

INTRADEPARTMENTAL CORRESPONDENCE

May 10, 2023
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TO: The Honorable Board of Police Commissioners
FROM: Chief of Police
SUBJECT: OFFICER-INVOLVED SHOOTING, FID NO. 037-22

2023 MAY 10 PM 02
POLICE OFFICER
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Honorable Members:

The following is my review, analysis, and findings for an Officer-Involved Shooting (OIS), Force Investigation Division (FID) No. 037-22. On April 17, 2023, this case was presented to the Use of Force Review Board (UOFRB). I have reviewed and adopted the recommendations from the UOFRB for this incident. I hereby submit my findings per Police Commission policy.

SUMMARY¹

On July 18, 2022, at approximately 1920 hours, Communications Division (CD) received a 911 call from Witness ■■■■■, who resided at ■■■■■ Edgehill Drive. ■■■■■ advised CD that when ■■■■■ told Suspect J. Petit to leave the area because Petit was going through ■■■■■ trash bin, Petit produced a handgun. ■■■■■ call generated a radio call on Southwest base frequency for an “ADW suspect there now.” At approximately 1922 hours, Officers E. Gonzales, Serial No. 41613, and D. Gonzalez, Serial No. 44760, Southwest Patrol Division, advised CD to assign the call to them.

In the interim, CD received an additional 911 call from Witness ■■■■■, who requested a police response to the area of 41st Street and Edgehill Drive. ■■■■■ told CD that ■■■■■ was concerned because a tall thin male with dreadlocks set an item on fire, left it in the street, and walked away. ■■■■■ informed CD that the suspect was walking around with a stick and holding several items in his hands. When CD asked ■■■■■ if the suspect was armed with a gun, ■■■■■ said that ■■■■■ had seen the suspect with a gun in his hand but could no longer see it.

Arriving at the scene, Officers E. Gonzales and D. Gonzalez searched for Petit with Sergeant B. Hayhoe, Serial No. 35586, Southwest Patrol Division. Due to ■■■■■’s call to CD, and the subsequent radio broadcast, Officers D. Glover, Serial No. 42064, and N. Martinez, Serial No. 43649, Southwest Patrol Division, responded to the radio call to assist. After their attempt to locate Petit was unsuccessful, Officer D. Gonzalez advised CD that Petit had left the scene. Approximately one minute later, Sergeant Hayhoe observed Petit walking south on Degnan Boulevard north of Martin Luther King Jr. Boulevard. Sergeant Hayhoe continued east on

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

Martin Luther King Jr. Boulevard past Degnan Boulevard and observed Officers Glover and Martinez approaching in their police vehicle. Sergeant Hayhoe parked his police vehicle, motioned for Officers Glover and Martinez to stop, and informed them of Petit's location.

After speaking with Sergeant Hayhoe, Officers Glover and Martinez drove toward Petit, who was now walking westbound on the north sidewalk of Martin Luther King Boulevard toward Bronson Avenue. Officer Martinez exited the police vehicle and directed Petit to stop and face a wall. Petit did not comply and walked away.

Meanwhile, Officer Glover drove past Petit, exited the police vehicle, and joined Officer Martinez as he followed Petit on foot. According to Officer Martinez, he observed Petit reach his right hand into his waistband and retrieve a black metal object with a silver tip.² Although he initially believed the item was a handgun, Officer Martinez reassessed and concluded that it was not.

As Officers Glover and Martinez followed Petit on foot, ordering him to stop, Sergeant Hayhoe drove past them while paralleling Petit. Petit continued walking west on Martin Luther King Jr. Boulevard toward Bronson Avenue, holding the black metal object in his right hand. As Sergeant Hayhoe drove alongside Petit, Petit turned and faced him. Petit's hands were near his midsection. Sergeant Hayhoe observed that Petit's right elbow was bent at a 90-degree angle, resembling a close contact shooting position. According to Sergeant Hayhoe, Petit pointed what he believed to be a small dark-colored semiautomatic handgun at him, at which point both he and Officer Glover discharged their service pistols at Petit. After being struck by gunfire Petit fell to the ground.

After the OIS, Officer Martinez broadcast a "Help" call and the following Southwest Patrol Division personnel responded: Officers D. Pollio, Serial No. 43704, A. Gomez, Serial No. 43937, T. Liggett, Serial No. 43694, E. Benitez, Serial No. 43997, and Sergeant J. Campos, Serial No. 35962. Officers formed an arrest team, apprehended Petit without further incident, and rendered medical aid until Los Angeles Fire Department (LAFD) personnel arrived at the scene. Petit was subsequently transported to [REDACTED] for further treatment.

FINDINGS

Tactics – Administrative Disapproval, Officers Glover and Martinez, and Sergeant Hayhoe.

Drawing/Exhibiting – In Policy, No Further Action, Officers Glover and Martinez, and Sergeant Hayhoe.

Lethal Use of Force – In Policy, No Further Action, Officer Glover. Out of Policy, Administrative Disapproval, Sergeant Hayhoe.

