

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

**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 March 31, 2016, at approximately 1206 hours, several citizens phoned 9-1-1 to report gunshots coming from 9848 Fast Elk Street. The details of the call stated a black male adult was holding hostages inside the residence and one person had possibly been shot and was lying in the driveway. Officers Lewis and Luna, along with K9 Sergeant Kerns assigned themselves to the call.

Officer Lewis arrived first and approached on foot. When he got to the corner of Fast Elk Street, he observed the suspect, James Simpson, in the middle of the street holding a gun. Officer Lewis believed the firearm in Simpson's hand was a TEC-9. Officer Lewis recognized he was outgunned and returned to his patrol vehicle to wait for Officer Luna. Officer Lewis requested rifle officers, the Air Unit and K9 to be en route to the call.

Officer Luna arrived and deployed his shotgun. Officers Lewis and Luna walked west on Crazy Bull Street in an attempt to make contact with Simpson. When they reached the corner of the street, Simpson was there with the firearm in his hand. Officers Lewis and Luna gave Simpson several verbal commands to drop the firearm and he complied, laying the firearm on the ground approximately 3-4 feet away from where he stood.

Approximately thirty seconds later, Traffic Officer Covert arrived and took a perimeter spot on the north end of Fast Elk Street. When he got to the corner of Fast Elk Street and Black Elk Street, he observed a deceased female lying in the driveway of 9848 Fast Elk Street. Officer Covert realized he was at the target residence. Sergeant Kerns arrived shortly after Officer Covert. Sergeant Kerns parked on the south side of Fast Elk Street, parallel to where Officer Luna stood in the street. Officers Lewis and Luna were communicating with Simpson, attempting to get him to step away from the firearm. The officers spent several minutes attempting to deescalate the situation in an attempt to take Simpson into custody peacefully. Sergeant Kerns exited his vehicle with Nicky, his K9 partner, on a leash. Sergeant Kerns waited for Simpson to turn towards Officers Lewis and Luna. When he

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**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

did, Sergeant Kerns deployed Nicky. Simultaneously, Simpson lunged for his firearm, picked it up and fired one round at Officers Lewis and Luna.

Officer Lewis fired two rounds from his handgun at Simpson and Officer Luna fired two rounds from his shotgun at Simpson. Simpson ran north on Fast Elk Street with Nicky attached to his left hip. Sergeant Kerns ran north paralleling Simpson. While running north on Fast Elk Street, Simpson pointed his firearm at Sergeant Kerns. Sergeant Kerns fired three rounds from his handgun.

Officers Lewis and Luna followed Simpson as he ran north and took cover behind a white GMC Denali parked on the street. Luna observed Simpson point his firearm at Sergeant Kerns, Officer Luna fired two rounds from his shotgun at Simpson, transitioned to his handgun and fired four rounds from his handgun. Sergeant Kerns took cover behind a power box and fired two more rounds at Simpson.

Officer Coovert was at the corner of 9848 Fast Elk Street and saw Simpson running north. Simpson was in front of a blue car and Officer Coovert saw Simpson engage Sergeant Kerns with his firearm. Officer Coovert did not see Officers Lewis and Luna in his backdrop. Officer Coovert fired four rounds from his handgun.

Simpson fell to the ground and officers took Simpson into custody. Simpson was transported to UMC. Simpson died as a result of his injuries several days after he was taken into custody. As a result of the dynamic and fast moving gun battle between Simpson and the officers, LVMPD K9 Nicky sustained a gunshot from friendly fire. K9 Nicky died at the scene.

It was later determined Simpson committed a double homicide at 9848 Fast Elk Street, killing two good Samaritans who attempted to come to the assistance of Simpson's mother during a domestic violence situation.

**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 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:**

The matter involving Officers Lewis, Luna, Coovert and Sergeant Kerns was heard by the Critical Incident Review Process/Use of Force Review Board on January 12, 2017. The Board's finding was

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**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

“Administrative Approval.” The Use of Force Review Board determined the officers’ actions were within policy. The Sheriff approved the Board’s recommendation.

