

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting-5600 W. Sahara Ave- July 10, 2015**

**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:**

This incident involved three separate calls for service that suspect James Todora was involved in days prior to the officer-involved shooting (OIS). This report outlines each call generated. The separate calls for service and background was **not** known to officers at the time of the OIS.

**July 5, 2015**

- **July 5, 2015: LVMPD Event 150705-2699**
  - A passerby observed Todora lying in the desert area of Rainbow Boulevard and Windmill Lane; the passerby called 9-1-1. Officers arrived; Todora immediately became agitated. Due to no crime being committed Todora was released from custody.
  
- **July 5, 2015: LVMPD Event 150705-3352**
  - Todora arrived at his wife's residence. Officers were dispatched; however, prior to their arrival Todora fled the area. Officers impounded Todora's firearm for safekeeping at the request of his wife.
  
- **July 5, 2015: LVMPD Event 150705-3759**
  - Todora arrived at his wife's residence. Officers arrived, learned no crime had been committed and asked Todora to leave. Officers explained the process of getting a Temporary Restraining Order to Todora's wife.

**July 10, 2015: Day of the OIS**

At 0930 hours, Todora arrived at his wife's residence but left when no one answered the door.

At 0940 hours, Officer Luna, having no knowledge of Todora's prior contact with law enforcement, observed a gold Jeep with a broken brake light. Officer Luna decided to conduct a vehicle stop and activated his patrol vehicle's overhead emergency lights. The driver, later learned to be James

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Todora, initially waved to Officer Luna, indicating he should pass him. Officer Luna activated his vehicle's siren to indicate that he was pulling Todora over. Eventually, Todora stopped in the 5600 block of Sahara. As Officer Luna exited his vehicle, Todora exited his vehicle and began yelling at him. Specifically, Todora asked if Officer Luna was going to shoot him. Officer Luna attempted to direct Todora to the front of his patrol vehicle but Todora refused and re-entered his vehicle and shut the door.

One block west of Officer Luna's vehicle stop, Officer Kroening and his trainee were conducting a vehicle stop. Officer Kroening recognized that Todora did not initially stop and after hearing Officer Luna's radio traffic decided to assist him. Officer Kroening communicated to his partner that he was going to assist Officer Luna.

Meanwhile, Officer Luna approached Todora's vehicle and opened the driver's side door to ensure he could see Todora's hands. Todora was visibly upset, argumentative and confrontational towards Officer Luna. Officer Luna attempted to explain why he had pulled him over. Todora yelled that it was "because I went by the wife's house." Unaware of what Todora meant, Officer Luna tried to calm Todora down and advised him that he had been stopped due to his brake light being non-operational. As this was taking place, Officer Kroening arrived just to the left of Officer Luna at Todora's driver's side door.

Officer Luna asked Todora if he had any weapons in the vehicle. Todora replied, "Yes I do." Officer Luna asked where the weapons were; Todora looked to the back of his vehicle and pointed with his thumb stating, "The rifle is back there." Officer Luna asked Todora to step out of his vehicle. Todora refused and became more agitated. Todora started to ramble about past incidents with officers in Enterprise Area Command, incidents with his wife and his stolen gun.

During this time another officer and his trainee, Officer Hogue, arrived in their marked patrol vehicle. Officer Kroening walked back towards their patrol vehicle. Officer Luna asked Todora to exit his vehicle several times. Each time Todora refused, stating, "No." As Officer Luna grabbed Todora's left wrist and his left forearm Todora stated, "I'm going to shoot myself." Todora reached over the front passenger seat and put his right hand under a blanket, retrieving a firearm. Officer Luna tried to pull Todora from the passenger seat but lost his grip. Officer Luna observed Todora manipulate his firearm to possibly chamber a round. Todora pointed the firearm at himself and then at Officer Luna. With the weapon pointed at Officer Luna's head, Officer Luna heard a clicking sound. Officer Luna then disengaged from Todora and created distance from the deadly threat.

Officers Kroening, Hogue and Hogue's Field Training Officer (FTO) observed the struggle between Officer Luna and Todora. Officer Kroening approached the passenger side of the vehicle in an attempt to help Officer Luna take Todora into custody just as Officer Luna realized he did not have control of Todora's hand and decided to tactically disengage. Officer Luna yelled, "Gun, gun!" as he ran back towards his patrol vehicle. Todora fired one round in Officer Luna's direction. Todora's round struck the B pillar of Officer Luna's driver's side door and exited through the rear passenger window, causing it to shatter. Officer Luna heard something buzz by his head and saw glass shatter.

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Officer Hogue, who had just exited his patrol vehicle, was struck with Todora's round when it ricocheted off the patrol vehicle. Officer Hogue sustained an injury to the right side of his neck.

