

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting - 3040 E. Charleston – July 25, 2015**

**Purpose:**

The purpose of this report is to publish key conclusions, recommendations and outcomes of the Las Vegas Metropolitan Police Department's (LVMPD) 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 July 25, 2015 at 0159 hours, Officers Keith McIntyre, Christopher Gowens, John Squeo were dispatched to 3040 E. Charleston, the Oasis Ridge Apartments, reference a battery call. After identifying the victim and a potential crime scene, patrol detectives arrived to help with the investigation. While detectives were conducting interviews, Bryan Day, who was unrelated to the battery investigation, exited his apartment. The sergeant on scene became concerned that Day was too close to the crime scene and didn't want him to disturb any potential evidence. The sergeant asked Day to either go back inside his apartment or come downstairs. Day did not give any physical or verbal cues that caused the officers to believe he understood what they were asking. Officer Squeo repeated the commands that Day return to his apartment but Day continued to ignore the commands. Eventually, Day did return to his apartment.

Officer McIntyre and Gowens grew concerned that Day's behavior was not normal and wanted to protect the crime scene. They both walked upstairs as Day exited his apartment again. Officer Gowens approached Day in an attempt to communicate with him. Day again did not communicate with the officers but he eventually returned to his apartment. Officer Gowens decided to walk back downstairs, while Officer McIntyre remained upstairs protecting the crime scene.

Officer Gowens positioned himself in a manner that allowed him to view the interior of Day's apartment. Officer Gowens observed Day pull up his shirt and tuck something in his waistband. As Day went to step out of the apartment, he stopped and readjusted his waistband. Officer Gowens feared Day had placed a firearm in his waistband. As Day exited the apartment, Officer Gowens ordered him back inside, but Day refused. Officer McIntyre also started to issue Day verbal commands to stay in his apartment.

Day exhibited the same behavior as earlier and ignored officers. Officer McIntyre started to approach Day while Officer Gowens moved up the stairs to assist him. Officer Gowens announced, "He has a gun. He has a gun." Day turned towards his apartment and officers' believed he was going to enter, but instead he lifted his shirt, grabbed a gun and fired at Officer McIntyre.

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Officers Squeo, McIntyre, and Gowens all fired at Day. As Officer McIntyre fired, he made his way down the stairs, while Officer Gowens made his way up the stairs. As Day fell to the ground, Officer Gowens heard someone yell, "I'm hit." The sergeant, who was downstairs, yelled for officers to come towards his location for cover.

Officer Gowens remained at the top of the stairs, covering Officer McIntyre as he made his way down the stairs. Day began to get up, pushing the firearm forward with his right hand. Officer Gowens engaged Day again, firing at him. As Officer McIntyre made it downstairs, Officer Squeo observed him holding his face and saw a large amount of blood. The officers realized that Officer McIntyre had been shot in the face. The sergeant broadcasted, "Shots fired, roll medical" and updated that an officer had been injured.

Officer Gowens began to move down the stairs toward Officer Squeo to get cover. As both officers watched Day, he suddenly moved again, moving into a seated position. Day again pushed himself up on the arm holding the firearm. Officers Gowens and Squeo engaged Day, believing he was going to fire at them. After the rounds were fired, the two officers made their way towards cover. An arrest team was formed and Day was taken into custody. He was pronounced deceased a short time later.

The Force Investigation Team (FIT), the Critical Incident Review Team (CIRT), and Crime Scene Analysts (CSAs) responded to the scene. CSAs processed the scene and during the resulting investigation, a Black Ops 6 millimeter Airsoft Pistol and three pellets were recovered near the landing where Day fired from. Officer McIntyre was struck just below the right eye by a 6 millimeter pellet, which penetrated the skin and entered the cheek.

**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 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 was heard by the Critical Incident Review Process/Use of Force Review Board on May 24, 2016. The Board's finding was, "Administrative Approval." The Use of Force Review Board determined the officers' actions were within policy. The Sheriff approved the Board's recommendation.
2. The internal Tactical Review Board concluded the officers' performance was in accordance with Department standardized tactics and training.

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

**1) Communication**

Just prior to Day's final exit from his apartment, Officer Gowens placed himself in a position to be able to see inside the apartment. Officer Gowens observed Day as he appeared to place an item into his waistband. Officer Gowens was not confident in what the item was but due to training and experience, he believed it could be a weapon or possibly even a firearm. When Day exited his apartment, Officer Gowens began to verbally challenge Day over the item that had been placed in his waistband. Officer Gowens ordered Day to lift up his shirt so they could see what was in his waistband. Officer McIntyre recalled hearing Officer Gowens' verbal commands as he began to approach Day. The verbal commands from Officer Gowens aided Officer McIntyre in knowing what concerns Officer Gowens had.

