

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
Owens Avenue & Radwick Drive – June 14, 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 June 14, 2018, at approximately 2200 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV180614000476. The incident occurred near Owens Avenue and Radwick Drive, Las Vegas, Nevada 89110. This address was located within the LVMPD Northeast Area Command (NEAC); sector beat Frank 2 (F2).

The incident was an officer-involved shooting (OIS) involving Officers Joseph Aguilos, Jordan Anderson, Jeremiah Beason, Anthony Gariano, Craig McIntosh, Frank Rycraft, and Robert Stephenson. The officers discharged their firearms at suspect Terrence White, Jr., who was armed with a vehicle and firearm (rifle). White was shot multiple times and was pronounced deceased on-scene by medical units.

Prior to the OIS, White's vehicle, a black Dodge Durango, fit the description of a stolen vehicle incident. White and the vehicle he occupied also fit the description of a suspect who was involved in several armed robberies within NEAC. The suspect during those robberies was believed to be armed with a rifle.

At the time the officers discharged their firearms, White had driven his vehicle directly toward officers and their marked patrol vehicles. White drove his vehicle into an LVMPD marked patrol sport utility vehicle (SUV). The force of White's vehicle caused the deployment of the marked patrol SUV's air bags.

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 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.

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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 February 28, 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 Joseph Aguilos, Jordan Anderson, Jeremiah Beason, Anthony Gariano, Craig McIntosh, Frank Rycraft and Robert Stephenson

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 within the Department 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.

The information sharing for this incident consisted of NEAC patrol officers, NEAC patrol detectives, NEAC FLEX team officers, communications, and medical personnel. Officers at NEAC were aware of the robbery series and the stolen Dodge Durango. Information about approaching the suspect and perimeter locations was communicated to responding officers.

- The administrative review determined the information sharing during this incident was within standardized LVMPD tactics, training, and policy.

The radio traffic to the computer aided dispatch (CAD) document was managed by the dispatcher. The dispatcher properly broadcasted over the radio and documented CAD information from LVMPD officers and supervisors who advised and/or requested throughout the incident. The dispatcher worked as the NEAC dispatcher before, during and after the OIS.

- The administrative review determined the dispatcher's management and documentation of the OIS was within standardized LVMPD tactics, training, and policy.

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Owens Avenue & Radwick Drive – June 14, 2018

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.

While en route to establish the command post, a lieutenant directed officers on the scene to deploy Stop Sticks under White's Durango as a pre-pursuit tactic.

- The administrative review determined the lieutenant's direction to pre-deploy Stop Sticks was within standardized LVMPD tactics, training, and policy.

As Officers Aguilos and Gariano made initial contact with the Durango, they approached it from different sides checking the passenger compartment before approaching the driver's side. When Officer Aguilos observed the rifle in the passenger seat he communicated it to Officer Gariano. Both officers retreated to a position of advantage, communicated with dispatch, and gathered resources.

- The administrative review determined Officers Aguilos and Gariano's approach during this incident was within standardized LVMPD tactics, training, and policy.

The sergeant on scene took several actions to gain and maintain control of the incident. He directed officers to put on their helmets and tactical vests, assigned roles and responsibilities to the Immediate Action Team, designated Officer Anderson to give verbal command, communicated the plan to officers and a lieutenant, established a medical plan, directed officers to move patrol vehicles to establish distance from White's Durango, directed officers to use cover, and coordinated with a K-9 officer.

- The administrative review determined the sergeant's application of the principles of contact and cover to this incident was 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

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
Owens Avenue & Radwick Drive – June 14, 2018

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 were involved in containment positions of White, who committed multiple armed robberies with the use of a rifle. Officers were aware that White was asleep in the Durango and had a rifle next to him. Officers maintained containment behind White's Durango for approximately thirty minutes.

- The administrative review determined Officers Aguilos, Anderson, Beason, Gariano, McIntosh, Rycraft and Stephenson's exhibiting of their firearms were within standardized LVMPD tactics, training, and policy.

Officers Anderson, Beason, Gariano, McIntosh, Rycraft and Stephenson's backdrop was a sloped/inclining roadway, an unoccupied marked patrol vehicle and/or an empty park/field.

- The administrative review determined Officers Anderson, Beason, Gariano, McIntosh, Rycraft and Stephenson's assessment of backdrop, target identification, and isolation was within standardized LVMPD tactics, training, and policy.

Officer Beason was positioned between Officer Aguilos and his target at the time Officer Aguilos discharged his weapon.

- The administrative review determined Officer Aguilos fired when Officer Beason was in front of his muzzle. Officer Aguilos' assessment of backdrop, target identification and isolation was not within standardized LVMPD tactics, training, and policy.

At the time the officers discharged their firearms, White had driven his vehicle directly toward the officers and their marked patrol vehicles. The officers also knew White was the suspect of several armed robberies and that he was currently armed with a rifle.

- The administrative review determined Officers Aguilos, Anderson, Beason, Gariano, McIntosh, Rycraft and Stephenson'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

Office of Internal Oversight Review
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Owens Avenue & Radwick Drive – June 14, 2018

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.

The lieutenant established a Command Post while the sergeants managed the inner perimeter and staging of medical personnel. K-9 and Air Support were requested, and SWAT was advised of the unfolding situation.

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

Additional Key Findings, Conclusions, and/or Recommendations

During this incident supervisors gave special consideration to the potential hazards during this incident. They took steps to ensure medical would arrive in a timely manner. The supervisors coordinated the staging of medical prior to shots being fired.

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

The countdown of Officer McIntosh's firearm showed he had an extra round in two of his magazines.

- The administrative review determined Officer McIntosh had one extra round in each of two spare magazines during the OIS which was not within standardized LVMPD tactics, training, and policy.

A review and revision of the LVMPD vehicle pursuit policy 6/014.00 specifically regarding the training and use of the piranha deflation device and the use of the stop stick tire deflation device on a stationary vehicle was recommended.