

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1776 East Ogden Avenue – July 11, 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 July 11, 2018, at approximately 0935 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV180711000889. The incident occurred near 1776 East Ogden Avenue, Las Vegas, Nevada 89101. This address was located within the LVMPD Downtown Area Command (DTAC); sector beat Baker 4 (B4).

The incident was an officer-involved shooting (OIS). Officers William Umana and Paul Solomon were the involved officers who discharged their firearms at suspects Fidel Miranda and Rene Nunez, who were armed with numerous firearms. Miranda was struck multiple times and later pronounced deceased, on-scene by medical units. Nunez suffered a single non-life threatening gunshot wound.

Prior to the OIS, Officer Umana, working as a marked patrol unit, located a stolen 2002 black Ford Expedition which was involved in a homicide earlier in the day. The Ford Expedition was occupied by suspects Nunez and Miranda. Officer Umana attempted to stop the vehicle at the intersection of Constantine Avenue and Cooper Circle. The vehicle immediately sped away and Officer Umana initiated a vehicle pursuit.

As Officer Umana pursued the Ford Expedition, he broadcast over the radio the driver, Nunez, had a firearm. Miranda was the passenger in the vehicle. Nunez and Miranda shot at Officer Umana and the officer broadcast he was being shot at by the suspects. The pursuit continued south on Mojave Road as Miranda fired multiple times from the vehicle at Officer Umana. The Ford Expedition entered the intersection of Bonanza Road and Mojave Road, where another uniformed patrol officer set up to assist. As the Ford Explorer passed this officer, Nunez pointed a firearm at him.

Throughout the pursuit, numerous officers and supervisors were involved to contain and control the suspects in an attempt to safely take them into custody. Throughout the duration of the pursuit an officer maintained the secondary unit position and updated progress of the pursuit over the radio.

The pursuit continued west on Charleston Boulevard from Mojave Road, with Nunez driving into oncoming traffic. As the suspects reached the intersection of Charleston Boulevard and Eastern Avenue, Nunez turned north on Eastern Avenue. Miranda leaned his entire upper body out of the passenger window to face pursuing officers and fired his weapon at them.

As they proceeded north on Eastern Avenue, a sergeant joined the pursuit and attempted a precision intervention technique (PIT) on the Ford Expedition attempting to end the incident as safely as possible. At the same time, Miranda fired at the sergeant, striking his patrol vehicle multiple times. The sergeant

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swerved to avoid being hit by gunfire driving over a median which flattened the vehicle's tires. Nunez and Miranda continued to flee. As they fled, Miranda fired multiple rounds at Officer Umana and other officers.

As the suspects' vehicle traveled westbound on East Ogden Avenue approaching North 21st Street, Officer Umana fired his handgun for the first time through his front windshield. Approximately nine seconds later, as the suspects' vehicle traveled westbound on East Ogden near Cervantes Street, Officer Umana fired his handgun a second time again through his front windshield. Approximately ten seconds later, when the suspects' vehicle was approaching Hollingsworth Elementary School, located at 1776 East Ogden Avenue, Officer Umana fired his handgun a third time from within his patrol vehicle, through the open driver side window.

The suspects' vehicle slowed down and moved toward the north wall of the school. The driver, Nunez, exited the vehicle as it was still moving and ran up the stairs of the elementary school to doors which were locked. He proceeded to lay down on the ground. Simultaneously, Officer Umana exited his vehicle and fired a fourth time at Miranda, who had moved from the passenger seat to the driver seat and was reversing the vehicle back toward Officer Umana's patrol vehicle.

The suspect's vehicle came to a stop after impacting the north wall of Hollingsworth Elementary. At this time, Officer Paul Solomon arrived, came around the passenger side of Officer Umana's patrol vehicle, and fired one round from his LVMPD issued shotgun at Miranda, who was still inside the Ford Expedition. Miranda appeared to be moving for several minutes as arriving officers shouted commands for him to exit the vehicle.

K9, additional officers, and sergeants arrived. A patrol sergeant formed an Immediate Action Team (IAT) with K9 and used a shield to move up and take Nunez into custody. The K9 officer deployed his canine up the stairs, who located Nunez by a door, and bit him. Nunez was taken into custody and transported to University Medical Center (UMC) Trauma for medical treatment. Nunez suffered a gunshot wound and several dog bites to his head and arm.

Once Nunez was taken into custody, the sergeant used the IAT and shield to remove Miranda from the vehicle. Miranda was handcuffed and medical attention was immediately requested. Medical personnel arrived and pronounced Miranda deceased at the scene.

The Criminal Investigation

LVMPD Force Investigation Team (FIT) conducted the criminal investigation of this incident. Their investigation was submitted to the District Attorney's Office for review. The District Attorney's Office determined that, "no criminal prosecution of the officer(s) involved in the above-referenced event number is appropriate." For additional information related to the investigation of this incident, please refer to LVMPD's FIT Report.

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 February 14, 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 William Umana and Paul Solomon

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 officer at the time. This finding acknowledges that the use of force was justified and within 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.