- CIRT concluded the information sharing by verbal commands to challenge the suspect were appropriate and to an LVMPD standard.

A better practice may have been for Officer Gowens to alert fellow officers of his observations prior to Day's exit from his residence. Any advanced information shared between officers could have aided in their decision making and tactics used.

- CIRT concluded the radio traffic was to an LVMPD standard.

**2) Officers' Approach**

Once officers decided that Day may potentially compromise the crime scene, they began their approach to him. Officer McIntyre moved to the second floor landing and placed himself in the doorway of the crime scene. Officer Gowens also proceeded to the second floor in an attempt to make contact with Day. Officer Squeo remained on the ground level, where he looked up and was able to see Day. This placement of officers created solid teamwork in order to contact Day.

Officer Gowens was not able to create any dialogue or conversation with Day, who ultimately returned inside his residence. After Day returned to his residence, Officer Gowens returned to the ground floor, while Officer McIntyre remained tucked inside the doorway of the crime scene allowing for good observation of Day while protecting the crime scene.

- CIRT concluded the approach to Day used by officers was within standardized LVMPD tactics and training.

As the second volley of gunfire ended and Officer Gowens made his way to the ground floor, he was positioned near Officer Squeo. Officer Squeo recognized that an officer was near him (even though

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he was unaware of who the officer was) and was concerned about the potential of crossfire and backdrop. Officer Squeo grabbed onto the back of Officer Gowens duty belt to ensure they did not inadvertently cross into each other's path.

- CIRT concluded the use of this tactic showed tremendous tactical awareness and was within standardized LVMPD tactics and training.

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

As Officer McIntyre approached Day on the second floor landing he observed Day lift his shirt, draw and aim a firearm at him. Officer McIntyre drew his weapon and fired. Officer McIntyre responded to a deadly threat and was shooting to save his life.

- CIRT concluded Officer McIntyre's drawing of his firearm was within standardized LVMPD tactics, training, and policy.

Officer Gowens observed Day when he manipulated an item in his waistband prior to coming out of his apartment. When Day exited his apartment, Officer Gowens began to verbally challenge him to show his hands and lift up his shirt. When Day did not comply with Officer Gowens' commands, Officer McIntyre began to confront Day. Officer Gowens moved up the stairs toward Officer McIntyre as he (Officer Gowens) yelled that Day had a gun. Officer Gowens drew his weapon when he saw Day had drawn his firearm and pointed it toward Officer McIntyre.

- CIRT concluded Officer Gowens' drawing of his firearm was within standardized LVMPD tactics, training, and policy.

Officer Squeo was on the ground floor when he looked up and observed Officer McIntyre drop the hood of his holster, which would allow him easier access to draw his weapon. Officer Squeo was concerned by the strange actions of Day and believed in his gut that something was wrong. Officer Squeo drew his firearm from the holster; however, he did not point it in the direction of Day, keeping it to his side. As Officer Squeo did this, Officer Gowens was verbally challenging Day about an item in his waistband.

When Officer McIntyre began to approach Day and Officer Gowens had almost reached the second floor landing on the stairs, Officer Squeo observed Day turn in the direction of his partners and with both hands take a two handed firing stance with his firearm.

- CIRT concluded Officer Squeo's drawing of his firearm was within standardized LVMPD tactics, training, and policy.

In this incident, Day drew a firearm from his waistband and pointed it across his body at Officer McIntyre. Day fired the weapon, which struck Officer McIntyre in the face.

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- CIRT concluded Officer McIntyre's threat perception was reasonable.

In this incident, Officer Gowens observed Day place an item, which he believed may have been a firearm, into his waistband. Day did not respond to verbal commands or challenges issued by Officer Gowens to show officers the item. When Day reached into his waistband, Officer Gowens realized that what he believed may have been a gun was in fact a gun. Officer Gowens observed Day draw the firearm and point it toward Officer McIntyre.

- CIRT concluded Officer Gowens' threat perception was reasonable.

In this incident, Officer Squeo believed something was wrong based off of Day's actions. He heard Officer Gowens challenge Day about the item in his waistband and observed Officer Gowens move toward Officer McIntyre's position. Officer Squeo observed Day as he punched both hands out in front of him with a firearm and engaged Officers McIntyre and Gowens.

- CIRT concluded Officer Squeo's threat perception was reasonable.

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

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

- The sergeant was in a location that did not allow him to engage Day but provided some cover when rounds were fired.
- The sergeant continually called out to Officers McIntyre, Gowens and Squeo to urge them to come to him and take cover.
- The sergeant advised of shots fired over the radio and requested medical for Officer McIntyre.
- The sergeant formed an arrest team to take Day into custody.
- The sergeant ensured crime scene protection.

In reviewing supervisory response, CIRT concluded the sergeant performed to an LVMPD standard.