

**Office of Internal Oversight Review**  
**Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal**  
**South Rainbow Boulevard and West Gary Avenue – October 10, 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 October 10, 2018, at approximately 0755 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV181000070723. The incident occurred near South Rainbow Boulevard and West Gary Avenue, Las Vegas, Nevada 89178. This address was located within the LVMPD Enterprise Area Command (EAC); sector beat Ocean 4 (O4).

The incident was an officer-involved shooting (OIS) and LVMPD Traffic Officers Chad Betts and Kenneth Pilette were the involved officers who discharged their firearms at suspect Kenneth Busse Jr., who was armed with a firearm (handgun). Busse Jr. was struck multiple times and was later pronounced deceased on scene by medical personnel.

Prior to the OIS, at approximately 0712 hours, LVMPD received a call reference a three-vehicle traffic accident in the area of South Rainbow Boulevard and West Gary Avenue. Details of the call indicated vehicles were stopped behind a school bus at the railroad tracks located on South Rainbow Boulevard, just south of West Gary Avenue. A Nissan Frontier, driven by Busse Jr., rear-ended a Pontiac G6. The Pontiac was then forced into a Kia Soul. LVMPD officers and medical personnel were notified and responded to the scene.

Traffic Officers Betts and Pilette were assigned to the call. Upon their arrival, the officers contacted the parties involved. During the investigation, two of the involved citizens advised Officers Betts and Pilette they believed Busse Jr. was possibly impaired due to strange behavior prior to the officers' arrival.

While Officer Pilette worked on the accident report, Officer Betts approached Busse Jr., who was standing to the rear of his truck. Officer Betts asked Busse Jr. several times if he would complete field sobriety tests (FST) and each time Busse Jr. declined. Because he refused the FST, Officer Betts instructed Busse Jr. to place his hands behind his back, but Busse Jr. refused to comply with Officer Betts' commands which were given numerous times.

Officer Betts informed Busse Jr. he was being arrested for driving under the influence. Busse Jr. argued with Officer Betts, tossed his keys and water bottle into the bed of his truck, and walked away from Officers Betts and toward the desert area. Officer Betts advised Officer Pilette before following Busse Jr.

Busse Jr. jogged toward a small bush where he retrieved a semiautomatic handgun and racked the slide. Officer Betts retreated toward Busse Jr.'s truck for cover. Busse Jr. raised his firearm in Officer Betts' direction, at which time Officer Pilette drew his firearm and fired at Busse Jr. as he exchanged gunfire with him. Simultaneously, Officer Betts drew his firearm and fired at Busse Jr., striking him twice in the chest

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area. Busse Jr. fell to the ground. Officers Betts and Pilette approached Busse Jr., secured him in handcuffs, and immediately requested medical for Busse Jr.

Prior to the arrival of medical personnel, an officer arrived and parked his marked patrol vehicle near Busse Jr. After exiting his vehicle, the officer monitored Busse Jr., checking for his pulse multiple times. As medical personnel arrived, they treated and evaluated Busse Jr. It was determined, at the scene, Busse Jr. was 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 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.

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 May 2, 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.

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## **Use of Force Review Board**

### **UFRB: Officer Chad Betts and Kenneth Pilette**

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 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 was conducted of the computer aided dispatch (CAD) of all involved call-takers who documented information correctly and updated CAD in a timely manner to keep responding officers informed. The dispatcher remained calm and provided information to responding officers to assist in locating the scene.

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

All radio traffic from the event was reviewed. Officers Betts and Pilette provided accurate radio traffic in a timely manner. Officer Pilette, once safe to do so, notified the dispatcher of shots fired and continued to provide updates on Busse Jr. and his medical needs.

- The administrative review concluded Officers Betts and Pilette'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.

Officers Betts and Pilette knew what their respective roles would be during the traffic accident involving Busse Jr. Officer Betts was to handle the report, citation, or arrest. Officer Pilette was to gather involved citizens' information and input the information into the computer system.

- The administrative review concluded Officers Betts and Pilette's preplanning for the initial traffic accident was within standardized LVMPD tactics, training, and policy.

Officers Betts and Pilette arrived on the scene of the accident and pulled to the shoulder of the road. Also, Officers Betts and Pilette communicated with each other to take Busse Jr. into custody.

- The administrative review determined Officers Betts and Pilette's approach was within standardized LVMPD tactics, training, and policy.

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Officers Betts and Pilette communicated their plan to take Busse Jr. into custody. Officers maintained their roles and responsibility of contact and cover while moving toward Busse Jr. to take him into custody.

- The administrative review determined for the principles of contact and cover, Officers Betts and Pilette created a plan to take Busse Jr. into custody, along with assigning roles to each other. Officers Betts and Pilette performed within standardized LVMPD tactics, training, and policy.

Officer Pilette engaged and discharged his firearm at Busse Jr., and then Officer Pilette ran to cover when Busse Jr. began firing at him.

- The administrative review determined for the principle of cover and concealment, Officer Pilette's performance was within standardized LVMPD tactics, training, and policy.

Officer Betts observed Busse Jr. with a firearm and ran to a position of cover. While running to cover Officer Betts exposed his back to Busse Jr., who was a known threat at the time.

- The administrative review determined regarding cover and concealment for Officer Betts, given the totality of the circumstances, Officer Betts' actions were within standardized LVMPD tactics, training, and policy.

An officer arrived on scene and drove his patrol vehicle through the scene of the OIS, contaminating it.

- The administrative review determined the officer did not perform with 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

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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.

Officer Pilette drew his firearm from his holster using his right hand as Busse Jr., who had a firearm in his hand, stood up from behind the bush. Officer Betts drew his firearm when he was at a position of cover and saw Busse Jr. fire a round at Officer Pilette.

- The administrative review determined Officers Betts and Pilette's drawing of their firearms was within standardized LVMPD tactics, training, and policy.

When Officers Betts and Pilette discharged their firearms, their backdrop was a large desert area.

- The administrative review determined Officers Betts and Pilette's assessment of backdrop, target identification, and isolation was within standardized LVMPD tactics, training, and policy.

At the time Officer Betts used deadly force, Busse Jr. had pointed a firearm at Officer Pilette.

- The administrative review determined Officer Betts' threat assessment was within standardized LVMPD tactics, training, and policy.

At the time Officer Pilette used deadly force, Busse Jr. had a firearm in his right hand and was pointing it at Officer Betts.

- The administrative review determined Officer Pilette'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, all supervisors worked together to manage the scene.

- The administrative review determined supervisors managed the incident within standardized LVMPD tactics, training, and policy.

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**Additional Key Findings, Conclusions, and/or Recommendations**

Immediately following the OIS, Officer Pilette requested medical personnel respond to the scene, and confirmed several times before their arrival that they had been requested.

After placing Busse Jr. in handcuffs, Officers Betts and Pilette rolled Busse Jr. onto his back. Prior to the arrival of medical personnel, officers monitored Busse Jr. by checking for his pulse multiple times. When medical personnel arrived, it was determined Busse Jr. was deceased.

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