

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting-5435 Palm Street- April 29, 2014**

**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 no action is required or determine 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 department 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 29, 2014, at approximately 2:04 PM, 9-1-1 call takers received a call from Herbert Green claiming he was about to be shot. Green gave his name and the address of 5435 Palm Street before disconnecting. The call taker tried to re-call Green several times but her attempts were unsuccessful.

Upon broadcasting the call, the patrol sergeant asked the dispatcher to replay the 9-1-1 call in order to listen and gain a better understanding of what Green said. Once the sergeant heard the playback of what Green said, he assigned himself to the call.

At approximately 2:08 pm, Patrol Officer Angulo was the first to arrive. He took up a position to the southeast of the target address. This position allowed him to provide vital information to the arriving officers, who began staging to the north of the residence. The sergeant was able to make contact with Green via cellphone. During the phone conversation, Green explained to the sergeant that he believed his family was stealing money from him. The phone then disconnected. The sergeant attempted to call Green again; however, a family member answered the phone. The family member explained that there were other family members inside the residence, along with two handguns. One of the handguns was in a safe while the other handgun was between mattresses in a bedroom. At this point, the sergeant believed Green was on another phone listening to the conversation.

The sergeant advised the family members to exit the residence, and all three members were escorted down the street by officers. They provided information that Green was on drugs and was diagnosed as paranoid schizophrenic. Officers learned that earlier in the day, Green had called his mother and accused her of stealing money from him and confronted her about why she never informed him that he won the African Lottery. Green later arrived at the residence and began to fight over a pair of shoes with his sister. Green then called 9-1-1, claiming he was going to be shot.

The sergeant again called Green. Once Green was on the phone, the sergeant gave the phone to a patrol officer who was Crisis Intervention Team (CIT) certified. At one point during the contact with Green he exited the residence and walked to the driveway. Without being ordered, Green emptied

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his pocket, pulled up his shirt and stated, "you know, I don't have any guns." Green then walked back up the driveway and into a courtyard, where he locked the gate. The CIT officer attempted to speak with Green near the gate. After 45 minutes, he walked inside the house and closed the door. The sergeant attempted one last phone call to Green, who ultimately disconnected the phone, and as a result the sergeant deemed the incident a barricaded subject and notified SWAT.

As SWAT mobilized to the address, an arrest team had staged just north of the residence. The sergeant learned that the keys to the vehicles parked in the driveway were located inside the residence. The sergeant made the decision to place stop sticks behind the vehicles, knowing that Green possibly had access to the keys, in order to prevent him from becoming mobile.

Officers Lavin and Henry were advised to deploy stop sticks near the vehicles that were parked in the driveway. As they approached the house, Officer Henry carried two sets of stop sticks, while Officer Lavin acted as the cover officer. Once the officers reached the edge of the driveway, Green exited the residence. Officer Angulo, who had a visual of Green, announced over the radio that Green had a black revolver in his right hand. Officer Lavin immediately ran to the southeast corner of the garage for cover, while Officer Henry went directly to the rear quarter panel of the closest vehicle. Green ran over to Officer Lavin's position. As he rounded the corner, he fired his weapon at Officer Lavin. Officer Lavin, who was already in a kneeling position, rolled to her back and returned fire toward Green.

Officer Henry stood up and began to fire at Green. Green turned his attention to Officer Henry and started to walk towards him with the firearm raised. Officer Henry and Green were almost face to face. Officer Henry was able to block Green's firearm with his own arm in an attempt to move the firearm away. Officer Henry again, engaged Green in gunfire. Officer Henry was able to push Green away, towards the end of the driveway to create distance. Officer Henry continued to fire at Green as they stumbled down the driveway. Officer Lavin met Officer Henry on the driveway and reengaged Green.

At this point, Officers Baldassarre and Cruse observed Green aiming the firearm at the other officers and fired at him until Green fell to the ground, dropping the firearm. Officers Baldassarre, Henry and a third officer turned their attention toward Officer Lavin, believing Officer Lavin had been shot by Green. They escorted her out of the area and toward medical personnel. It was later learned that Officer Lavin was not shot by Green but was suffering from pain and ringing in her ears.

Green was taken into custody and transported to Sunrise Hospital where he died as a result of his injuries. The Force Investigation Team (FIT), the Critical Incident Review Team (CIRT), and crime scene analysts (CSAs) responded and processed the scene.

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**The Criminal Investigation:**

LVMPD Force Investigation Team (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 application of Nevada law to the known facts and circumstances, it has been determined that the actions of the officers were reasonable and legally justified."

**LVMPD's Critical Incident Review Process and Internal Review:**

1. The matter involving Officers Baldassarre, Cruse, Lavin and Henry was heard by the Critical Incident Review Process/Use of Force Review Board on October 28, 2015. The Board's finding was, "Administrative Approval." The Use of Force Review Board determined Officer's Baldassarre, Cruse, Lavin and Henry actions were within policy. The Sheriff approved the Board's findings.
2. The internal Tactical Review Board concluded the officer's performance, with minor exceptions, was in accordance with Department standardized tactics and training.

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

**1) Communication**

Whenever police officers have the opportunity to formulate a plan before taking action, they should do so. In order to plan effectively, officers should gather as much information as possible. The more information officers possess about a scenario, the better their capacity to plan tactics that will fit the scenario and achieve their objective. Communication is a fundamentally important aspect of tactical performance and is a feature of almost all policing scenarios involving the use of force. When confronting threats, it is essential officers communicate effectively—both over the radio and face-to-face. Communication can be verbal or non-verbal.

