

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting—Flamingo Road and Swenson Street on April 19, 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 April 19, 2011, at approximately 2005 hours, Officers Patrick Burke and Angela Suarez were operating a marked LVMPD patrol car in the area of Cambridge Street and Flamingo Road. They saw a silver Chevy Cavalier traveling south on Cambridge Street with an inoperable rear taillight. The vehicle was driven by David Gonzalez. The officers decided to stop the vehicle for the taillight violation and Gonzalez sped away from them, turning westbound onto Flamingo Road.

Gonzalez began swerving left and right. As he approached the intersection of Swenson Street and Flamingo Road, Officer Burke enacted the Precision Intervention Technique (PIT) to spin Gonzalez' vehicle out, stop a pursuit, and keep Gonzalez from driving recklessly onto the normally crowded Las Vegas Boulevard. The PIT was successful and Gonzalez' vehicle was stopped prior to it entering the intersection at Swenson Street and Flamingo Road.

Gonzalez exited his vehicle and immediately fired a handgun at Officers Burke and Suarez. Gonzalez then began running southwest across the intersection, still pointing his handgun at officers. Officer Burke returned fire with his handgun, striking Gonzalez, who fell to the ground. Officer Burke handcuffed Gonzalez and requested medical assistance while Officer Suarez ensured no one else was inside Gonzalez' vehicle. Gonzalez was transported to Sunrise Hospital where he was pronounced deceased.

For a detailed narrative of the incident, please see the District Attorney's decision, reference David Gonzalez, Event Number 110419-3621, and the LVMPD Force Investigative Team (FIT) Officer's Report under the same event number.

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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.
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 Officer Burke were reasonable and legally justified."

LVMPD's Use of Force Review Board:

This matter was heard by the Board on August 29, 2011, and Officer Burke 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) Communication

In the review of this incident, it was found there was some initial confusion with the radio traffic. During the initial stop, Officer Suarez was unable to broadcast much information over the air. Several times the dispatcher asked for clarification and received none, even though Officer Suarez keying the microphone can be heard on the dispatch recording. Officer Suarez was able to request a Code Red, which allowed other units to know there was trouble with the vehicle stop and to respond to the area.

The officers' location was never clearly announced over the radio. Officer Suarez advised Dispatch of the shots being fired and then stopped her radio traffic to assist Officer Burke. After the situation became more static, Officer Burke was able to update their location and request more units and medical.

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This incident evolved quickly. The time from the initial stop to when shots were fired was less than 40 seconds. In this period, a pursuit started, ended, and Gonzalez attempted to shoot officers in his attempt to escape. Officers did not advise of the intention to PIT Gonzalez, but under the circumstances, this appeared feasible. Officer Burke's intent in conducting the PIT was to immediately stop Gonzalez from reaching the populated Las Vegas Boulevard. When looking at the event as a whole, it was found the communication by officers was reasonable.

2) Tactics and the Use of Force

Officer Burke, when evaluating his backdrop prior to firing his handgun, initially realized it contained multiple vehicles stopped at the light in the eastbound lanes of Flamingo Road, as well as vehicles stopped in the northbound lanes of Swenson Street. There was an open area between the blocks of traffic and a building in the distance. Officer Burke left the cover of his vehicle, attempting to parallel Gonzalez, in order to keep the open area and the building in his backdrop as he fired so as not to endanger bystanders. However, one of Officer Burke's rounds struck the driver's side roof of a vehicle waiting for the light to change on Flamingo Road.

Upon seeing the threat cease, Officer Suarez cleared Gonzalez' vehicle, checking for additional suspects.

The review concluded Officer Burke acted in self-defense and in defense of Officer Suarez when confronted by an armed suspect firing a weapon at them. Officer Burke fired his weapon to stop the threat.

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

- The area sergeant responded to the incident location within approximately five minutes of receiving the notification, took control of the incident, and established a command post.
- The area lieutenant responded to the command post and made appropriate notifications.
- The sergeant made sure the integrity of the crime scene was preserved.

3) Use of PIT (Precision Intervention Technique)

The review examined Officer Burke's use of PIT in this circumstance. It was determined at the time Officer Burke used the PIT on Gonzalez, Gonzalez presented no threat other than evading police. The use of PIT requires a location with suitable traffic conditions to minimize a third-party traffic collision. Officer Burke selected the PIT location based on the threat level known at the time and the current traffic conditions. Officer Burke wanted to prevent Gonzalez from reaching Las Vegas Boulevard which was a few blocks away. It was decided Officer Burke's use of PIT was reasonable at the time of occurrence and based on LVMPD Policy.

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Based upon the internal review of this incident (and others), a more in-depth analysis was completed as it relates to the appropriate use of PIT. At the time of this incident, LVMPD Policy did not specifically restrict the use of PIT in circumstances where a vehicle pursuit was not justified. The following outcome occurred related to PIT:

- Policy was revised to be more restrictive in the use of PIT. Policy now states:

PIT will not be used unless the suspect demonstrates he/she is attempting to evade police and the elements necessary for an approved Vehicular Pursuit (6/014.00) are present (i.e., violent felony offense or suspect presents a clear and immediate danger to the public).

This revision was recently incorporated into the department-wide mandatory Use of Force training and instructed to all commissioned officers.