During the underlying event of the homicide involving a shooting victim at the carwash, information on the suspects and vehicle description was provided to all area command dispatchers and broadcast to all units after patrol responded.

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

When officers located the suspects' vehicle, initiated the vehicle pursuit, and reported shots fired, it was done over two radio channels. The dispatchers quickly realized the shots fired broadcast over both radio channels were related. Both dispatchers worked together and eventually got all units over to the DTAC channel.

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- The administrative review determined the dispatchers performed within standardized LVMPD tactics, training, and policy.

Just prior to the pursuit, a sergeant acknowledged the call, approved the pursuit, and authorized three units to be involved. When Officer Umana initiated the pursuit, he transmitted radio traffic on the DTAC radio channel. Shortly after being shot at, Officer Umana's vehicle radio got shut off. He switched over to his portable radio, which was set on the NEAC radio channel, and continued to give updates.

An arriving officer joined the pursuit, assumed the secondary position, and provided updates over the DTAC radio channel. Both officers continued to give updates to dispatch and other units regarding the pursuit and suspects actions. Additional officers maintained radio discipline to keep the radio channel clear for the officers in the pursuit.

- The administrative review determined the officers involved in this incident performed 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.

As Officer Umana arrived in the area, he located the vehicle, got behind it, and was waiting for another marked patrol unit to initiate a vehicle stop.

- The administrative review determined Officer Umana's preplanning was within standardized LVMPD tactics, training, and policy.

Officers located a vehicle with suspects from a shooting that occurred earlier in the morning. A sergeant was advised of the call and was assigned. The sergeant requested additional units respond and advised units to pursue if the vehicle fled.

Officer Umana initiated a vehicle pursuit and provided vital information for other officers. Another officer joined in the pursuit and advised Officer Umana he would give out the radio traffic. As the pursuit continued, Officer Umana was the primary unit and the other officer was the secondary unit. Officer Umana and the other officer gave updated radio traffic over the NEAC and DTAC radio channels, respectively.

- The administrative review determined Officer Umana and another officer's involvement in the pursuit was within standardized LVMPD tactics, training, and policy.

When the pursuit was initiated, several units were assigned and responded to the area to assist. The pursuit traveled approximately four miles within the DTAC. When officers arrived, they set up containment on the east and west side of the suspect vehicle. Officers recognized several crossfire situations and adjusted.

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- The administrative review determined the officers' approach to the scene was within standardized LVMPD tactics, training, and policy.

As the pursuit ended, an officer arrived east of the suspect vehicle. He exited his patrol vehicle and issued verbal commands to Miranda, who was still located inside the suspect vehicle. Additional officers arrived and took positions to cover as they attempted to take the suspects into custody.

- The administrative review determined the officers' use of contact and cover was within standardized LVMPD tactics, training, and policy.

An officer moved to the north of the patrol vehicles on the sidewalk without any cover to address Miranda in the suspect vehicle. Another officer arrived at the scene and took a position on the sidewalk without any cover. A sergeant responded to the incident and remained in an area without cover prior to moving around the scene to manage the officers in the area.

- The administrative review determined two officers and a sergeant's use of cover and concealment were not 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.

During this incident, numerous officers drew their firearms. The following was known and related to officers drawing their firearms: Officers were in a pursuit involving two suspects who had committed a violent

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person crime earlier in the day; The suspects discharged their firearms multiple times at officers during the vehicle pursuit.

- The administrative review determined the officers drawing of their firearms was within standardized LVMPD tactics, training, and policy.

During Officer Umana's first and second volleys, his backdrop was the road in front of the suspect's vehicle, clear of any pedestrian or vehicle traffic. During the third volley, his backdrop was parked cars and no pedestrians in the area. During the fourth volley, his backdrop was the suspects' vehicle and a cinder block wall that surrounded the school.

When Officer Solomon used deadly force, his backdrop was a block wall behind Miranda.

- The administrative review determined Officers Umana and Solomon's assessment of their backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

Officer Umana was involved in a pursuit with two suspects who had committed a violent person crime earlier in the day. As the suspects fled in their vehicle, Miranda fired multiple rounds toward Officer Umana and other officers. This information was broadcast over two radio channels. When Officer Solomon approached the suspect vehicle, Umana was engaged in firing at Miranda.

- The administrative review determined Officers Umana and Solomon'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.

In evaluating the supervision of this incident, a sergeant immediately assigned himself to the call and gave clear direction to units to pursue the suspects' vehicle. Additionally, he authorized three units to be involved in the pursuit. Another sergeant heard the pursuit and responded. The sergeant took control of the termination point of the pursuit. Both sergeants worked together to get the suspects into custody and contain the scene.

- The administrative review determined two sergeants performed within standardized LVMPD tactics, training, and policy.

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Additional Key Findings, Conclusions and/or Recommendations

Medical was requested after the shots were fired and responded to the scene. Medical personnel confirmed Miranda was deceased at the scene. Nunez was transported to UMC Trauma with a gunshot to the ear and multiple lacerations.

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

During this incident, two sergeants did not activate their body worn camera.

- The administrative review determined two sergeants not activating body worn camera were not within standardized LVMPD tactics, training, and policy.