The internal Tactical Review Board concluded Officers Lewis, Luna and Covert along with Sergeant Kerns’ 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**

A dispatch call taker received the initial call from Simpson related to this event. Although the call was brief, Simpson gave information that someone was holding his mom hostage. With this information, the call should have been classified with the highest priority. Instead, the call taker routed the call over to Northwest Area Command as a suspicious person call for service. Ultimately, due to the incorrect call classification, the initial call held for approximately twenty minutes until the first neighbor called to report gunshots fired by Simpson and additional call takers were able to link the calls.

- CIRT and Communication’s subject matter experts concluded the call taker’s actions were not within standardized LVMPD training and policy.

**2) Officers’ Approach**

Officer Lewis was the first officer to arrive on scene. He got to the northeast corner of Crazy Bull Avenue and Fast Elk Street and conducted a quick peek. Officer Lewis saw Simpson standing in the middle of the street holding what he identified as a TEC-9 firearm. Officer Lewis retreated back to his patrol vehicle to formulate a plan. He knew Officer Luna would be arriving momentarily so he broadcasted what he observed via the radio and reiterated his previous request for additional resources, to include a rifle officer and the air unit.

- CIRT concluded Officers Lewis and Luna’s approach was within LVMPD standardized tactics, training and policy.

When Officer Covert made the decision to assist with this event, he announced his arrival to the call over the Northwest Area Command channel. However, as the call progressed, he failed to

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**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

broadcast the following vital information over the Northwest Area Command radio channel: that he was taking up a containment position on the north side of the street and he arrived at the target residence and he discovered a deceased female in the driveway.

- CIRT concluded Officer Covert should have remained on the Northwest Area Command channel to broadcast his position and other vital information for the safety of all officers who were actively involved in the incident and those en route to the incident.

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

As Officer Lewis arrived in the area, he rolled down his window and heard several shots being fired as well as people screaming. As he parked and exited his vehicle, he drew his firearm.

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

Officer Luna heard Officer Lewis broadcast he needed a rifle officer. Officer Luna was not a rifle carrier, however he believed the next best option for him was the shotgun. Officer Luna deployed his shotgun upon arriving on the call.

During the gun battle with Simpson, Officer Luna transitioned from his shotgun to his handgun.

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

Sergeant Kerns did not have his firearm drawn while he verbally engaged Simpson and maintained control over his K9 partner, Nicky. Sergeant Kerns drew his firearm when he observed Simpson pick up his own firearm from the street.

- CIRT concluded Sergeant Kerns' decision to draw his firearm was within standardized LVMPD tactics, training and policy.

Officer Covert, knowing that the call involved an armed suspect, drew his firearm as he ran up to the corner of the target residence at 9848 Fast Elk Street.

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

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

When Officer Lewis fired his first two rounds, he described his backdrop as an empty street without any citizens. When Officer Lewis fired his second volley of rounds, he described his backdrop as the end of Fast Elk Street looking into a desert area.

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

When Officer Luna fired two rounds from his shotgun, he described his backdrop as a clear street and an empty Toyota minivan located in the driveway of 9829 Fast Elk Street. During the next two rounds from his shotgun, he described his backdrop as an empty street. When Officer Luna was behind the Denali and fired four rounds from his handgun, he described his back drop as an empty car.

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

When Sergeant Kerns fired his first three rounds, he described his backdrop as exterior garage doors that were closed, with the living spaces high and elevated from the street. When he fired his next two rounds from the power box, he again described his backdrop as exterior garage doors.

- CIRT concluded Sergeant Kerns' assessment of backdrop, target identification and isolation were within standardized LVMPD tactics, training and policy.

When Officer Covert fired his first two rounds, he described his backdrop as the engine block of a Ford Contour. When he fired his next two rounds, he again described his backdrop as the engine block of a Ford Contour. Officer Covert fired his rounds from a distance of 134.6 feet from where he stood to where Simpson was standing. Although Officer Covert said his backdrop was an engine block, he failed to take into consideration the distance from where he fired and what his margin of error was. Officer Covert knew he had two officers somewhere in his backdrop but he did not know their exact location. By firing his weapon at the time he did, the location and the distance from where he fired and without ensuring other officers were aware of his location, Officer Covert created a potential crossfire situation.

