

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Taser / Officer-Involved Shooting—2842 Taurus Court on July 04, 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 July 4, 2011, at approximately 2344 hours, officers were dispatched to a domestic disturbance at 2842 Taurus Court. The initial caller told LVMPD Communications her boyfriend, Luis Silva, had beat up her daughter. As officers arrived, the call was updated with information that Silva had had a gun to his head 20 minutes earlier, and was now in the bedroom with the gun.

Officers Ray Novack and Nicole Gonzales were invited into the residence by Silva's girlfriend, and after briefly speaking with her, they took up a position outside Silva's bedroom door. Officer Novack negotiated with Silva through the closed bedroom door for approximately 20 minutes in an attempt to convince Silva to surrender. During this time, other officers arrived, to include Sgt. Robert Stauffer and Officers Suzana Markovic, Phillip Glover and Charles Smith.

At approximately 0010 hours on July 5, 2011, Silva opened the bedroom door with a handgun to his head, and backed into the southeast corner of the bedroom. Officer Novack followed him inside, continuing to negotiate with Silva. Officers Markovic, Gonzales and Smith followed Officer Novack into the bedroom.

Officer Novack conversed with Silva for an additional 25 minutes, while Silva alternately pointed the gun at his head and chest.

At approximately 0034 hours, Officer Smith fired a low lethality shotgun at Silva, striking him three times. Silva began yelling at officers to shoot him. Officer Markovic fired her Electronic Control Device (ECD) at Silva, striking him, causing little effect. Silva pointed his handgun in the direction of Officer Gonzales, who fired one round from her handgun, striking Silva in his left arm. Officer Markovic reloaded her ECD and fired, once again striking Silva. Silva turned toward Officer Novack, who also fired his ECD. Silva then moved his handgun in the direction of Officer Novack. Officer Novack fired three rounds from his handgun, striking Silva.

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Medical personnel, who had staged near the scene, arrived and Silva was pronounced deceased at the scene.

For a detailed narrative of the incident, please see the District Attorney's decision, reference Luis Silva, Event Number 110704-5637, and the LVMPD Force Investigative Team (FIT) Officer's Report under the same event number.

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 death of Luis Silva, it has been determined that the actions of Officers Gonzales and Novak were necessary and legally justified."

LVMPD's Use of Force Review Board and Internal Review:

1. This matter was heard by the Use of Force Review Board (UOFRB) on September 21, 2011, and Officers Novack and Gonzales' use of deadly force was found to be justified. However, the Board had significant concerns regarding decisions made and tactics used and cited violations of LVMPD Policy. The Sheriff approved the board's recommendation.
2. The internal review concluded decision-making and tactics utilized were outside standardized training and policy.

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

1) Communication

The initial radio traffic was broadcasted on the Northeast Area Command (NEAC) channel and updates were delivered in a timely and clear fashion to responding officers. As Officers Novack and Gonzales were arriving, LVMPD Communications broadcasted the update regarding Silva being armed, inside the bedroom and threatening suicide. When Officers Novack and Gonzales failed to acknowledge this update, LVMPD Communications attempted to contact both of them individually. When both officers failed to answer, LVMPD Communications correctly called for a Code Red (emergency radio traffic only), and restated the information regarding Silva being armed. Officer Gonzales then advised over the radio to hold off on the Code Red and to stand by as they hadn't made contact with anyone yet. Between 2347 hours (07-04-11) and 0010 hours (07-05-11), there was no radio contact between units at the scene and LVMPD Communications via radio, other than

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Sergeant Stauffer broadcasting his arrival at 2350 hours and Officer Travis Chapman broadcasting there were three officers in the rear of the residence.

LVMPD Communications attempted to contact Officer Gonzales at 0009 hours and received no response. There was no information relayed by officers over the radio announcing that negotiations had begun with Silva. At 0010 hours, Officer Novack said, "I don't want to shoot you. Code Red." LVMPD Communications re-broadcasted the Code Red. Sergeant Stauffer then broadcasted they had made contact with the suspect and advised he had a gun to his head.

Had the information regarding negotiations with an armed suspect been relayed via the radio sooner, the area lieutenant and the LVMPD watch commander may have been able to respond sooner, and had more time to formulate an appropriate tactical plan.

The internal review determined the medical response was appropriate.

2) Officers' Approach

In review of this incident, it was found Officers Novack and Gonzales were allowed access to the residence and told by witnesses that Silva was armed and in the back bedroom. Officers Novack and Gonzales decided to approach the bedroom where Silva was located and begin negotiations. Once Silva opened the door, Officer Novack continued his approach toward Silva into the bedroom after Silva backed away from the door. Other officers then followed. The internal review found the officers placed themselves closer to Silva's location than prudent, given that Silva was armed.

The review noted that SWAT and negotiators should have been notified at the beginning of the incident pursuant to LVMPD Policy. Neither Sergeant Stauffer nor Officer Markovic (the only Crisis Intervention Team officer on-scene) notified SWAT and Negotiators. The area lieutenant did notify Negotiators later during the call.

As a result of internal review, the UOFRB recommended the involved supervisor and officers attend the following training:

- Hands-on training at Advanced Officer Skills Training (AOST), related to barricaded subjects, as well as the department policy related to barricaded subjects.
- Training related to dealing with suicidal subjects.
- Additional tactical supervision training for the sergeant.
- Crisis Intervention Team training, to include policy review regarding the use of CIT and appropriate responses.

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3) Tactics and the Use of Force

- **Use of Less Lethal Force**

In the assessment of the use of force prior to lethal rounds being fired, it was found three low lethality shotgun rounds were fired and three ECD deployments occurred.

Officer Smith and Sergeant Stauffer devised a plan to use the low lethality shotgun on Silva if his finger came off the trigger; this plan was not conveyed to the other officers in the room.

The ECDs and low lethality shotgun had little or no effect on Silva.

As a result of this internal review (and others), LVMPD Policy has been revised regarding the announcement of a less than lethal option.

- Policy now reads:

“Deployment Requirement: (Low Lethal Shotgun)

Prior to firing a low lethality shotgun, when feasible, the officer will announce a warning to the subject and other officers of the intent to deploy the low lethality shotgun if the subject does not comply with commands.

For example, “Police! Do what I am telling you to do, or I will shoot you with a bean bag, and it will hurt.”

“Deployment Requirement: (ECD)

When displaying an ECD, officers will give a warning, when practical, to the subject and other officers before firing the ECD.

For example: “Police! Do what I am telling you to do or I will taze you and it will hurt.”

In addition to the change in LVMPD Policy, the following was recommended by the UOFRB for the involved supervisor and all involved officers:

- Low lethal policy review to include ECD and low lethality shotgun.

4) Supervision (Command and Control)

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

- The sergeant failed to recognize the situation as an armed, barricaded subject. (*Training addressed under Officers Approach*)
- Once the area lieutenant received the appropriate updates from the officers on scene, he requested SWAT and negotiators as per policy.
- After Silva was taken into custody, the sergeant called for medical immediately, took control of the crime scene, separated involved officers and obtained a Public Safety Statement from officers, all in accordance with LVMPD Policy.