² FID investigators determined that the metal object was a vehicle door lock latch actuator. During a subsequent search of Petit's backpack, investigators seized a replica pistol/lighter. Investigators also seized a second black metal door lock latch actuator.

ANALYSIS³

Detention

Officers responded to a radio call of an ADW suspect armed with a handgun. A subsequent radio call alleged that the suspect (Petit) possessed a gun and had set an item on fire and walked away. While searching the area, officers observed Petit walking on the sidewalk. When officers attempted to contact Petit, he refused to respond to their commands and produced what appeared to be a handgun. Petit then pointed the item at a police sergeant. Based on the totality of the circumstances, officers had reasonable suspicion to detain Petit.

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 be improved. The intent of a Tactical Debrief is to enhance future performance by reviewing and analyzing Department-wide training, practices, policies and procedures. The Tactical Debrief analysis shall not focus on, or document findings, recommendations, or analysis of individual employees or the incident."

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-Escalation⁴

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.

³ The analysis reflects my recommendations as supported by the preponderance of the evidence established by the FID investigation.

⁴ Los Angeles Police Department, Use of Force Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.

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

Planning – The date of this incident was the first time Officers Glover and Martinez worked together. At the start of their shift, Officers Glover and Martinez responded from the station to an unrelated backup request during which they briefly discussed contact and cover roles.

Assessment, Time, and Redeployment/Containment – Officer Martinez exited his police vehicle and approached Petit. Officer Glover drove past Petit, exited the police vehicle, and approached him on foot. When Petit refused to stop, Officers Glover and Martinez followed him on foot. According to Officer Martinez, he initially thought the object in Petit’s hand was a firearm but after a closer look concluded that it was not. Based on his assessment, Officer Martinez determined that he needed to track Petit and obtain resources. According to Officer Glover, as Petit approached Bronson Avenue, he searched for cover but had no immediate objects around him. Officer Glover stated that Petit was looking back toward him and Officer Martinez as he pointed the barrel of a “funky gun” in a downward direction. Officer Glover had overheard Officer Martinez say that the object was not a gun; however, he was not sure if Officer Martinez’ assessment was correct.

Observing Petit walking away from the officers, Sergeant Hayhoe drove past them to triangulate on Petit and stop his progress. Sergeant Hayhoe had observed Petit increase his pace to a brisk walk as if eluding the officers. Sergeant Hayhoe stated he did not see anything in Petit’s hands at this time and was cognizant that Petit was approaching a residential area. Sergeant Hayhoe was concerned for public safety and believed that Petit was about to run from the officers.

According to Sergeant Hayhoe, as he drove past Petit, Petit looked in his direction and began to manipulate his front midsection area, near his front waistband. It appeared to Sergeant Hayhoe that Petit was attempting to retrieve something from his front waistband area. Sergeant Hayhoe was cognizant that the comments of the radio call indicated that Petit was armed with a gun and possibly a stick. Observing Petit point what appeared to be a semi-automatic handgun in his direction, Sergeant Hayhoe assessed an imminent deadly threat, at which point the OIS occurred. Observing Petit point an object toward Sergeant Hayhoe’s police vehicle, and hearing gunfire, Officer Glover assessed that the object was a gun, and that Petit posed an imminent deadly threat to the sergeant. Petit’s actions limited the officers’ ability to de-escalate the situation at that point. After the OIS, the officers maintained their distance and used cover while developing a plan to safely apprehend Petit and render aid.

Other Resources and Lines of Communication – Sergeant Hayhoe hailed Officers Martinez and Glover and directed them to Petit’s location. Contacting Petit, Officers Martinez and Glover ordered him to stop and asked him what was in his hand. Petit was nonresponsive and refused to stop. As the officers followed Petit, Officer Martinez stated, “That’s not a gun bro.” Although Officer Martinez stated that he was not speaking to his partner, Officer Glover heard the statement and responded, “[Inaudible] You said that’s not a gun?” According to Officer Glover, he wanted to ensure that Officer Martinez’ assessment was correct.

Observing Petit walking away from the officers, Sergeant Hayhoe requested backup units. As Petit arrived at the northeast corner of Martin Luther King Jr. Boulevard and Bronson Avenue, Officer Martinez stated, "Hey, drop it." Petit did not comply with Officer Martinez's commands and continued jogging west on the north sidewalk. After the OIS, Officer Martinez broadcast an officer help call, advising that shots had been fired.

The UOFRB noted that although Officers Glover and Martinez briefly discussed contact and cover roles while responding to a prior backup call, they did not discuss tactics specific to this incident nor did they discuss a plan before approaching Petit. Additionally, Sergeant Hayhoe did not discuss a tactical plan with Officers Martinez and Glover before they approached Petit. Based on the totality of the circumstances, the Board felt that Officers Glover, Martinez, and Sergeant Hayhoe had ample opportunities to discuss tactics and formulate a tactical plan before contacting Petit.