- CIRT concluded Officer Covert's assessment of his target identification was reasonable however, his backdrop and target isolation were not within standardized LVMPD tactics, training and policy.

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

**Officer Lewis' Use of Force**

The first volley of fire from Officer Lewis took place when he recognized Simpson was firing his weapon in the direction of himself and Officer Luna. Officer Lewis returned fire toward the deadly threat presented. The second volley of fire from Officer Lewis took place when he recognized Simpson was pointing his firearm at Sergeant Kerns. Officer Lewis fired his weapon a second time to protect the life of Sergeant Kerns.

**Officer Luna's Use of Force**

The first volley of fire from Officer Luna took place when he recognized Simpson was firing his weapon in the direction of himself and Officer Lewis. Officer Luna returned fire toward the deadly threat presented. The second volley of fire from Officer Luna took place when he recognized Simpson was pointing his firearm at Sergeant Kerns. Officer Luna fired his weapon a second time to protect the life of Sergeant Kerns.

**Sergeant Kerns' Use of Force**

Sergeant Kerns fired his weapon when he recognized that Simpson was aiming his firearm in his direction. Sergeant Kerns fired his weapon to stop the deadly threat pointed in his direction.

**Officer Covert's Use of Force**

Officer Covert fired his weapon when he recognized that Simpson had his firearm pointed in the direction of Sergeant Kerns and was engaging him in gunfire. Officer Covert fired his weapon to stop the deadly threat presented toward Sergeant Kerns.

- CIRT concluded Officers Lewis, Luna, Covert and Sergeant Kerns' use of force was reasonable and in accordance with LVMPD tactics, training and policy.

**Supervision (Command and Control)**

A patrol sergeant was driving to the call while officers were attempting to negotiate with Simpson. The patrol sergeant requested via the radio for K9 and the Air Unit to be notified and en route to the call. He also requested dispatch notify Northeast Area Command officers and the North Las Vegas

**Office Of Internal Oversight Review**  
**KEY CONCLUSIONS, RECOMMENDATIONS AND OUTCOMES OF A CATEGORICAL USE OF FORCE INCIDENT**  
**Officer-Involved Shooting – 9848 Fast Elk Street – March 31, 2016**

Police Department of the call. The patrol sergeant advised arriving officers to set up a perimeter for containment.

- CIRT concluded, the patrol sergeant's request for additional resources and information sharing/communication as a first line supervisor was within standardized LVMPD tactics and training.

The patrol lieutenant arrived as the scene was still dynamic and fluid. The patrol lieutenant met with the patrol sergeant and stated he (lieutenant) would take care of setting up the command post. The patrol lieutenant failed to get a quick briefing from the patrol sergeant regarding what had taken place up to that point. The patrol lieutenant left the crime scene with the intent of establishing the command post, however; the patrol lieutenant had no knowledge of what had taken place at the crime scene. He was unaware the crime scene consisted of a double homicide and an officer involved shooting involving four officers with multiple rounds being fired in a residential area.

The patrol lieutenant notified dispatch of the name and location of the command post, but failed to establish himself as the incident commander. Several minutes later, another patrol sergeant who was working the inner perimeter broadcasted via the radio that he was going to be the incident commander and established a command post. Upon hearing this information, the patrol lieutenant failed to immediately make contact with the patrol sergeant via the radio, telephone or face-to-face and ensure the patrol sergeant was aware the incident command duties were already being handled. Due to the confusion, there were two command post and two staging areas for approximately fifteen minutes prior to the issue being resolved.

- CIRT concluded the patrol lieutenant's failure to arrive on scene and receive a briefing led to confusion and lack of command and control. The patrol lieutenant's response was not within standardized LVMPD training and policy.