

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1078413

DATE: 11 August 2017

TO: Chief Administrator
Independent Police Review Authority

FROM: Investigator Thomas Kalantzis #149

SUBJECT: Log # 1078413
Name: Officer Eduardo Lopez
Incident Location: [REDACTED]
Rear Alley

Date/Time: 12 December 2015, at approximately 0600 hours

INTRODUCTION

On 12 December 2015 at approximately 0600 hours, Officer Eduardo Lopez was off duty and asleep at home when his wife woke him up screaming that there was someone in the house. Officer Lopez also heard the home security alarm going off. Officer Lopez got out of bed, retrieved his secondary firearm and headed toward the kitchen. From a porch in the kitchen, Officer Lopez observed lights and movement inside the garage. He told his wife to call 911. Officer Lopez went out through the backyard and approached the garage. He could see and hear movement inside the garage. He used a key to open the side door of the garage and immediately saw a Hispanic male across his parked car on the other side of the garage. Officer Lopez also saw another Hispanic male immediately to his left on the same side of the garage.

Officer Lopez announced himself as the police and the two subjects ran from the garage. Officer Lopez chased them into the alley as they ran westbound. One subject was well ahead of Officer Lopez and the other subject attempted to enter a vehicle, located a few garages west from Officer Lopez's garage. As the subject closed the driver's door, Officer Lopez injected himself between the door and the car frame. With his gun still in his hand, Officer Lopez used the fingers of his right hand to grab at the subject in an attempt to remove him from the vehicle. The subject turned toward Officer Lopez and used both hands to grab Officer Lopez's hand and gun.

Officer Lopez thought the subject was going to be able to fight and take away his firearm, because Officer Lopez did not have a full grip on his firearm. As he pulled away from the subject's hands, Officer Lopez discharged his weapon three times. Officer Lopez was dislodged from the subject and the subject's vehicle, and the subject drove away. Farther down the alley, the second subject got into the vehicle and both subjects made good their escape. The two subjects have never been apprehended or identified. There is no evidence that the rounds from Officer Lopez's firearm struck anyone.

APPLICABLE RULES AND LAWS

General Order G03-02-03: Deadly Force

SUMMARY OF EVIDENCE

In his **statement to IPRA** on 01 December 2016, **Officer Eduardo Lopez #6711** stated that on 12 December 2015, at approximately 0600 hours, he was off duty and at home sleeping. Officer Lopez described his residence as a two-story single-family house with a two-car garage to the rear of the residence. The property has a wrought iron fence in the front and a wooden fence around the backyard. The house is equipped with an alarm system. At the time of the incident, the alarm signaled an intruder at the residence with a loud ringing sound. Prior to the alarm going off, Officer Lopez heard his wife screaming that someone was inside the house. Officer Lopez got out of bed, picked up his firearm¹ and attempted to locate the intruder. Officer Lopez's wife informed him that the intruder may be in the garage. Officer Lopez and his wife looked out to the garage from a porch in the kitchen and saw flashlights and movement in the garage. Officer Lopez went outside to the garage and instructed his wife to call 911. The garage is approximately 30 to 40 feet away from the house. Officer Lopez proceeded toward the garage and observed people moving their lights inside. As he approached the garage, he heard movements and then the lights inside went completely off. Officer Lopez used the key to open up the garage door. He did not say anything before he opened the garage door.

Officer Lopez stated that there is a large two-foot window on the north side of the garage and the door is on the northeast side of the garage. As soon as Officer Lopez opened the door, he saw one intruder on the opposite side of his vehicle, wearing a gray hoodie and holding some stuff in his hands. As Officer Lopez looked to his left, he observed a second person in a black jacket or hoodie standing within arm's reach and holding tools in his hands. Officer Lopez announced, "Police" and heard one person say, "Oh, shit." The intruders started running and Officer Lopez chased them into the alley. Officer Lopez described both intruders as Hispanic males. The two subjects ran westbound in the alley. As Officer Lopez chased them, he yelled, "Stop, stop, stop!" The Hispanic male in the gray hoodie ran past a crossover-like vehicle with the doors and hatch open, and the vehicle's engine was running. The vehicle was approximately three garages west in the alley. The Hispanic male wearing black entered the vehicle on the driver's side.

After the subject jumped into the vehicle, the subject tried to close the door, but Officer Lopez held it open and tried to grab the subject. As Officer Lopez was trying to pull him out of the vehicle, the officer was screaming, "Police!" Officer Lopez stated that he was trying to pull the subject out with his right hand out while still holding his gun in the same hand. At that time, the subject began swinging his left hand around. Officer Lopez attempted to grab the subject's shirt with one or two fingers because he was still holding his firearm. The subject then reached with his right hand and started grabbing Officer Lopez's arm. The subject used both hands to grab Officer Lopez's weapon and hand. Officer Lopez screamed, "Stop! Get out, get out! Chicago Police, get out!" Officer Lopez stated that he was unable to pull the subject out of the vehicle.