The Board noted that upon contacting Petit, Officer Martinez exited Ms police vehicle and approached Petit without cover. Meanwhile, Officer Glover drove past Petit, exited the police vehicle, and approached Mm on foot without cover. When Petit refused to stop, Officers Glover and Martinez followed him on foot without the benefit of cover. According to Officer Glover, he was in apprehension mode; however, the Board did note that he did not appear to be attempting to overtake Petit. Regardless, based on the nature of this call, the Board would have preferred that Officers Martinez and Glover had used their police vehicle as cover while issuing commands to Petit, requesting additional resources, and monitoring his direction of travel until the additional resources arrived. This is discussed further in Debriefing Point No. 2.

Observing Petit walking away from the officers, Sergeant Hayhoe closed the distance and drove alongside Petit. Based on the nature of this call, the Board would have preferred that he had not driven alongside Petit. Rather they would have preferred he had pulled up to the officers and directed them to use his police vehicle as cover while issuing commands to Petit, requesting additional resources, and monitoring his direction of travel until the additional resources arrived. The Board did note that Sergeant Hayhoe requested backup units; however, they also noted that he did not wait for those resources to arrive before approaching and driving alongside Petit.

The Board noted that as Officer Martinez followed Petit on foot, he remarked that the object Petit was holding was not a gun. Although Officer Glover overheard Officer Martinez, the Board would have preferred he had communicated his observations and beliefs to Officer Glover and ensured that his partner understood. The Board did note the officers' rationale for quickly initiating contact with Petit. Although Petit was headed toward a residential neighborhood, the Board believed that the officers' concerns did not warrant the tactics they employed.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that the tactics employed by Officers Glover and Martinez, and Sergeant Hayhoe were a substantial deviation, without justification, from Department-approved tactical training. 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 Topics were noted:

Debriefing Point No. 1

Code Six/Updated Location

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 (Los Angeles Police Department Manual, Volume 4, Section 120.40).

At approximately 1929 hours, Officers Glover and Martinez arrived at the scene and placed themselves Code Six via their police vehicle's mobile data computer. Searching for Petit, Officers Glover and Martinez located him near Martin Luther King Jr. Boulevard and Degnan Boulevard, approximately .2 miles away from their original Code Six location. However, they did not advise CD of their updated location.

The UOFRB assessed Officers Martinez and Glover's adherence to the Department's Code Six policy. The Board noted that while the officers had notified CD that they were Code Six at the original call location, they did not update their Code Six location when they located Petit. The Board did note that Sergeant Hayhoe was behind the officers and that he advised CD of his updated location; however, he did not advise CD that Officers Martinez and Glover were with him.

During their assessment, the Board noted that the purpose of the Code Six policy is for officers to advise CD of their location and the nature of their activity, should the incident necessitate the response of additional personnel. The Board also noted that before the OIS, Sergeant Hayhoe broadcast a request for backup units. While it is clear that responding units would have located Officers Martinez and Glover, it is only because of Sergeant Hayhoe's broadcasts. Additionally, the Board saw nothing that prevented Officers Martinez and Glover from updating their location, even if only to advise CD, "3A57, show us with L230."

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

Debriefing Point No. 2

Pedestrian Stop Tactics

Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack. (California Commission on Peace Officer Standards and Training, Learning Domain 21).

A high risk situation is one in which the involved officers reasonably believe that the suspect poses a substantial risk of serious injury to the officers and/or the public. Ordering a suspect to the prone position is the most secure method of controlling the suspect. It is vital that

officers formulate a plan, conduct an assessment, use safe positioning, and place the suspect in a position of disadvantage prior to approaching (Los Angeles Police Department ARCON Manual, December 2020).

Locating Petit walking westbound on Martin Luther King Jr. Boulevard at Degnan Boulevard, Officer Martinez exited the police vehicle and directed Petit to stop, while Officer Glover drove past Petit to triangulate on him. Officer Glover then stopped, exited the police vehicle, and joined Officer Martinez as he continued to follow Petit; both officers followed Petit without the benefit of cover. As Officers Glover and Martinez followed Petit on foot, Sergeant Hayhoe drove his police vehicle past Petit. Sergeant Hayhoe intended to triangulate on Petit with the officers.

The UOFRB assessed the tactics employed by Officers Martinez, Glover, and Sergeant Hayhoe. As it pertains to Officers Martinez and Glover, the Board noted that when they located Petit, they did not request additional resources, specifically air support and additional two-officer units. The Board also noted that when Officer Martinez exited the police vehicle to contact Petit, he failed to exploit the cover afforded by his police vehicle's ballistic door panels. As Officer Martinez approached Petit, Officer Glover drove past him, exited the police vehicle, and approached Petit on foot. In doing so, Officer Glover failed to exploit the cover afforded by his police vehicle. This was especially problematic as Petit appeared to point the object at Officer Glover as he walked past him. The Board noted that then, instead of returning to their police vehicle or seeking cover, the officers chose to follow Petit on foot. While there were a few trees in the parkway, the officers did not appear to make use of what little cover they were afforded. Based on the totality of the circumstances, the Board believed that Officers Martinez and Glover should have remained at their police vehicle, awaited additional resources, and employed high-risk pedestrian stop tactics when contacting Petit.

