

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting— 4450 East Karen Avenue on November 21, 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 November 21, 2011, at approximately 2301 hours, Gang Crimes detectives were conducting enforcement activities at the Karen Pines Apartment Complex, located at 4450 E. Karen Avenue. Detectives noticed Bernard Pate in the park area of the complex. Pate was a lone adult, late at night, in the children's play area, wearing red clothing (commonly worn as a gang affiliation), on a "No Trespass" property. In addition to these factors, upon seeing police, Pate appeared to be intentionally trying to avoid contact with them by walking quickly out of sight around buildings in the complex. Pate also appeared, at one point, to be knocking on an apartment door, which went unanswered. Detectives found his behavior suspicious and decided to contact him. Prior to contact being made, detectives positioned themselves at different locations in the complex in case Pate ran from them.

The acting sergeant directed detectives to approach Pate. Detective Clarkson contacted Pate on the east side of the complex near Building 4. When Detective Clarkson began speaking with Pate, he immediately ran south through the parking lot, toward Karen Avenue. Detective Clarkson, at this point, based on all of the known factors, believed he had reasonable suspicion to stop Pate. Detective Clarkson chased him through the complex onto Karen Avenue, where Pate tripped and fell into the street.

While getting off of the ground, Pate pointed a small semi-auto handgun at Detective Clarkson. Pate then got to his feet and continued to run east on Karen Avenue while he continued to point a firearm at Detective Clarkson. Detective Clarkson discharged his firearm. After the first series of shots fired by Detective Clarkson, Pate went to the ground, and Detective Clarkson stopped firing. He then assessed Pate's reaction. When Pate got back up to his feet and pointed his firearm at Detective Clarkson again, Detective Clarkson fired more rounds until Pate was no longer a threat. Pate fell to the ground again. Detectives Auschwitz and Santos arrived. Detective Santos handcuffed Pate and requested medical. Medical arrived and pronounced Pate deceased.

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For a detailed narrative of the incident, please see the District Attorney's decision, reference Bernard Pate, Event Number 111121-4314, 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, it has been determined that the actions of Detective Clarkson were reasonable 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 February 15, 2012. Detective Clarkson's use of deadly force was found to be justified. The Use of Force Review Board determined the officers' actions were within policy. The Sheriff approved the Board's recommendation.
2. The internal review concluded the officers' performance was in accordance with Department standardized tactics and training in nearly all areas, but cited some training issues.

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

***1) Communication***

In review of communication between the officers throughout the incident, it was found their communication was reasonable and appropriate as they made a plan to make contact the suspect. Officers assembled sufficient resources to control this incident.

In review of the radio traffic, it was found the dispatch recordings were clear. Detective Clarkson could be easily heard on the SEAC channel when the foot pursuit began. The dispatcher was quick to get a Code Red (Emergency radio traffic only) on the channel and area units arrived within minutes. Units were dispatched to shut down vehicle and foot traffic after the incident without issues. Gang detectives initiated their activity on the Gang channel, keeping the initial traffic off the SEAC channel. Once detectives exited their vehicles, they put their hand held radios on the area command channel they were operating within so that traffic could be heard by patrol units in the area.

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The review found a breakdown in communication caused by this practice. When the acting sergeant let Detective Clarkson out of the vehicle, he tried to monitor both the patrol channel and the Gang channel using a dated analog radio left in his vehicle. The analog radio was set to the patrol channel that Detective Clarkson was now operating on. Because the analog radio is no longer supported by the new digital system, it is unreliable. The acting sergeant did not know about the foot pursuit until he heard the shots fired at the south end of the complex.

Gang Crimes detectives were operating off a radio channel unmanned by Communications in order to plan their activities and not monopolize the patrol channel. When they began to implement their activities, they used the area command channel so area units and Dispatch would be advised of their location and activities. The use of unsupported equipment, the analog radio, caused a breakdown in communication.

Gang detectives did not contact the area patrol supervisors prior to entering and beginning to work in this area. The first time area supervisors were aware of the Gang detectives' operation was when Detective Clarkson broadcast the foot pursuit over SEAC channel.

