his tactical plan to approach Soltero and apprehend him. Sergeant Lopez directed that the arrest team to approach Soltero from the right side of Officers Campos and Fernandez' police vehicle.

At 1857:38 hours, Sergeant Lopez removed Officers Hosea and Tovar from their tactical position and began to monitor them. Simultaneously, he monitored the arrest team's approach. At 1900:42 hours, Sergeant Vasquez directed Officers Hosea and Tovar to turn off their BWV.

At 1903:15 hours, Lieutenant J. Mares, Serial No. 31233, arrived at the scene and declared himself as the Incident Commander (IC). Approximately five minutes later, Lieutenant Mares established a command post at Drucker Street and Marney Avenue.

At 1910 hours, Sergeant Lopez obtained Officer Tovar's Public Safety Statement (PSS); Sergeant Vasquez obtained Officer Hosea's PSS.

The Department Operations Center was notified of the OIS at 1914 hours by Lieutenant E. Burns Johnson, Serial No. 37523, Hollenbeck Patrol Division.

The UOFRB noted that Officer Campos effectively slowed the incident down and displayed active leadership throughout the incident. The Board also noted that as the sole supervisor at the scene, Sergeant Lopez effectively delegated tasks to Officer Campos, allowing him to simultaneously monitor the tactical situation and assume administrative roles as the IC.

The UOFRB determined, and I concur that the overall actions of Officer Campos, Sergeants Lopez and Vasquez, and Lieutenant Mares were consistent with Department training and my expectations of supervisors during a critical incident.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that the actions of Officers Hosea and Tovar were a substantial deviation, without justification, from Department-approved tactical training. The Board also determined, and I concur, that the actions of Officer Campos and Sergeant Lopez did not deviate from department-approved tactical training.

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

Therefore, I will direct Officers Hosea, Tovar and Campos, and Sergeant Lopez to attend a Tactical Debrief and that the identified topics be discussed.

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

On August 2, 2022, Officers Hosea and Tovar attended a General Training Update (GTU); all mandatory topics were covered. Additional SIPs will receive the GTU during the Tactical Debrief.

### **Drawing/Exhibiting**

*Department policy relative to drawing and exhibiting a firearm is: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with this policy on the use of firearms."*

*During a special meeting on September 29, 1977, the Board of Police Commissioners adopted the following as a valid interpretation of this Section: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. 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. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).*

### **Officer Hosea**

After following the Rogue into the parking lot, Officer Hosea observed Soltero exit the passenger side of the vehicle armed with a handgun. Officer Hosea then exited the police vehicle, unholstered his service pistol, and pursued Soltero on foot. According to Officer Hosea, he believed Soltero was a gang member, and that situation could escalate to the use of deadly force.

Officer Hosea recalled,

*OFFICER HOSEA: I drew an exhibited my firearm because I observed the suspect armed with a firearm as well in his right hand. I reasonably believed that the situation could have escalated to a use of deadly force due to his actions of looking back and --*

*DETECTIVE WHANG: Did you believe the suspect was a gang member?*

*OFFICER HOSEA: Yes, sir.<sup>9</sup>*

### **Officer Tovar**

After following the Rogue into the parking lot, Officer Tovar observed Soltero exit the passenger side of the vehicle, armed with a handgun. Officer Tovar exited the driver's side of the police vehicle, unholstered his service pistol, and went in foot pursuit of Soltero. According to Officer Tovar, he observed Soltero running with a handgun and believed deadly force could be justified.

Officer Tovar recalled,

*Because I knew that this -- the situation could arise to deadly force based on the suspect's actions -- based on him having a -- a gun -- running with a gun as well.<sup>10</sup>*

The UOFRB assessed Officers Hosea and Tovar's drawing and exhibiting of their service pistols. The Board noted that Soltero exited the Rogue while holding a handgun. While Soltero could have left the gun in the vehicle, he chose to take it with him when he fled. The Board also noted that he refused to comply with the officers' commands and repeatedly looked back toward the officers while running with a handgun. Based on Soltero's actions, the Board felt that it was reasonable for the officers to believe that the situation may escalate to deadly force.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Hosea and Tovar would reasonably believe there was a substantial risk that the situation may have escalated to the point where deadly force may have been justified.