In reviewing this case, CIRT found there was no communication between the officers deploying the Stop Sticks and others on scene, to include the arrest team who were providing additional cover. Officers Lavin and Henry did not announce over the radio their movements toward the residence. The arrest team, or the CP, was not aware of their approach until one officer happened to notice them about to enter the target yard.

- CIRT concluded the lack of communication on Officers Lavin and Henry's part was unsafe and not within standardized LVMPD tactics and training.

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The Board voted to overturn this conclusion, citing the below:

- Officers Lavin and Henry were given direction over the radio to deploy Stop Sticks. Further radio traffic from Officer Angulo covering the front of the house, advised them when they deployed the sticks he would continue his covering the front of the house. Less than five minutes after given direction over the radio to deploy Stop Sticks, Officer Lavin and Henry begin their deployment. Although the officers did not specifically communicate to the Incident Commander that they were moving forward, the Board felt all officers in the immediate area knew they were deploying the Stop Sticks.

## **2) Officers' Approach**

Officer Angulo was the first arriving unit. He proceeded to take a position of concealment across the street from the target residence with his binoculars. Officer Angulo, from that vantage point, was able to relay vital real time information over the radio during the entire incident. Officer Angulo was the only one able to see Green when Green exited the residence with a firearm and was able to warn officers of Green's actions. This information allowed officers to quickly adjust their tactics and respond to the threat.

- CIRT concluded the tactical decision of Officer Angulo to put himself in a position to provide vital intelligence to officers at the scene was commendable and undoubtedly saved officers lives.

After the scene was deemed a barricade, the sergeant made the decision to have Stop Sticks deployed on the vehicles in the target driveway. It was discovered through conversation with the family that the keys to the vehicles in the driveway were located inside the residence and Green had access to the keys. The sergeant asked over the radio for two officers to the south of the residence to deploy the Stop Sticks, but gave no further direction.

- CIRT concluded the sergeant's decision to deploy Stop Sticks, at the time he did so, was unreasonable as he had already declared the scene a barricaded subject.

Officers Lavin and Henry decided they would make the deployment. Officer Lavin would be Officer Henry's cover officer. They made a quick plan on how they were going to approach the vehicles and began to move forward. As cover officer, Officer Lavin should have been the first officer to approach and go over the pony wall. This would have allowed her to cover the residence while Officer Henry went over the wall with the Stop Sticks and make the deployment.

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The arrest/cover team to the north saw Officers Lavin and Henry as they were advancing toward the target driveway and began to move closer to the target house. The only radio communication regarding Officers Lavin and Henry's approach came from Officer Angulo, who was across the street, once he saw them entering the yard.

- CIRT concluded the approach with the Stop Sticks was not within standardized LVMPD tactics and training.

The Board voted to overturn this conclusion, citing the below;

- Officer Lavin and Henry's testimony, combined with pictures of the small pony wall, provided adequate evidence Officer Lavin was able to provide cover for Officer Henry while he was carrying two sets of Stop Sticks, even though he went over the wall first.

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

In this incident, Officers Lavin and Henry were in the driveway of the residence when Green exited the front door one last time. Officer Lavin took cover at the corner of the house near the garage. Officer Henry hid behind the vehicle where he had placed the Stop Sticks. Officer Angulo observed Green produce a firearm, become very agitated, and quickly move towards the corner of the house where Officer Lavin was positioned.

Officers Cruse and Baldassarre were slowly approaching the residence from the north. Both officers were part of a team providing cover for Officers Lavin and Henry while they approached the residence from the south to deploy Stop Sticks.

- CIRT concluded Officers Lavin, Henry, Cruse, and Baldassarre's threat assessment was reasonable

In review of this incident, CIRT concluded Officers Lavin, Henry, Cruse and Baldassarre discharged their firearms to stop the threat of Green firing his weapon at officers. This is in accordance with LVMPD Policy.

- CIRT found Officer Lavin, Henry, Cruse and Baldassarre's use of force was reasonable and in accordance with LVMPD tactics, training, and policy.

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

In evaluating the supervision (command and control), of this incident, CIRT noted:

- While en route to the call, the sergeant called the dispatch supervisor and requested to hear the initial 9-1-1 call from Green.
  - The sergeant advised arriving units to set up a perimeter and not approach the residence.
  - The sergeant made contact with the home owner, via cell phone to get more details pertaining to the call.
  - The sergeant asked the family to exit the residence for safety reasons.
  - The sergeant debriefed the occupants for further information regarding Green.
  - The sergeant oversaw the arrest team and Officer Iacullo while they were in direct contact with Green.
  - The sergeant deemed the scene a barricade, expanded the perimeter, began evacuations and notified SWAT.
  - A formal Command Post was established.
  - A lieutenant arrived and assigned himself as incident commander.
  - The sergeant assisted in coordinating the custody phase of Green and requested medical.
  - A second sergeant also arrived on scene and assisted with the clearing of the target residence.
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- In reviewing supervisory response, CIRT concluded the supervisors on the scene managed the incident to an LVMPD standard.

The Board voted to overturn this conclusion, citing the below;

- The actions of the sergeant regarding incident command were commendable; however, it appeared he was managing the scene alone. According to CIRT's investigation and testimony provided during the Board, there were actually three supervisors on scene that day. Delegation is one of the primary concepts of ICS. One supervisor was the incident commander for a long period single-handedly managing the arrest team negotiations, the inner and outer perimeters and staging of medical while being intimately involved in the incident. As a result, supervisory responsibilities could have been spread amongst the three.
  - As a result, the sergeant was directed to attend training specific to Incident/Barricaded Subject Plan and a lieutenant on scene received counseling.