

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
258 Madge Lane – April 6, 2018

Purpose

The purpose of this report is to publish key findings, conclusions, and/or recommendations 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 Department performance.

Synopsis of Event

On April 6, 2018, at approximately 0444 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV180406000652. The incident occurred near 258 Madge Lane, Las Vegas, Nevada 89110. This address was located within the LVMPD Northeast Area Command (NEAC); sector beat George 3 (G3).

The incident was an officer-involved shooting (OIS) involving Officers Padilla Mills and Francisco Rivera. Both officers discharged their firearms at suspect Junior Lopez who was armed with a firearm (handgun). Lopez was struck multiple times. He was later pronounced deceased by medical personnel at the hospital.

Prior to the OIS, Officers Mills and Rivera were assigned to an unrelated suspicious-person incident. While they were en route to the call, they observed Lopez driving recklessly. They decided to conduct a vehicle stop prior to arriving on their assigned call.

After initiating the vehicle stop, Lopez exited his vehicle and dropped a small black firearm which landed on the pavement a few feet away from him. Lopez went down to his knees and toward the firearm, as both officers gave him verbal commands to not go toward the gun. Lopez did not comply and reached forward and picked up the handgun.

Lopez pointed the handgun in the direction of Officers Mills and Rivera. Both officers discharged their firearms striking Lopez multiple times.

The Criminal Investigation

LVMPD Force Investigation Team (FIT) conducted the criminal investigation of this incident. FIT's investigation was submitted to the District Attorney's Office for review. The District Attorney's Office determined that, "no criminal prosecution of the officer or officers involved in the referenced case is appropriate."

For additional information related to the investigation of this incident, please refer to LVMPD's FIT Report and the Clark County District Attorney's Legal Analysis Report and/or the Clark County District Attorney's Decision document.

LVMPD Administrative Review and Critical Incident Review Process

It is the policy of this Department to provide both the LVMPD and the community with a thorough review of incidents wherein deadly force was used by Department members. The Critical Incident Review Process (CIRP), includes the participation of citizen board members who reside within the LVMPD jurisdiction, who

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are not personally affiliated with the Department, who are not related to any of its members, and who have not had prior law enforcement experience.

The CIRP is comprised of two (2) related boards whose sole purpose is to conduct comprehensive administrative review of the tactics utilized by involved Department members as well as decision-making, Department policy, training, supervision, and the use of deadly force.

The Use of Force Review Board (UFRB) consists of both commissioned and citizen members. The Critical Incident Review Team (CIRT) presents the facts related to the use of deadly force. The board issues findings regarding the actions of Department members who used, directly ordered, or directly influenced the use of deadly force, whether such force resulted in death or serious injury. The UFRB may choose from one (1) of four (4) findings after hearing the presentation of facts from CIRT. The findings are Administrative Approval, Tactics/Decision-Making, Policy/Training Failure or Administrative Disapproval.

The Tactical Review Board (TRB) reviews CIRT conclusions. The TRB can validate, overturn, or modify the conclusions regarding the actions of Department members.

The matter was heard by the UFRB and TRB on January 31, 2019. Below are the key findings, conclusions, and/or recommendations from the CIRP determined by the UFRB and TRB members and approved by the Sheriff.

Use of Force Review Board

UFRB: Officers Padilla Mills and Francisco Rivera

The Board's finding was Administrative Approval. Administrative Approval is defined as: "objectively reasonable force was used under the circumstances, based on the information available to the officers at the time." This finding acknowledges that the use of force was justified and within LVMPD policy.

Tactical Review Board

Communication

Communication can be verbal or non-verbal. It includes electronic transmission or in-person. A review of these recordings can provide valuable evidence of the circumstances surrounding a particular event.

As Officer Mills broadcast over the radio a vehicle stop on a reckless driver, who was also acting suspicious, a dispatcher assigned a backing unit and placed a "Code Red" on the NEAC radio channel. After shots were fired, a second dispatcher assisted with the incident. Communications supervisors were notified, and appropriate notifications regarding the OIS were made. Information regarding the incident was accurately recorded and updated.

- The administrative review determined all performances by Communications employees were within standardized LVMPD tactics, training, and policy.

After Lopez was stopped by Officers Mills and Rivera for driving recklessly, Officer Mills broadcast that there were suspicious movements being made by Lopez and requested an additional officer. Shortly after, a "Code Red" was requested by Officer Mills, and he updated that Lopez had a gun.

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Officer Mills then broadcast “shots fired” and requested medical for Lopez. Next, Officer Mills broadcast Lopez was still near the gun and was moving toward it. He updated there were unknown female subjects in the car who were screaming.

After shots were fired, Officers Mills and Rivera updated responding units and medical on a safe approach to their location to prevent a crossfire situation. Throughout the incident, Officers Mills and Rivera continually communicated with each other and other officers referencing Lopez’s actions, their roles, and positions.

- The administrative review determined Officers Mills and Rivera’s radio traffic and communication were within standardized LVMPD tactics, training, and policy.

De-escalation

Policing requires that at times an officer must exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of harm. Clearly, not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations based on their decision-making and the tactics they choose to employ. As a strategy to diminish the likelihood and the severity of force, officers will attempt to de-escalate confrontations.

In preparation for the vehicle stop, Officers Mills and Rivera understood their roles. Officer Rivera would be the contact officer while Officer Mills would be cover officer and manage the radio traffic.

- The administrative review determined Officers Mills and Rivera’s pre-planning were within standardized LVMPD tactics, training, and policy.

When the officers initiated the vehicle stop on Lopez, they activated their emergency equipment. Both officers observed Lopez acting suspiciously as he placed his vehicle in park, then in reverse several times. Instead of approaching the vehicle, both officers stayed at the patrol vehicle, and Officer Rivera gave orders for Lopez to lower his windows while Officer Mills provide cover.