Therefore, I find Officers Hosea and Tovar's Drawing/Exhibiting to be In-Policy, No Further Action.

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<sup>9</sup> Officer Hosea's Transcripts, Page 18, Lines 17-24.

<sup>10</sup> Officer Tovar's Transcripts, Pages 26-27, Lines 24-2.



## **Policy on the Use of Force<sup>11</sup>**

### **Use of De-Escalation Techniques**

*It is the policy of this Department that, whenever feasible, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.*

### **Verbal Warnings**

*Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is aware of those facts.*

### **Proportionality**

*Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.*

### **Rendering Aid**

*After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow officers: To the extent of the officer's training and experience in first aid/CPR/AED; and, To the level of equipment available to an officer at the time assistance is needed.*

### **Requirement to Intercede When Excessive Force is Observed**

*An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.*

### **Factors Used to Determine Objective Reasonableness**

*Pursuit to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience,*

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<sup>11</sup> LAPD Manual, Volume 1, Section 556.10.

*in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;*
- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;*
- *The environmental factors and/or other exigent circumstances; and,*
- *Whether a person is a member of a vulnerable population.*

### **Use of Force – Deadly**

*It is the policy of this Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for the following reasons: To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.*

*In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.*

*Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.*

### **The Department's Evaluation of Deadly Force**

*The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in Graham v. Connor.*

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

**Background** - The FID investigation determined that the background was the paved roadway, a center median with a cinderblock wall, an unoccupied vehicle, and a single-family residence.

**Officer Hosea** - Smith & Wesson Model M&P9, .9mm semi-automatic pistol, 18 rounds in a northerly direction from an increasing distance of 20 to 30 feet.

According to Officer Hosea, while in foot pursuit of Soltero, he observed him lay down and take a prone position. Soltero then raised the barrel of his handgun toward Officer Hosea while looking directly at him. Fearing for his life, Officer Hosea aimed his pistol at Soltero's center mass and began firing his pistol while stepping back. According to Officer Hosea, he assessed throughout the OIS and observed Soltero continue to raise his handgun toward him. Officer Hosea indicated that he stopped firing when he observed Soltero's actions "starting to change" and the gun starting to lower. Although he observed that Soltero's gun remained in his hand, Officer Hosea believed his rounds had been effective, and there was no need to fire additional rounds.

Officer Hosea recalled,

*So while he was approaching Landsdowne, I -- I noticed him -- I believe that he was like taking a prone position somewhat, because he started laying down on the floor. I believed he was tired but he started laying down on the floor. I thought this was going to be -- you know, this might lead to an officer-involved shooting. When he was laying down on the floor, he, with his right hand, he pointed the firearm towards me. I saw his face, his eyes looking at me. And, I mean, I saw the barrel pointing at me. You know? And, you know, I was -- I was in fear for my life. I -- I -- I thought he was going to shoot me right there. I -- I began to fire towards the suspect. At which time, I mean, I was firing my rounds towards him, he continued to make eye contact with me. He continued to raise his firearm towards me.<sup>12</sup>*

*I -- at that point, I don't even think my rounds were hitting, honestly. I don't know if I was even hitting my target to stop the threat. I continued firing. At which point, he started to lower his weapon. And that's when I sought cover. And once I was behind cover, the gun was right there in his hand still. I -- that's when I told my partner, "Get over here. Let's get cover."<sup>13</sup>*

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<sup>12</sup> Officer Hosea's Transcript, Page 9, Lines 10-25.

<sup>13</sup> Officer Hosea's Transcript, Pages 9-10.

*OFFICER HOSEA: I believe the suspect -- my -- my shots that (UNINTELLIGIBLE) shooting at the suspect were not hitting. I didn't think any of them were going -- were stopping the threat at all. I continued to fire. I continued to observe the suspect raise his -- his arm with his firearm inside of it, or with his firearm inside the hand towards me, his eyes still up on me.*

*DETECTIVE WHANG: Now, you said his actions did not change during your assessments up until the third round. For the fourth round and onward, were there any changes in the suspect's actions or movement?*

*OFFICER HOSEA: They continued -- continued to raise it up towards me. There was no -- no change in anything that the suspect did.<sup>14</sup>*