As it concerns Sergeant Hayhoe, while the Board appreciated his concerns regarding the residential neighborhood and busy street, as noted above, his decision to drive past Petit unnecessarily placed him at a significant tactical disadvantage. Instead, the Board would have preferred he slowed the incident by communicating with his officers and ensuring that high-risk pedestrian stop tactics were employed.

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

Debriefing Point No. 3

Shooting from a Moving Vehicle

Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with the policy regarding the use of deadly force. The driver of a vehicle should not draw their weapon while operating a moving vehicle; the drawing of a weapon while operating a moving vehicle is unsafe for both officers and the community. If an officer determines that it is necessary to draw their firearm while operating a vehicle, it should be to

address an imminent threat and conform to the Department's policy on drawing and exhibiting firearms.

It is understood that the policy in regard to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, Department members are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape (Los Angeles Police Department Manual, Volume No. 1, Section 556.10).

Intending to pass Petit to triangulate on him, Sergeant Hayhoe drove alongside side Petit at what he estimated to be two to three miles per hour. As he did so, Sergeant Hayhoe observed Petit point what appeared to be a semi-automatic handgun in his direction. In response, Sergeant Hayhoe discharged two rounds at Petit through the open front passenger side window of his police vehicle.

The UOFRB assessed Sergeant Hayhoe's tactics as it pertains to shooting from a moving vehicle. The Board noted that per Department policy, firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with the policy regarding the use of deadly force. However, the Board also noted that per the policy, one of the factors that may be considered is whether there were no reasonable or apparent means of escape for the officer. While it could be argued that Sergeant Hayhoe found himself in an exigent circumstance when Petit appeared to point a gun at him, the Board determined that Sergeant Hayhoe created the exigency when he elected to approach and drive alongside Petit, escalating the situation. The Board also determined that this election was inconsistent with the Department's policy regarding the use of deadly force as Sergeant Hayhoe failed to use available resources and techniques, specifically maintaining his distance from Petit.

During the board, a Subject Matter Expert from Training Division testified that shooting from a moving vehicle is generally utilized during anti-ambush situations. During their deliberations, the Board noted that Sergeant Hayhoe had been assigned to Metropolitan Division's Dignitary Protection Unit, during which he likely received anti-ambush training. Regardless, the Board determined that this was not an ambush-type situation and that the tactics Sergeant Hayhoe employed unnecessarily placed him at a significant tactical disadvantage.

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

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

Additional Tactical Debrief Topics

Profanity – While attempting to obtain Petit’s surrender, Officer Glover used profanity. While not a best practice, Officer Glover’s use of profanity was not excessive or personal and it was intended to gain compliance. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Basic Firearms Safety Rules – While seeking cover behind the passenger door of Officer Gomez’ police vehicle, Officer Martinez may have briefly covered Officer Glover with the muzzle of his service pistol; however, the evidence was inconclusive.

Observing Petit’s hands moving near his waistband, Officer Pollio believed he was retrieving a firearm. In response, Officer Pollio placed his finger on the trigger of his service pistol for approximately one second. Officer Pollio indicated that he would have shot had Petit brought out a weapon. As firearms safety is of critical importance, I will direct that this be a topic of discussion during the Tactical Debrief.

Rendering Aid – After the OIS, Sergeant Hayhoe began to formulate an arrest team. Approximately two and one half minutes later, the arrest team apprehended Petit. As officers rendered aid, Officer Martinez requested an RA. To expedite the fire department’s response to the scene, officers could have requested an RA shortly after the OIS and advised them to stage nearby. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Protocols Subsequent to A Categorical Use of Force – After Officer Glover notified Sergeant Hayhoe of his involvement in the OIS, Sergeant Hayhoe did not immediately cause him to be separated and monitored, nor did he admonish Officer Glover to not discuss the incident. Alternatively, he should have done so. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Incident Commander (IC) Declaration – Sergeant Hayhoe did not declare himself as the IC. Sergeant Campos declared himself as the IC approximately 11 minutes after his arrival. Alternatively, Sergeant Hayhoe should have declared himself as the IC and then requested that Sergeant Campos assume command when he arrived. To enhance future performance, I will direct that this be a topic of discussion 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 personnel 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 (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).

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).

Sergeant Hayhoe was on the scene before, during, and after the OIS. After the OIS, Sergeant Hayhoe directed Officers Glover and Martinez to seek cover, requested officers to retrieve a ballistic shield, and organized an arrest team. Sergeant Campos arrived on the scene before Petit was taken into custody. After Petit was taken into custody, Sergeant Hayhoe coordinated efforts to block traffic. Sergeant Campos identified the involved employees and assigned Sergeant J. Chavez, Serial No. 37961, Southwest Patrol Division, to monitor Sergeant Hayhoe. Sergeant J. Chavez collected Sergeant Hayhoe’s Body Worn Video (BWV) and obtained his Public Safety Statement (PSS). Sergeant Campos assigned Sergeant T. Ward, Serial No. 39849, Southwest Patrol Division, to monitor Officer Glover. Sergeant Ward collected Officer Glover’s BWV and obtained his PSS. Officer Martinez was initially assigned to be monitored by an uninvolved officer until the arrival of Detective J. Levin, Serial No 33733, Southwest Area Narcotics Enforcement Detail (NED). Sergeant M. Cardona, Serial No. 33905, 77th Street Patrol Division, responded and relieved Detective Levin and monitored Officer Martinez. Sergeant C. Chavez, Serial No. 38128, Southwest Area Watch Commander, notified the Department Operations Center (DOC) at 2000 hours.