As a result of the internal review and the Use of Force Review Board, the following occurred:

- Analog radios were removed from all Gang Crimes Bureau vehicles.
- Gang Crimes Bureau will now advise area command supervisors when they enter their area to conduct enforcement.

## ***2) Officers' Approach***

In review of this incident, the approach was well planned and carried out by detectives, with exception of the initial contact. Gang detectives surrounded the general area of the complex so once an attempt was made to contact Pate, detectives would be in position to intercept him if he ran. Once the area was surrounded, detectives moved in toward Pate, while additional detectives moved in to position to provide cover.

The review found the use of only one detective to make initial contact with Pate was not the best approach. Gang suppression detectives work high crime areas and often come into contact with some of the most violent criminal offenders. The use of a two-person team to make initial contact can create an instant contact and cover situation, which is the desired tactic for contact of suspects with gang or violent crime histories. The proper use of contact and cover by a two-person team increases officer safety in the event of an immediate threat to officers, or in the case of a foot pursuit.

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As a result of the internal review and the Use of Force Review Board, the officers attended the following training:

- Detective Clarkson received training reference foot pursuits upon his return to duty.
- The Gang Crimes Bureau held a training discussion related to foot pursuit policy and the use of contact and cover prior to the Use of Force Review Board being convened. Emphasis was placed upon ensuring a two-officer team dynamic when dealing with similar situations.

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

The internal review examined the officers' use of tools and tactics. It was found during the foot pursuit, Detective Clarkson had limited cover available to him. Detective Clarkson was close to Pate when Pate produced a handgun and quickly changed the dynamics of the incident. Cover at that point was unavailable. As Pate again ran from Detective Clarkson and continued to point the firearm at him, Detective Clarkson fired at Pate and moved toward the cover of a large rock to his left. The incident was over before Detective Clarkson could reach this cover.

Detective Clarkson fired his handgun at Pate and struck him numerous times. This shooting occurred while both Pate and Detective Clarkson were on the move. After the first series of shots fired by Detective Clarkson, Pate went to the ground, and Detective Clarkson stopped firing. He then assessed Pate's reaction. When Pate got back up to his feet and pointed his firearm at Detective Clarkson again, Detective Clarkson fired more rounds until Pate was no longer a threat.

The review found Detective Clarkson assessed his backdrop as the long street of Karen Avenue and the apartments at the end of Karen Avenue at Mountain Vista Street. There was no indication of pedestrian or vehicle traffic. Though no immediate concerns appeared in the backdrop, an apartment complex is not the best choice of backdrop. However, it was determined Detective Clarkson was not in a position to alter his backdrop or wait for it to change at the time he discharged his firearm. Detective Clarkson's assessment of backdrop under these circumstances appears to be within department training and standards.

The review found Detective Clarkson's evaluation of Pate's reaction to being shot during the incident and the number of rounds he fired to be within department training and standards. The Use of Force Review Board found Detective Clarkson acted appropriately in the face of grave danger and his actions were commendable.

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***4) Supervision (Command and Control)***

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

- The acting sergeant was the first supervisor that arrived at the scene. He arrived within seconds of shots fired. He notified Communications and requested notifications be made and for investigators to respond.
- The acting sergeant removed Detective Clarkson from the scene and took him to an LVMPD vehicle to wait for investigators to arrive.
- The acting sergeant did not obtain a Public Safety Statement from Detective Clarkson; however, he did relay to the area patrol sergeant there were no outstanding subjects.
- The acting sergeant did not direct personnel to secure and protect the crime scene.
- The first area patrol sergeant on the scene quickly secured the crime scene with members of her patrol squad.
- The area patrol sergeant then concentrated on medical response and witness locations.
- Another area patrol sergeant arrived on the scene and took a Public Safety Statement from Detective Clarkson.
- The first arriving area patrol sergeant coordinated the arriving resources while the other handled the crime scene preservation.
- The review determined the command and control of this incident was within department training and standards, once a non-acting sergeant arrived.