*DETECTIVE WHANG: And how did you feel throughout that entire phase?*

*OFFICER HOSEA: I felt helpless. I felt like I was going to get shot. I thought I was going to die.*

*DETECTIVE WHANG: And if you could describe to me, was it one continuous volley of fire or were there multiple volleys of fire?*

*OFFICER HOSEA: I guess there was about one continuous.<sup>15</sup>*

The UOFRB assessed Officer Hosea's use of lethal force. The Board noted that when Soltero fled from the Rogue, he chose to take the gun instead of leaving it in the vehicle. The Board also noted that he refused to comply with the officers' commands and repeatedly looked back toward the officers while running with the gun in his hand.

The Board noted that when Soltero fell to the ground, Officer Hosea observed him take what he believed was a prone position, make eye contact, and point his handgun at him (Officer Hosea). Believing that Soltero was going to shoot him, Officer Hosea fired at Soltero. According to Officer Hosea, as he discharged his rounds, he observed that Soltero continued to make eye contact and continued to raise his firearm toward him. The Board noted that as Officer Hosea discharged his rounds, BWV footage appeared to depict Soltero raising his gun. Based on his observations, Officer Hosea did not know if his rounds were striking Soltero, as he did not see Soltero's behavior change. In response, Officer Hosea continued to fire. Based on the available evidence, the Board opined that Soltero posed an imminent deadly threat and that Officer Hosea's use of lethal force was objectively reasonable and proportional.

While the Board agreed that Officer Hosea's use of lethal force was objectively reasonable and proportional, they disagreed as to whether it was necessary. As it pertains to the UOFRB Minority, although they concurred that Officer Hosea's tactics substantially and unjustifiably deviated from Department-approved tactical training, they disagreed with the impact his tactics had on the outcome of the incident. The Minority believed that even if Officer Hosea had employed better tactics, such as allowing more distance from Soltero and using available cover, his tactics did not precipitate the incident and that the OIS would still have occurred when Soltero pointed his firearm at Officer Hosea. As such, the Minority opined that it was Soltero's

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<sup>14</sup> Officer Hosea's Transcript, Pages 25-26, Lines 17-5.

<sup>15</sup> Officer Hosea's Transcripts, Page 26, Lines 9-17.

actions and not Officer Hosea's tactics that created the necessity for Officer Hosea to use lethal force.

The UOFRB Majority disagreed with the Minority. As discussed in Debriefing Point No. 1, the Majority noted that Officer Hosea pursued Soltero, an armed suspect, in apprehension mode. The Majority opined that rather than pursuing Soltero in apprehension mode, he should have used other available resources and techniques, specifically distance and cover. The Majority noted that by going in apprehension mode of an armed suspect, Officer Hosea reduced the distance and cover available to him, thereby limiting his options and the time he had to react to Soltero's actions. The Majority opined that the tactics employed by Officer Hosea placed him in a position where his only option was to use lethal force. As such, the Majority determined that Officer Hosea's use of lethal force was not necessary.

In my assessment of this incident, I noted that Officers Hosea and Tovar were engaged in an extended foot pursuit of a man they knew to be armed with a firearm. During the time they attempted to apprehend the suspect, they should have sought to create some distance, utilized available cover, and summoned additional resources, in accordance with the Department's training on foot pursuit concepts. Instead, they chose to close the distance on the suspect, placing themselves in a tactically disadvantageous position. While I understand their articulation that they were concerned for the residents of the area and feared a possible hostage situation, I do not find this to be a compelling justification, given that the suspect gave no indication he was desirous of finding and taking a hostage. Additionally, a review of the available video from the neighborhood seems to show it was relatively quiet and void of pedestrian activity. The decision to continue to pursue the suspect in apprehension mode resulted in the officers being in a vulnerable position, without the benefit of cover, when the suspect fell, rearmed himself, and apparently discharged his firearm at one of the officers. In immediate self-defense upon being confronted by the suspect pointing a gun at him, Officer Hosea had no alternative but to use deadly force.