The UOFRB assessed Sergeant Hayhoe’s command and control. The Board noted that before the OIS, Sergeant Hayhoe did not develop a plan with Officers Martinez and Glover on how to approach Petit, nor did he attempt to slow the incident when he saw the officers following Petit without cover. Although Sergeant Hayhoe requested backup units, he chose to approach Petit instead of waiting for additional resources to arrive. The Board opined that Sergeant Hayhoe’s vehicle deployment and involvement with Petit contributed to a lack of supervisory oversight before the OIS.

As it pertains to Sergeant Hayhoe’s post-OIS command and control, the Board noted he ensured that officers used cover as they waited for additional resources to arrive and formulated an arrest

team. Sergeant Hayhoe requested a ballistic shield, developed a plan to safely apprehend Petit and assigned roles. The Board believed that Sergeant Hayhoe's plan to apprehend Petit and render medical aid was promptly and prudently carried out.

Regarding Sergeant Campos, while the Board would have preferred that he had identified himself as the IC sooner, they believed that his post-OIS command and control were good. The Board noted that he identified the involved employees and ensured that they were separated and monitored.

The UOFRB determined and I concur that Sergeant Campos' actions overall were consistent with Department supervisory training and my expectations of a supervisor during a critical incident. The Board also determined, and I concur, that Sergeant Hayhoe's overall actions were not consistent with Department supervisory training and my expectations of a supervisor during a critical incident. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Tactical Debrief

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that Officers Glover and Martinez, and Sergeant Hayhoe's actions were a substantial deviation, without justification, from Department-approved tactical training.

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

Although it was determined that Sergeant Campos and Officer Pollio would not receive formal findings, the UOFRB determined, and I concur, that they would benefit from attending the Tactical Debrief.

Therefore, I will direct Officers Glover, Martinez, and Pollio, and Sergeants Hayhoe and Campos to attend a Tactical Debrief and that the identified topics be discussed.

General Training Update (GTU)

Officers Glover and Martinez attended a General Training Update (GTU) on July 25, 2022. Sergeant Hayhoe attended a GTU on August 1, 2022. All mandatory topics were covered.

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 Glover

According to Officer Glover, he observed what he believed to be a gun in Petit's hand. Based on the comments of the radio call and his observations, Officer Glover formed the opinion Petit was armed. Believing that the situation could escalate to the point where deadly force may be justified, Officer Glover unholstered his service pistol.

Officer Glover recalled,

When I now had visual on his hands, I see what I believe to possibly be a gun. It looked really funky though. So Pm like is this like a handmade gun? Like what is this? At this point he's – the way he's holding it is like it's down, but – so I unholster. But the way he's holding it is in a -- like the barrel to be – his hand to be near his chest holding what I appear to be a gun and the barrel to be facing down.⁵

POLICE OFFICER GLOVER: ...I unholstered when I seen the – what appeared to be a weapon and him not complying.

DETECTIVE ARTEAGA: Okay.

POLICE OFFICER GLOVER: And based on the comments of the call, him lighting stuff on him and it was – and a possible gun.⁶

DETECTIVE ARTEAGA: And why did you unholster your service pistol?

POLICE OFFICER GLOVER: Based on the tactical situation in which deadly force may be justified; based on the fact that he had a firearm; he was refusing to go with the program; he, like I said, lit something on fire earlier; he -- you know, we could have – I was – we could have been shot for all I know.

DETECTIVE ARTEAGA: What did you believe that item could do to you?

POLICE OFFICER GLOVER: Kill me, create serious bodily injury, kill my partner.⁷

⁵ Officer Glover's 1st transcript, Pages 9 and 10, Lines 25-7.

⁶ Officer Glover's 1st transcript, Page 27, Lines 16-22.

⁷ Officer Glover's 1st transcript, Page 31, Lines 9-20.

Officer Martinez

According to Officer Martinez, the comments of the radio call indicated that Petit was armed with a handgun. Contacting Petit, Officer Martinez observed him making “furtive movements” toward his waistband/right pocket area. Believing that Petit may be armed with a handgun and that the situation may escalate to the use of deadly force, Officer Martinez unholstered his service pistol.

Officer Martinez recalled,

At which point he's trying to walk away from me a little faster. I see furtive movements towards his pocket. I tell him to take his hands out of his pocket. He's refusing to do so, I keep seeing him digging more into his pocket. At which point I see him pull a metal piece out. Initially, I thought it was a firearm.⁸

I unholstered my weapon because of the comments of the call before. And due to the fact that I don't know if he's armed or not, I realize that at which point the situation may escalate where I have to use deadly force.⁹

Sergeant Hayhoe

Sergeant Hayhoe was cognizant that the comments of the radio call indicated Petit was armed with a handgun or a stick. According to Sergeant Hayhoe, as he drove alongside Petit, he observed him retrieving something from his waistband. Believing Petit was attempting to retrieve a weapon, Sergeant Hayhoe unholstered his service pistol, in case he had to use deadly force.

