

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting-3823 S. Maryland Parkway- November 24, 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 November 24, 2015, at 01:59 A.M., Officer Kyle Prior was operating his marked patrol vehicle in the area of Maryland Parkway and Karen Avenue when he observed a white Mitsubishi fail to use its turn signal. Officer Prior pulled behind the vehicle and conducted a records check on the license plate. The license plate returned as 'surrendered' to a Chevrolet, which was the incorrect license plate for the vehicle. Officer Prior announced on the radio he was going to conduct a traffic stop on a suspicious vehicle. Two officers, including Officer Robert Nord, broadcast over the radio they were en route to assist Officer Prior.

Officer Prior activated his overhead lights to conduct a traffic stop. The Mitsubishi slowed down and Officer Prior believed it was going to stop. When the Mitsubishi approached the stop sign at Malibu Street, it accelerated at a high rate of speed and fled from Officer Prior. Officer Prior gave updates via the radio that the vehicle was not stopping and he was not in pursuit. Officer Prior de-activated his lights and observed the vehicle turn south on La Canada Street.

Another officer located the vehicle a few minutes later and attempted to conduct another vehicle stop on the vehicle at Twain Avenue and Maryland Parkway. The vehicle fled from officers again and the officers again did not pursue. However, this officer was able to broadcast the driver's description as a Hispanic male adult wearing a baseball cap. The vehicle was relocated slow rolling on Katie Avenue with no headlights activated. An officer caught up to the vehicle, realized it was unoccupied and slowly rolling towards Maryland Parkway. The officer was able to stop the vehicle by placing his patrol vehicle in front of the suspect vehicle and utilizing the brakes of the patrol vehicle to safely stop the suspect vehicle. Officers then set up a perimeter around the area while they attempted to locate the driver.

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting-3823 S. Maryland Parkway- November 24, 2015

While driving around the area, Officer Prior observed a security guard escorting an adult male, later identified as Thomas McEniry, from the French Oaks apartment complex located at 3823 S. Maryland Parkway. Officer Prior exited his patrol vehicle and asked McEniry where he was coming from. Officer Prior ordered McEniry to place his hands on the front of the patrol vehicle. McEniry, who had his hands in his jacket pockets, ignored Officer Prior's questions and orders and continued to walk past Officer Prior saying he didn't do anything. McEniry quickened his pace and quickly back pedaled away from Officer Prior, keeping his hands in his pockets. Officer Prior got on the radio to advise other officers he had a possible suspect. Officer Prior also drew his firearm. Officers Robert Nord and Donald Sutton, drove to the French Oaks to assist Officer Prior. Officer Prior yelled commands for McEniry to stop but McEniry ran away from Officer Prior. Officer Prior holstered his weapon and gave chase. McEniry ran into an enclosed area with both hands behind his back tucked inside his waistband. Officer Prior followed McEniry into the enclosed area, not realizing it was enclosed, and drew his firearm. Officers Nord and Sutton arrived and remained on the outside of the fenced in enclosure and also drew their firearms.

McEniry dropped to his knees with both hands still behind his back. All three officers yelled verbal commands to McEniry to, "show his hands." McEniry refused to comply and rocked back and forth on his knees. Officer Prior announced to Officers Nord and Sutton he was going to deploy a less lethal option. Officers were still unable to see McEniry's hands. Officer Prior holstered his firearm and discharged his Electronic Control Device (ECD/Taser) at McEniry from five to seven feet away. McEniry fell onto his back and began to scream, kick and struggle. While McEniry was on his back, a firearm fell from his waistband. McEniry sat up and Officer Sutton yelled, "gun!" McEniry leaned to his right and picked up the firearm. As McEniry picked up the firearm, Officers Prior, Nord and Sutton all discharged their weapons simultaneously at McEniry.

Officer Nord broadcast shots fired over the radio. Officer Prior requested medical to be expedited. McEniry was taken into custody and pronounced deceased a short time later. The firearm McEniry was in possession of was later determined to be a replica firearm.

The Criminal Investigation:

The 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, "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."

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting-3823 S. Maryland Parkway- November 24, 2015

LVMPD's Critical Incident Review Process and Internal Review:

1. The matter involving Officers Kyle Prior, Robert Nord and Donald Sutton was heard by the Critical Incident Review Process/Use of Force Review Board on April 26, 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.

