

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting—1987 North Nellis Boulevard on March 08, 2011**

**Purpose:**

The purpose of this report is to publish key conclusions, recommendations and outcomes of the Las Vegas Metropolitan Police Department's internal review of this incident. There are a variety of actions that can be taken administratively in response to the Department's review of a deadly force incident. The review may reveal that no action is required or determine that additional training is appropriate for all officers in the workforce, or only for the involved officer(s). The review may reveal the need for changes in departmental policies, procedures, or rules. Where departmental rules have been violated, formal discipline may be appropriate. The goal of the review is to improve both individual and the agency's performance.

**Synopsis of Event:**

On March 8, 2011, at approximately 2050 hours, Sergeant Toney arrived at "The Bar," located at 1987 N. Nellis Boulevard, to conduct a routine bar check. As he entered the bar, he made his way to the northeast corner to speak with the bar owner. Mauricio Hernandez, who was sitting on the northwest corner of the bar, immediately confronted Sergeant Toney by pointing a handgun at him. Hernandez then started to manipulate the handgun, ejecting a live cartridge onto the ground. Sergeant Toney drew his handgun and fired five shots at Hernandez. Hernandez retreated to the men's restroom.

Sergeant Toney advised Dispatch of the shooting and completed a tactical reload of his handgun. Sergeant Toney waited for additional officers to arrive. Officers then entered the restroom, found Hernandez collapsed in the restroom stall, and handcuffed him. Medical personnel arrived and pronounced Hernandez deceased.

It was later discovered Hernandez was the suspect in another shooting which occurred shortly before this.

For a detailed narrative of the incident, please see the District Attorney's decision, reference Mauricio Hernandez, Event Number 110308-4024, and the LVMPD Force Investigative Team (FIT) Officer's Report under the same event number.

**Outcomes:**

The internal review resulted in the following:

1. The Use of Force Review Board determined the officer's actions were in accordance with Department Policy. No policy violations were found.

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2. The internal review concluded the officer's performance was in accordance with Department standardized tactics and training.

**The Criminal Investigation:**

LVMPD FIT conducted the criminal investigation of this incident. Their investigation was submitted to the District Attorney's Office for review. In their examination of the FIT case submission, the District Attorney's Office determined that, "Based on the review of the available materials and the application of Nevada law to the known facts and circumstances surrounding the officer involved shooting death of Decedent, it has been determined that the actions of Sergeant Toney were reasonable and legally justified."

**LVMPD's Use of Force Review Board:**

This matter was heard by the Board on August 31, 2011, and Sergeant Toney, who used force, was found to be justified in his actions. The Sheriff approved the Board's recommendation.

Below are the conclusions made after the Use of Force Review Board and the internal review were completed:

***1) Tactics and the Use of Force***

In the review of this incident, the initial radio traffic was broadcasted on the Downtown Area Command (DTAC) channel and not Sergeant Toney's normal channel or corresponding area where the incident occurred. The DTAC channel dispatcher acknowledged Sergeant Toney's radio traffic and initiated a Code Red (channel designated for emergency traffic only) on the channel. The review recognized the DTAC dispatcher remained calm and assisted Sergeant Toney in getting medical requested during a high stress incident.

The review examined Sergeant Toney's approach into the business: he had checked out via his Mobile Data Terminal (MDT) to do a bar perimeter check while he met the bar owner. Sergeant Toney walked into the bar and as he rounded the corner of the north side of the bar, the suspect immediately confronted him by pointing a gun at him. Sergeant Toney drew his firearm and fired numerous rounds towards the suspect. Considering Sergeant Toney was there to conduct a bar check, and not responding to any type of call for service, his approach was reasonable.

As additional units arrived on the scene, all the officers worked together, tactically entering the restroom and taking the suspect into custody.

The review concluded Sergeant Toney acted in self-defense when confronted by an armed suspect pointing a weapon at him. Sergeant Toney fired his weapon to stop the threat.

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Unknown to Sergeant Toney, at the time, was the fact that the suspect had been involved in another shooting less than two hours earlier. In the prior incident, the suspect fired upon and struck a citizen at a residence. The suspect likely believed Sergeant Toney had entered the bar to apprehend him.

In evaluating the supervision, or the command and control, of this incident, the review noted:

- Two additional sergeants arrived on scene within minutes of Sergeant Toney requesting assistance.
- A sergeant requested K-9's assistance to clear the restroom where the suspect had gone.
- Both sergeants worked together to secure the crime scene and set up a command post.
- A sergeant made the decision to form an arrest team to enter the restroom to secure the suspect and provide timely medical attention to him as soon as possible.

The review concluded the sergeants appropriately took control of the scene and handled the critical incident effectively.