Sergeant Hayhoe recalled,

I was in a position where I was next to him, but I – in that moment that I saw him starting to retrieve something from his – from his person, I maintained a line of sight with this – with the suspect with the same distance, probably 20, 25 feet away. And at that point I believed he was trying -- he was possibly going to retrieve a weapon from his – from his body the way his movements were.¹⁰

So at this point I had – I exhibited my weapon. I unholstered and / pointed my duty weapon in his direction in the event that what he was trying to retrieve from his person was a – was a weapon, whether it was the stick or a handgun. I knew these officers were not far behind him without cover and I knew he was approaching a residential street, so that was the mindset that I had at the time – the hazards that I thought were presented at the time, and that's why I drew and exhibited at that point in the event I had to use lethal force.¹¹

⁸ Officer Martinez' transcript, Page 14, Lines 9-15.

⁹ Officer Martinez' transcript, Page 20, Lines 21-25.

¹⁰ Sergeant Hayhoe's transcript, Page 19, Lines 7-15.

¹¹ Sergeant Hayhoe's transcript, Page 20, Lines 11-23.

So I unholstered as I began to pass this individual — as I began to pass the suspect and I unholstered when he focused his attention on me and my vehicle and he turned his body in my direction and started to make movements towards his waistband area. That's when I unholstered.¹²

The UOFRB assessed Officers Martinez, Glover, and Sergeant Hayhoe's drawing and exhibiting of their service pistols. The Board noted that Officers Martinez and Glover responded to a radio call in which it was reported that Petit was armed with a gun. When the officers located Petit, he failed to comply with their commands and Officer Glover observed an object in his hand he believed was a gun. While Officer Martinez did not initially see the object in Petit's hand, he observed him making furtive movements near his waist/pocket. Based on the totality of the circumstances, the Board opined that it was reasonable for Officers Martinez and Glover to believe the situation may escalate to the point where deadly force may be justified. Additionally, although Officer Martinez subsequently expressed his belief that the object in Petit's hand was not a gun, the true nature of the object was still unknown. As such, the Board felt it was prudent for the officers to remain unholstered.

As it pertains to Sergeant Hayhoe, the Board noted that as he drove alongside Petit, Petit appeared to focus his attention on Sergeant Hayhoe and his police vehicle. Petit turned his body in the Sergeant's direction and started to make movements toward his waistband; Sergeant Hayhoe was cognizant that the comments of the call indicated Petit may be armed with a handgun. Believing Petit was attempting to retrieve a weapon, Sergeant Hayhoe unholstered his service pistol. Per Sergeant Hayhoe, he unholstered his service pistol in the event he had to use lethal force. Based on the totality of the circumstances, the Board opined that it was reasonable for Sergeant Hayhoe to believe the situation may escalate to the point where deadly force may be justified.

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

Therefore, I find Officers Martinez and Glover, and Sergeant Hayhoe's Drawing/Exhibiting to be In-Policy, No Further Action.

Policy on the Use of Force¹³

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

¹² Sergeant Hayhoe's transcript, Pages 52 and 53, Lines 22-2.

¹³ LAPD Manual, Volume 1, Section 556.10.

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

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

Note: *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 California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.*

Lethal Use of Force

Sergeant Hayhoe – Kimber, Model 1911, .45 caliber, two rounds in a northerly direction, from approximately 26 feet.

Background – According to Sergeant Hayhoe, his background consisted of an unoccupied vehicle parked in a residential driveway.

According to Sergeant Hayhoe, he maintained a line of sight of Petit as he walked quickly in a westerly direction toward Bronson Avenue. As Petit approached the northeast corner of Martin Luther King Jr. Boulevard and Bronson Avenue, Sergeant Hayhoe observed him turn his upper torso and face him as his hands were positioned near his front midsection area. Sergeant Hayhoe stated he looked down and noticed that Petit had his right elbow bent in a 90-degree angle, resembling a close contact position, while pointing what he believed to be a small dark-colored semiautomatic handgun in his direction. In defense of his life, Sergeant Hayhoe discharged one round at Petit from his service pistol.