Officer Kroening, who was positioned at the passenger side of Todora's vehicle, observed this take place and immediately drew his firearm and fired three rounds towards Todora. All three rounds struck Todora. Officer Hogue yelled out, "I am hit" as he lay on the ground. Officer Luna ran towards Officer Hogue and began to provide medical attention to Officer Hogue; observed his injury and transported him to UMC where he was treated and released.

Officer Hogue's FTO and Officer Kroening provided lethal coverage of Todora who was not moving but still breathing. A K-9 sergeant arrived and an arrest team was formed. Todora was pulled from the vehicle and taken into custody. Todora was declared deceased at the scene.

**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 Officer Kroening was heard by the Critical Incident Review Process/Use of Force Review Board on June 16, 2016. The Board's finding was, "Administrative Approval." The Use of Force Review Board determined the officer's actions were within policy. The Sheriff approved the Board's recommendation.
2. The internal Tactical Review Board concluded Officer Kroening's performance was in accordance with Department standardized tactics and training with a few exceptions.

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

**1) Communication**

- The Critical Incident Review Team (CIRT) concluded the vehicle stop and OIS incident managed and documented by the dispatcher was within standardized LVMPD communications training and policy.
- CIRT concluded radio traffic for the incident was to an LVMPD standard.

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**2) Officers' Approach**

- CIRT concluded Officer Luna's preplanning to conduct a vehicle stop and the chosen location was within standardized LVMPD tactics and training.
- CIRT concluded Officer Kroening's preplanning to assist Officer Luna was within a standardized LVMPD tactics and training.

**3) Tactics and Use of Force**

During the initial vehicle stop, as Officer Luna exited his patrol vehicle, Todora also exited his vehicle. Todora started yelling at Officer Luna, asking why he was harassing him. Officer Luna observed an object in Todora's hand causing Officer Luna to place his hand on his weapon. Officer Luna asked Todora to calm down and to have a seat in his vehicle. Todora asked Officer Luna if he was going to shoot him. Officer Luna realized Todora's demeanor was not normal. Officer Luna pointed to the front of his vehicle and gave verbal instructions for Todora to stand in front of his patrol vehicle. Todora refused Officer Luna's order. Todora got into his vehicle on the driver's side, sat down and shut the door.

Officer Luna approached Todora's vehicle at a fast-walking pace. Officer Luna opened the driver's side door to ensure he could see Todora's hands. Officer Luna stood at the vehicle's driver side door and attempted to explain to Todora why he had been stopped.

- CIRT concluded Officer Luna's approach to Todora's vehicle was within standardized LVMPD training and tactics.

When Officer Kroening drew his firearm, he knew the following:

1. That Officer Luna had been in a physical struggle with Todora inside the Jeep Cherokee.
  2. That Officer Luna was running from the vehicle yelling, "Gun,Gun!"
  3. That Todora had a firearm in his right hand and started to lower the firearm and bring it to his left hand.
  4. Todora started tracking Officer Luna with his firearm.
- CIRT concluded Officer Kroening's drawing of his firearm was within standardized LVMPD tactics, training and policy.

After Officer Kroening opened Todora's front passenger door, Todora started to lower the firearm and bring it to his left hand. Todora then pointed it towards the area where Officer Luna was running. Officer Kroening drew his firearm from his holster, seeing that Todora was tracking the firearm

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towards Officer Luna and immediately discharged three rounds. The rounds struck Todora in the right elbow and right side of his back.

- CIRT concluded Officer Kroening's threat assessment was reasonable.

Officer Kroening was looking down into the vehicle when he fired and fired at a downward angle. Officer Kroening's backdrop was pavement and he observed no vehicle or pedestrian traffic.

- CIRT concluded Officer Kroening's assessment of backdrop, target identification, and isolation was within standardized LVMPD tactics, training and policy.

When another officer arrived, Officer Kroening instructed him to put gloves on and go to his right side. Officer Kroening informed the officers on scene they needed to get Todora into custody and render medical aid. Officer Kroening let Officer Hogue's FTO know he still couldn't see Todora's firearm. Officer Hogue's FTO and Officer Kroening devised a plan to wait for additional officers to arrive in order create an arrest team.

- CIRT concluded the officers' approach to the scene and use of teamwork was within standardized LVMPD tactics and training.

It should be noted that Officer Brian Kroening, Officer Carlos Luna, Officer Evan Hogue and the FTO involved in this incident all received formal commendations for their actions.

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

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

1. The acting sergeant arrived within one minute of the OIS.
  2. The acting sergeant directed arriving units to shut down intersections.
  3. The acting sergeant directed medical where to stage and advised units to stop pedestrian traffic from surrounding businesses to prevent any crossfire issues.
  4. The lieutenant arrived and created an arrest team for the K-9 sergeant.
  5. The lieutenant assumed Incident Command.
  6. All the supervisors worked together to document the incident and prepare for the arriving investigative units.
- In reviewing supervisory response, CIRT concluded Incident Management was to an LVMPD standard.