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

1) Communication

While the perimeter was actively working, the patrol sergeant, who was assisting another patrol unit on a traffic stop near the South Point Casino, asked dispatch if it was okay to clear the Code Red (*a tone alert that indicates the radio is designated for emergency radio traffic only*). Dispatch did not check with any units on scene and cleared the channel. Officer Prior got on the radio and asked for another Code Red approximately twenty nine seconds after the first one was cleared.

The patrol sergeant broke a code red on the radio channel to ask dispatch if the code red was still needed at a time when officers were setting up a perimeter to contain McEniry. At the time he had asked Dispatch if the code red could be cleared, the patrol sergeant was not on scene nor was he en route to the scene. Twenty nine seconds after the code red was cleared, Officer Prior had to request another code red when he located McEniry and a foot pursuit took place.

- The Critical Incident Review Team (CIRT) concluded the patrol sergeant violated LVMPD Policy when he broke the code red in order to ask dispatch if the code red could be cleared. It was further determined that the code red policy is outdated and the communications bureau should conduct a review to update the current policy.

2) Officers' Approach

Officer Prior was driving down Katie Avenue after he heard an officer broadcast the Mitsubishi was unoccupied. Officer Prior quickly began to set up a perimeter while the code red was still on the channel. As Officer Prior got to a nearby park, he was approached by an unknown citizen who advised

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting-3823 S. Maryland Parkway- November 24, 2015

Officer Prior he saw McEniry run south over a wall across the street. Officer Prior knew the complex over the wall was the French Oaks apartment complex. Officer Prior broadcast the information for the responding units to shift perimeter spots.

- CIRT concluded Officer Prior's decision to establish a perimeter was to an LVMPD standard.

3) Tactics and Use of Force

Officer Prior still had his ECD in his left hand when the firearm fell from McEniry's waistband. He pulled the ECD back toward his body and drew his firearm with his right hand. He observed McEniry pick up the firearm. Officer Prior was shooting on the move with one hand, closing distance on McEniry.

- CIRT concluded Officer Prior's decision to draw his firearm was within standardized LVMPD tactics, training and policy.

Officer Nord had his firearm drawn as soon as he exited his patrol vehicle. He heard Officer Prior issuing verbal commands. He saw McEniry's hands behind his back and he also gave verbal commands to McEniry. Officer Nord punched his handgun through the bars of the fence with his right hand and had his handheld flashlight in his left hand.

- CIRT concluded Officer Nord's decision to draw his firearm was within standardized LVMPD tactics, training and policy.

Officer Sutton had his firearm drawn as soon as he exited his patrol vehicle. He issued verbal commands to McEniry and observed McEniry's hands behind his back.

- CIRT concluded Officer Sutton's decision to draw his firearm was within standardized LVMPD tactics, training and policy.

Officers Prior, Nord and Sutton's backdrop was a concrete wall.

- CIRT concluded Officers Prior, Nord and Sutton's assessment of backdrop, target identification, and isolation was within standardized LVMPD tactics, training and policy.

In this incident Officers Prior, Nord and Sutton observed a firearm fall from McEniry's waistband. Each officer explained they observed McEniry reach for the firearm.

- CIRT concluded Officers Prior, Nord and Sutton's threat assessment was reasonable.

Office Of Internal Oversight Review
KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT
Officer-Involved Shooting-3823 S. Maryland Parkway- November 24, 2015

4) Supervision (Command and Control)

There was only one patrol sergeant working South Central Area Command the night of this incident. The patrol sergeant was also the first supervisor on scene. In evaluating the supervision (command and control), of this incident, CIRT noted:

1. The patrol sergeant initially called units off from a vehicle pursuit.
2. The patrol sergeant ensured medical attention was provided for those in need.
3. The patrol sergeant ensured the involved officers were separated and placed in a safe and secure environment with a witness monitor.
4. The patrol sergeant obtained the Public Safety Statement (PSS) separately from each officer.
5. The patrol sergeant locked down the scene for investigative units and provided a thorough briefing for responding units.

CIRT concluded the patrol sergeant managed the incident in accordance with LVMPD tactics, training and policy.