Sergeant Hayhoe recalled,

So, well, when I looked down and I saw that – the manner that he was – the manner – again, he was facing me, so it was very evident to me. He wasn't turned to the side. He wasn't bladed at an angle. He was literally looking straight in the eye with me. His front torso facing my vehicle with his elbow cocked, like tucked near his hip and it was like in a 90-degree angle, and his hand was in a – was positioned around an object in a pistol-like grip.¹⁴

And I looked down at what he was holding in his hand and he had it in a close contact position facing me. And when I looked down, it appeared to be the front barrel of a small dark-colored handgun and it looked to me like it was a semi-automatic handgun. The barrel was facing in my direction. As he was skipping and facing me, I immediately recognized that item as a handgun. And at that point I was already – I was already on target and at that point I believe – you know, it was an immediate defense of life situation for myself. Immediately upon me ~ on recognizing that weapon as a handgun, I fired one round from my – from my duty pistol at the suspect.¹⁵

I believed that the suspect, in the position he was in and the direction that the weapon was in with the barrel pointed in my direction, I believed that had he got a shot off and he was – he had the intent to shoot, being in the position that he was in, that if he would have shot first that I would have been shot.¹⁶

¹⁴ Sergeant Hayhoe's transcript, Page 76, Lines 12-21.

¹⁵ Sergeant Hayhoe's transcript, Page 21, Lines 7-20.

¹⁶ Sergeant Hayhoe's transcript, Page 85, Lines 9-15.

Round Two

After Sergeant Hayhoe discharged his first round, he believed that Petit still posed a deadly threat. Petit did not “go down” and was still positioned to shoot him. In response, Sergeant Hayhoe discharged a second round from his service pistol.

Sergeant Hayhoe recalled,

He was still facing me and I believed I – I believe I shot two more rounds at him from the same position from the vehicle.¹⁷

...again, my initial shot, I was unsure if he was struck because he didn't go down and he was still facing me, and I still believed that there was a threat – I was still facing a threat because he didn't go down. And he still, in my opinion, was in a position to shoot. So I – I shot the two to three other rounds.¹⁸

Note: Although Sergeant Hayhoe believed that he discharged three or four rounds during this incident, per the FID investigation, he discharged two rounds total.

The UOFRB assessed Sergeant Hayhoe’s use of lethal force. The Board noted that Sergeant Hayhoe had observed Petit positioned similarly to a close contact shooting position, while pointing what he believed to be the barrel of a small dark-colored semiautomatic handgun in his direction. Based on his observations, Sergeant Hayhoe believed that if he did not fire first, Petit would shoot him. In defense of his life, Sergeant Hayhoe discharged one round at Petit and assessed. Observing that Petit was still standing and positioned to shoot him, Sergeant Hayhoe discharged his second round. Based on the totality of the circumstances, the Board opined that it was reasonable for Sergeant Hayhoe to believe Petit posed an imminent deadly threat and that the use of lethal force was proportional and objectively reasonable. However, as noted in the review of his tactics, Sergeant Hayhoe’s decision to approach and drive alongside Petit escalated the situation and created the exigent circumstance which led to the use of lethal force. Also, Sergeant Hayhoe’s decision to shoot from a moving vehicle, as noted in Debriefing Point No. 3, was inconsistent with the Department’s policy regarding the use of deadly force. As such, the Board determined that Sergeant Hayhoe’s use of lethal force was not necessary.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that although an officer with similar training and experience as Sergeant Hayhoe, in the same situation, would reasonably believe that the use of lethal force was proportional and objectively reasonable, they would not believe it was necessary.

Therefore, I find Sergeant Hayhoe’s Lethal Use of Force to be Out of Policy, Administrative Disapproval.

¹⁷ Sergeant Hayhoe’s transcript, Page 22, Line 1-3.

¹⁸ Sergeant Hayhoe’s transcript, Page 22, Lines 9-15.

Officer Glover – Glock Model 17, .9mm, one round in a westerly direction, from approximately 32 feet.

Background – According to Officer Glover, his background consisted of a residential structure and an unoccupied vehicle.

According to Officer Glover, in his peripheral vision, he observed a police vehicle traveling west on Martin Luther King Jr. Boulevard. He then observed Petit turn toward the police vehicle, lift his hand and point the barrel of a handgun toward the police vehicle. Officer Glover then heard two gunshots and believed Petit and Sergeant Hayhoe were exchanging gunfire. In defense of the Sergeant's life, Officer Glover discharged one round from his service pistol at Petit.

Officer Glover recalled,

*So at that point I tell my partner, "Hey, you see that?" And my partner says, "It's not a gun,"*¹⁹

*I'm telling him like, "Hey, are you sure it's not a gun?", to get his mind going like, man, maybe it is, you know? But what I see, I'm unsure but it appears to be – it appears to be a gun."*²⁰

*Next thing I know I see the suspect make a – like a turn towards that vehicle and at this point his hand becomes lifted, so it appears that the barrel of what – of what I perceive to be a gun is now pointed at that officer's shop and I hear a boom, boom."*²¹

*Like he just shot at the sergeant or whoever that is – that car and then he gets shot at. So to save – I mean, whatever just – I now – I shoot at him to put him down, like to stop his actions."*²²

*He shot at a police vehicle. To save the life of the officer that was inside that police vehicle, to stop the actions of the suspect, and I fired my one shot so that..."*²³

*When I fired, the suspect was in a gunfight."*²⁴

*And I still look. I'm looking. And then as the – as we know now, Sergeant Hale [Hayhoe] drives by. I seen that object, and then I seen it tilt and I hear the gunshot. So at that point, everything clicked, like okay, oh, shoot, he just shot at my sergeant. Sergeant shot back and then I shot to stop the threat."*²⁵

¹⁵ Officer Glover's 1st transcript, Page 10, Lines 8-9.