In my review of the available BWV, the officers' statements, and the physical evidence, it is unclear when the suspect discharged his firearm and whether he continued to present an imminent deadly threat necessitating the firing of all eighteen rounds and Officer Hosea's weapon going out of battery. The Department expects officers to exercise fire control and fire discipline and to continuously evaluate the need for deadly force. As indicated above, fire discipline and fire control will be a topic of discussion during the Tactical Debrief. Overall, in considering Officer Hosea's tactical decisions that placed him in a position where he had no choice but to use deadly force and his lack of fire control, I concluded that Officer Hosea's use of lethal force was not necessary.

Based on the totality of the circumstances, the UOFRB Majority determined, and I concur, that an officer with similar training and experience as Officer Hosea, in the same situation, would not reasonably believe that the use of lethal force was necessary.

Therefore, I find Officer Hosea's Use of Lethal Force to be Out of Policy, Administrative Disapproval.



### Medical Treatment/Rendering Aid

The OIS occurred at approximately 1851 hours. Approximately 28 seconds later, Officer Tovar requested that a rescue ambulance (RA) stage near the scene. At approximately 1859 hours, officers apprehended Soltero and placed him in the recovery position. Officers then applied direct pressure to his injuries. At 1859:38 hours, Officer Campos advised CD that it was safe for LACFD to enter the scene. Approximately 20 seconds later, Care Ambulance 18, accompanied by Firefighter Paramedics (FFPM) Bassler and Hubbard, arrived on the scene and treated Soltero for multiple gunshot wounds (GSW) to his torso and legs. Soltero was ultimately transported to Los Angeles County-USC Medical Center where he was treated for his injuries and pronounced deceased by Doctor Westra at approximately 1942 hours. Doctor Kennedy, Los Angeles County Coroner's Office, subsequently determined that Soltero's death was caused by a GSW to the left upper flank, which perforated his left lung.

### Requirement to Intercede

During their review of this incident, the UOFRB noted that Officer Hosea discharged all 18 of his rounds in 3.26 seconds. As stated above, the Board also noted that as Officer Hosea discharged his rounds, BWV footage appeared to depict Soltero raising his gun. Based on their review of this incident, the UOFRB determined, and I concur, that the force used would not have appeared to be clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances, and that Officer Tovar did not deviate from his duty to intercede.

### Additional/Equipment<sup>16</sup>

**Situational Awareness** – Before encountering the Rouge, Officer Hosea's BWV footage depicted him using his personal phone rather than monitoring his surroundings. As this issue was addressed at the divisional level via Divisional Training with Office of Operations (OO) and Operations-Central Bureau (OCB) concurrence, I deem no further action necessary.

**Required Equipment** – Officer Tovar did not have his Hobble Restraint Device on his person. As this issue was addressed at the divisional level via Divisional Training with OO and OCB concurrence, I deem no further action necessary.

DICVS		
Sworn Employee	Issue	Disposition
Officer Hosea	Failure to Activate	Divisional Training
Officer Tovar	Failure to Activate	Divisional Training

<sup>16</sup> In determining the disposition for the deviation from Department policy, a review of the severity of the discrepancy in concert with prior discrepancies was taken into consideration.

BWV				
Sworn Employee	Issue	Inspection Date	Results	Disposition
Officer Hosea	Late Activation	05/03/2023	100%	Comment Card
Officer Tovar	Late Activation	05/03/2023	100%	Notice to Correct

### Audio/Video Recordings

**Digital In-Car Video System (DICVS)** – According to the FID investigation, there were no DICVS recordings that captured the foot pursuit or the OIS. Two DICVS videos captured the arrest team's approach, the movement of Soltero by officers, and paramedics rendering aid to him. The videos have been archived in Coban and remain available for review.

**Body Worn Video (BWV)** – According to the FID investigation, FID investigators identified 75 BWVs as being related to this incident. The BWVs were tagged in Evidence.com under Identification No. 22072200003445 and remain available for review.

**Outside Video** – According to the FID investigation, footage of the incident was captured on numerous security cameras in the area.

**Social Media** – Personnel assigned to FID's Cyber Unit monitored social sites from the date of the incident until the submission of this investigative report. There were no social media postings identified regarding this incident.

**Photographs** – According to the FID investigation, the photographs associated with this incident are documented under control numbers 0897038, 0897039, and 0897041 and stored in the Training Evaluation and Management System II database and the FID Case Book.

Respectfully,



MICHEL R. MOORE  
Chief of Police