- The administrative review determined Officers Mills and Rivera’s approach was within standardized LVMPD tactics, training, and policy.

When Officers Mills and Rivera conducted the vehicle stop on Lopez, Officer Rivera was the contact officer, while Officer Mills was the cover officer. Officer Mills gave the initial radio traffic for the vehicle stop, and Officer Rivera began giving verbal commands to Lopez.

After Lopez produced the handgun, both Officers Mills and Rivera gave verbal commands in an attempt to de-escalate the situation. Lopez refused to comply and reached toward his firearm.

Officer Mills continued to primarily handle the radio traffic while Officer Rivera remained focused on Lopez, who was still a threat.

- The administrative review determined Officers Mills and Rivera’s contact and cover were within standardized LVMPD tactics, training, and policy.

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As Officers Mills and Rivera stopped Lopez's vehicle, they activated the patrol vehicle's side spotlights and overhead takedown lights to provide concealment, or a "wall of light," during the vehicle stop.

Once Lopez exited his vehicle and produced a gun, they utilized the doors of the patrol vehicle and the engine block as cover and concealment. As they continued giving Lopez verbal commands, they communicated and tactically retreated behind the patrol vehicle to provide as much cover and concealment as they could.

- The administrative review determined Officers Mills and Rivera's cover and concealment were within standardized LVMPD tactics, training, and policy.

Use of Deadly Force

It is the policy of this Department that officers hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force. The Department respects the sanctity of every human life, and the application of deadly force is a measure to be employed in the most extreme circumstances where lesser means of force have failed or could not be reasonably considered.

The Department seeks to manage use of force beyond the *Graham v. Connor* (1989) standard and its minimum requirements by establishing further parameters for the application of force and to offer explicit direction to officers. Sound judgment, the appropriate exercise of discretion, and the adherence to Department policy will always be the foundation of officer decision-making in the broad range of possible use of force situations.

Officers will only use a level of force that is objectively reasonable to bring an incident or persons under control and to safely accomplish a lawful purpose. An officer's use of force must balance against the level of resistance exhibited by the subject. The level of force administered by an officer must be carefully controlled and should not be more than objectively reasonable to overcome the physical harm threatened.

In a confrontation, an officer will continuously reassess their response and adjust any use of force accordingly based upon the level of resistance encountered. Failure to reassess each application of force can lead to a violation of law and/or policy. The use of force by an officer must be within Department Policy which may be more restrictive than the U.S. Constitution.

Officers Mills and Rivera both drew their handguns when they observed Lopez exit the vehicle and drop a handgun on the ground, a few feet in front of him. After Lopez exited, he dropped to his knees, moved forward, getting within inches of the gun on the ground. He yelled at officers to shoot him while Officers Mills and Rivera continued pointing their handguns at him, giving him verbal commands to not reach for the gun. Officers Mills and Rivera drew their handguns to provide lethal coverage due to the threat presented by Lopez.

- The administrative review determined Officers Mills and Rivera's drawing of their handguns were within standardized LVMPD tactics, training, and policy.

Officers Mills and Rivera's backdrop consisted of a residential area, the asphalt of the street, and a dirt lot.

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- The administrative review determined Officers Mills and Rivera’s assessment of backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

At the time the officers discharged their firearms, Lopez had pointed his firearm in the direction of Officers Mills and Rivera.

- The administrative review determined Officers Mills and Rivera’s threat assessment was within standardized LVMPD tactics, training, and policy.

Incident Management

Supervisors will possess a thorough knowledge of tactics and ensure that officers under their supervision perform to a standard (in accordance with LVMPD policy and training). The prospect of a favorable outcome is often enhanced when supervisors become involved in the management of the overall response to a potentially violent encounter by coordinating officers’ tactical actions.

Supervisors will acknowledge and respond to incidents in a timely manner when officer use of reportable force is probable. Supervisors will also manage the deployment of resources and equipment. In dynamic and highly-charged incidents, supervisors will provide clear direction and communication to officers regarding their positioning and roles. Upon observing substandard officer approaches or flaws in tactical decisions, the supervisor will promptly act to correct any deficiencies.

After shots fired was broadcast, a sergeant announced they were en route. Prior to Lopez being taken into custody and while still en route, the sergeant told officers to wait for their arrival before they approached Lopez and the unchecked vehicle. A lieutenant responded, became the incident commander, and set up a Command Post (CP). All supervisors worked together and managed the scene of the OIS, CP, and scene at Sunrise Hospital.

- The administrative review determined the supervisors’ response to this incident and their management of the OIS and Command Post locations were within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

Medical was immediately requested after the shots were fired by officers. After officers approached and took Lopez into custody, Officer Mills immediately went to the ambulance on scene and told them it was safe to provide aid to him.

An officer rode with the paramedics to Sunrise Hospital and assisted in rendering CPR to Lopez. The officer assisted by administering chest compressions and giving Lopez rescue breaths using a bag.

- The administrative review determined the medical response in this incident was within standardized LVMPD tactics, training and policy.

Prior to their vehicle stop on Lopez, Officers Mills and Rivera were assigned to an unrelated suspicious-person incident. As they began responding to this event call, they did not activate their BWCs.

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While they were en route to the call, they observed Lopez driving recklessly and decided to conduct a vehicle stop prior to arriving on their assigned call. After initiating the vehicle stop on Lopez' vehicle, Officers Mills and Rivera both activated their BWCs and captured video of the OIS.

- The administrative review determined Officers Mills and Rivera's activation of their BWCs after being assigned to the suspicious person call was not within standardized LVMPD tactics, training, and policy.