When the subject grabbed Officer Lopez's firearm, Officer Lopez thought the subject was going to be able to take it, because Officer Lopez did not have a full grip on the firearm. Officer Lopez discharged his firearm as he was pulling it away from the subject's hands. He discharged three rounds as he fell backward. Officer Lopez stated that the barrel of his firearm

¹ A Glock 42 .380; this firearm is Officer Lopez's secondary weapon and not his service weapon.

was pointing toward the glove box at a downward angle. Officer Lopez stated that he did not aim his firearm at the subject because Officer Lopez pulled away as he tried to raise his hand away from the subject. Officer Lopez believed the subject was not struck because his weapon was pointing at the glove box. Officer Lopez estimated the distance between the subject and himself when he discharged his firearm was “inches.” Officer Lopez added that the vehicle was not moving when he fired his weapon. Once Officer Lopez discharged his weapon, the subject sped away. Tools were “flying out” of the vehicle and the officer attempted to pursue on foot. When the vehicle reached the mouth of the alley, it stopped and waited for the other subject to jump in. They closed the doors and then sped off northbound on LeClaire Avenue. (Att. #33)

According to the **Tactical Response Report (TRR)**, completed by Officer Lopez, the incident occurred on 12 December 2015 at approximately 0555 hours at [REDACTED]. Officer Lopez was off duty and no member or subject was injured in the incident. The report indicated that the subject did not follow verbal direction, fled and was an imminent threat of battery. According to the report, the subject attacked Officer Lopez with a weapon in that the subject attempted to disarm Officer Lopez of his firearm. The incident happened outdoors and the weather conditions were “fog/smoke/haze.” Officer Lopez discharged a Glock 42 .380 caliber semi-automatic pistol.(Att. #7)

According to the **Officer’s Battery Report (OBR)**, completed by Officer Lopez, Officer Lopez was off duty and in civilian dress. The manner of attack was reported as “struck/blunt force (including actual attempt).” Officer Lopez reported the type of weapon was that the offender “attempted to obtain officer’s own weapon.” Officer Lopez did not report any injury. (Att. #8)

According to **Original Case Incident Reports and Case Supplemental Reports (RD# HY534063)**, the occurrence location is listed as [REDACTED]. The reports list Eduardo Lopez as the victim and provide contact information for him. Multiple civilian witnesses and responding officers were listed. The identity of the suspects/offenders is unknown. The reports provide information about Officer Lopez’s firearm, inventoried evidence and property, descriptions of suspected offenders and vehicles used, and summaries of witness interviews and surveillance video. The reports document that a copies of videos were provided to the Reporting Investigator. (Att. #'s 4-6, 30-31)

A **canvass** was conducted by IPRA Investigators on 14 December 2015 in an attempt to locate additional witnesses and/or evidence. The canvass did not yield any eyewitnesses or additional information. (Att. #12)

Video Recordings collected from multiple residents in the general area of occurrence captured images of the south alley of the 5000 block of W. Wrightwood Avenue. An individual matching the description of the one subject and a vehicle matching the description given by Officer Lopez were recorded moving through the alley during the approximate timeframe of occurrence. The time stamps on the videos were not accurate and documented various times.² (Att. #'s 13-14, 27-29)

² Surveillance video was obtained from the following addresses: [REDACTED], [REDACTED], [REDACTED] N. [REDACTED]. None of the videos captured images of the burglary or Officer Lopez discharging his weapon.

OEMC Transmissions documented multiple callers reporting hearing gunshots on the date at the approximate time and location of the occurrence. None of the callers reported being an eyewitness to the occurrence. The 911 call of Officer Lopez's wife was also captured. She reported that someone was stealing in her their garage and that someone had shot. Officer Lopez's 911 call was also captured, in which he reported his star number, details of the incident and a description of the suspected offenders and their vehicle. (Att. #'s 22-26)

Evidence Technician photographs document images of the front of 5017 W. Wrightwood, the alley where the incident occurred, marked evidence in the alley, Officer Lopez's personal property that the offenders attempted to steal, Officer Lopez's Honda and an open garage near [REDACTED]. (Att. #'s 18-21)

CONCLUSION

The issue in this case is whether Officer Lopez's discharge of his weapon was a violation of the Department's general order on the use of deadly force³. Based on the totality of the circumstances, this investigation revealed that there were no violations of Department Rules and Regulations, General Orders or Special Orders by Officer Lopez.

Officer Lopez acted reasonably to prevent death or great bodily harm to himself. Although Officer Lopez did not see either subject with a weapon, their criminal act of burglarizing a garage makes it reasonable that they were dangerous physical threats. Nonetheless, Officer Lopez did not fire upon the subjects immediately upon encountering them in his garage, nor did he fire upon them as they fled in the alley.

When the subject grabbed Officer Lopez's weapon, Officer Lopez reasonably believed that the subject was going be able to fight and take it away, because Officer Lopez did not have a full grip on his weapon. Officer Lopez caught the subjects in the midst of committing a residential burglary; if the subject had been able to disarm Officer Lopez, it is reasonable to believe he would have used the firearm against Officer Lopez. Therefore, it was reasonable for Officer Lopez to discharge his weapon in order to prevent the subject from gaining control of the weapon. Moreover, there is no evidence that the rounds discharged by Officer Lopez struck the subject or anyone else as it was pointed at the glove box. Officer Lopez did not aim the weapon at the subject at any point. The second subject was able to get into the vehicle as it drove away and the two subjects made good their escape. The video evidence supports Officer Lopez's account that the subjects fled down the alley; one on foot and one in a car with the hatch open.

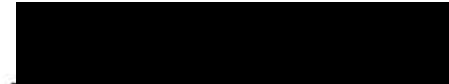
³ G03-02-03, II. Department Policy

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

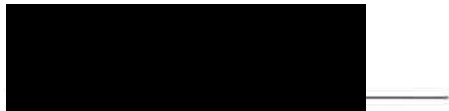
1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

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This investigation has revealed no violations of Department Rules and Regulations or the General Orders and Special Orders by any Department member. There is no apparent misconduct, nor has any party alleged misconduct occurred. The IPRA recommends that this investigation therefore be closed.



Thomas Kalantzis #149
Investigator



Mark A. Javier
Supervising Investigator



Joshua Hunt
Deputy Chief