²⁰ Officer Glover's 1st transcript, Page 10, Lines 21-24.

²¹ Officer Glover's 1st transcript, Page 12, Lines 4-9.

²² Officer Glover's 1st transcript, Page 12, Lines 11-15.

²³ Officer Glover's 1st transcript, Page 48, Lines 4-7.

²⁴ Officer Glover's 1st transcript, Page 49, Lines 23-24.

²⁵ Officer Glover's 2nd transcript, Page 9, Lines 1-6.

The UOFRB assessed Officer Glover's use of lethal force. The Board noted that despite Officer Martinez' suspicion, Officer Glover was unsure whether the object in Petit's hand was a gun. However, observing Petit point the object toward Sergeant Hayhoe and hearing gunfire, Officer Glover was convinced that the item was a gun and that Petit and Sergeant Hayhoe were shooting at each other. In defense of Sergeant Hayhoe's life, Officer Glover discharged one round at Petit. Based on the totality of the circumstances, the Board opined that it was reasonable for Officer Glover to believe Petit was armed with a handgun and that he posed an imminent deadly threat to Sergeant Hayhoe.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer Glover in the same situation, would reasonably believe that the use of lethal force was proportional, objectively reasonable, and necessary.

Therefore, I find Officer Glover's Lethal Use of Force to be In Policy, No Further Action.

Rendering Aid – The OIS occurred at approximately 1933:49 hours. At approximately 1936 hours, after formulating a plan, officers approached Petit, apprehended him, and placed him on his right side. Believing Petit had been shot in the stomach, Officers Liggett and Gomez applied direct pressure. At approximately 1937 hours, Officer Martinez requested a Rescue Ambulance. Approximately one minute later, the Los Angeles Fire Department was dispatched to the scene; they arrived at approximately 1944 hours, assumed patient care, and transported Petit to [REDACTED] where he was treated for two gunshot wounds, one to his left jaw area and one to his left shoulder. On August 9, 2022, Petit was discharged from [REDACTED] and transported to the Twin Towers Correctional Facility.

Requirement to Intercede

Based on their review of this incident, the UOFRB determined that the force used was not clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances, and that Officers Glover and Martinez did not deviate from the duty to intercede.

Additional/Equipment²⁶

Required Equipment – Officer E. Gonzales did not have his Oleoresin Capsicum spray on his person. Officers Glover, Martinez, E. Gonzales, D. Gonzalez, Pollio, Gomez, Benitez, and Sergeant Hayhoe did not have a baton on their persons. Officers E. Gonzales, D. Gonzalez, Pollio, Martinez, Gomez, Liggett, Benitez, and Sergeant Ward, left their DICVS microphones in their respective police vehicles. As the baton issue was addressed via divisional training and the DICVS microphones/OC spray issues were addressed via employee comment sheets, with Operations-South Bureau (OSB) and Office of Operations (OO) concurrence, I deem no further action necessary.

²⁶ 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.

Preservation of Evidence – Officer Pollio recovered the metal actuator from the ground and placed it on the hood of his police vehicle. As this issue was addressed at the divisional level via divisional training, with OSB and OO concurrence, I deem no further action necessary.

Body Worn Video				
Sworn Employee	Issue	Inspection Date Range	Inspection Results	Disposition
Officer Glover	Late Activation	3/19/2023 to 4/17/2023	100%	Supervisory Action Item (SAI)
Sergeant Hayhoe	Late Activation	3/19/2023 to 4/17/2023	100%	SAI / Divisional Training

Digital In-Car Video System				
Sworn Employee	Issue	Inspection Date Range	Inspection Results	Disposition
Sergeant Hayhoe	No Activation	3/19/2023 to 4/17/2023	100%	SAI / Divisional Training

Audio/Video Recordings

Digital In-Car Video System (DICVS) - Force Investigation Division investigators reviewed the DICVS associated with the officers mentioned in this administrative summary. Investigators noted three DICVS that had significant evidentiary value. The DICVS files are stored in the Coban system and remain available for review.

Body Worn Video (BWV) - Force Investigation Division investigators reviewed the BWVs associated with the officers mentioned in this administrative summary. Investigators noted the BWVs of ten officers that had significant evidentiary value. The BWV files are stored in Evidence.com and remain available for review.

Other Department Video - None

Outside Video - On July 18, 2022, FID investigators canvassed the area of Martin Luther King Jr. Boulevard and Bronson Avenue. Investigators located a residential surveillance video at [REDACTED] Jr. Boulevard, which captured the OIS incident.

Witness [REDACTED] captured cell phone video of the officers' actions after the OIS and the arrival of LAFD personnel. The [REDACTED] Boulevard residential surveillance video and [REDACTED] cell phone video are stored in FID's SharePoint and available for review upon request.

Social Media

Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until this investigative report was submitted. No additional evidence, information, or witnesses were identified.

Respectfully,


MICHAEL R. MOORE
Chief of Police