

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
2200 West Bonanza Road – August 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 August 6, 2018, at approximately 1256 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV180806002119. The incident occurred near 2200 West Bonanza Road, Las Vegas, Nevada 89106. This address was located within the LVMPD Bolden Area Command (BAC); sector beat William 4 (W4).

The incident was an officer-involved shooting (OIS). Officer David Stockton was the involved officer who discharged his firearm at suspect Spurgeon Daniels, who was armed with a knife. Daniels was struck multiple times and later pronounced deceased at the hospital.

Prior to the OIS, Officer Stockton, along with three additional patrol officers and one sergeant from BAC, were dispatched to a suicidal subject call. The person reporting (PR) requested a welfare check on Daniels, due to water coming from his apartment into neighboring units. The PR advised the call-taker that Daniels had been running around the complex naked and made comments of wanting to hurt himself. Other details provided by the PR were that Daniels had ripped the lock off his front door and barricaded himself in his apartment with furniture.

An officer arrived, contacted the PR, and attempted to contact Daniels by knocking on his door. Daniels did not answer. The officer broadcast this information and his intent to wait for additional officers. As officers arrived, one deployed a low-lethal shotgun which was broadcast over the radio. This was acknowledged by a sergeant who was already assigned and in route to the call.

With the sergeant and officers arrived, they could hear Daniels, but he still would not answer the door. An officer was able to push open the door. The apartment was in disarray and they observed Daniels standing behind the kitchen counter. Daniels was armed with a knife in his right hand. As he spoke to the officers, Daniels moved toward them holding the knife.

Because of the confined space, the sergeant advised they were too close to use the low-lethal shotgun; therefore, Officer Stockton went to deploy his Electronic Control Device (ECD). Daniels was informed to drop the knife or officers would use the ECD on him and that it would hurt. Daniels refused to drop the knife and stated he had nothing in his hands. At this time, Officer Stockton attempted to deploy his ECD, but it malfunctioned. The sergeant gave Officer Stockton his ECD to use and he deployed it. Daniels reacted slightly by slumping over a table, but he was not incapacitated and continued toward officers.

Officers began to back away from the front of Daniels' apartment. Daniels closed the distance on them and swung the knife, cutting an officer on his left hand. As officers backed away, Daniels exited the apartment

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still armed with the knife. The officer who was cut became trapped in the apartment as he tried to move away from Daniels while he swung the knife.

As Daniels stood in front of his apartment, officers on the balcony recognized the cut officer was still inside. Another officer deployed his ECD, striking Daniels, but again it was ineffective. Daniels turned toward and aggressively charged Officer Stockton, with the knife in his hand. Prior to this, Officer Stockton had transitioned from the ECD to his firearm. As Daniels closed the distance on Officer Stockton, he discharged his weapon at Daniels, striking him. Daniels fell to the ground and officers immediately took him into custody. Once Daniels was placed in handcuffs, officers moved him to his side to assist in his breathing and requested medical.

Upon the arrival of medical personnel, Daniels was transported to the hospital where he was pronounced deceased.

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 or officers involved in the referenced case was 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 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.

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.

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The matter was heard by the UFRB and TRB on March 7, 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: Officer David Stockton

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.

A review of computer aided dispatch (CAD) showed the call-takers entered the appropriate information as they received it and accurately tracked information. Additionally, the dispatcher broadcasted the information, including information from previous events, to the patrol officers assigned to the call.

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

Regarding radio traffic conducted during the incident, officers immediately broadcasted clear information on Daniels being armed with a knife and his noncompliance. Additional radio traffic was kept to a minimum and information provided was vital and necessary.

- The administrative review determined all radio traffic was 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.

An officer met with management outside Daniels' apartment based on information the apartment was being flooded and Daniels' had possibly committed suicide. The officer directed management to move away from the apartment while gathering information. The officer initially attempted to contact Daniels but was unsuccessful. The officer then made the decision to wait for an additional unit before making a second attempt.

- The administrative review determined the officer's approach was within standardized LVMPD tactics, training, and policy.

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Officer Stockton preplanned while in route to the call. He acknowledged the necessity of a low lethal option and instructed another officer to deploy the low lethal shotgun.

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

The sergeant and Officer Stockton entered the apartment to check the welfare of Daniels, due to reports of a possible suicide and the flooding of the apartment. The apartment was small and had little to no room for movement due to its disarray. Officers did not have cover or concealment while engaging Daniels but had no prior information Daniels was armed with a knife.

- The administrative review determined the sergeant and Officer Stockton's cover and concealment were within standardized LVMPD tactics, training, and policy.

Daniels concealed his right hand and refused to comply with lawful orders, including to drop the knife and show both his hands. Officer Stockton deployed the ECD, to use a less than lethal option to avoid a deadly force encounter.

- The administrative review determined Officer Stockton's deployment of the ECD was within standardized LVMPD tactics, training, and policy.

Daniels had just attacked officers with a knife as he exited his apartment and stood in the doorway holding the knife in his right hand. An officer deployed his ECD to use a less than lethal option to avoid a deadly force encounter.

- The administrative review determined an officer's deployment of the ECD 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

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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.

When Officer Stockton drew his firearm, the following was known: Daniels was potentially suicidal, his apartment was flooded and in disarray, Daniels was armed with a knife and attacked officers; officers deployed the ECD twice against Daniels but they were ineffective.

- The administrative review determined Officer Stockton’s decision to draw his firearm was within standardized LVMPD tactics, training, and policy.

When Officer Stockton fired two rounds at Daniels, his firearm was angled to a position that did not put other officers on scene in a crossfire situation.

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

When deadly force was used, Daniels was in possession of a knife, aggressively moved toward Officer Stockton closing the distance, and moments before had attacked officers with the knife. Additionally, less lethal options to deescalate the situation had been unsuccessfully attempted. Daniels then charged at Officer Stockton with the knife in his hand.

- The administrative review determined Officer Stockton’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.

All supervisors worked together and managed the scene of the OIS. Additionally, the command post was established, and a sergeant obtained the public safety statement.

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- The administrative review determined the supervisors' response to the 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

Prior to the arrival of medical personnel, Daniels was placed on his side to make it easier for him to breathe.

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

During the countdown of Officer Stockton's firearm and magazines, it was learned he had 16 rounds of ammunition loaded into a 15 round capacity magazine.

- The administrative review determined Officer Stockton's ammunition loading was not within standardized LVMPD tactics, training, and policy.

Officer Stockton, another officer, and the sergeant failed to inspect and conduct a daily spark check of their ECDs to ensure they were functioning properly.

- The administrative review determined Officer Stockton, another officer, and the sergeant were not within standardized LVMPD tactics, training, and policy regarding their ECDs.