

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5436 Tinker Toy Avenue – October 27, 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 27, 2018, at approximately 0039 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV181000147031. The incident occurred near 5436 Tinker Toy Avenue, Las Vegas, Nevada 89139. This address was located within the LVMPD Enterprise Area Command (EAC); sector beat Ocean 1 (O1).

The incident was an officer-involved shooting (OIS). Sergeant Buford Kenton and Officer Cameran Gunn were the involved officers who discharged their firearms at suspect Lloyd Napouk, who was armed with a machete. Napouk was struck multiple times and later pronounced deceased on scene by medical units.

Prior to the OIS, officers responded to the 5400 block of Floating Flower Avenue reference a male pointing a machete at vehicles and was approaching residences. The person reporting (PR) advised the call-taker the male, later identified Napouk, was armed with a machete and possibly trying to break into a neighbor's house.

Sergeant Kenton and Officer Gunn arrived and located Napouk in front of 5436 Tinker Toy Avenue. Officers issued numerous verbal commands for Napouk to drop the weapon. Napouk did not comply with the commands and continuously pointed the machete at different houses and waved it in the air. Sergeant Kenton and Officer Gunn backed away from Napouk, as he approached them, and utilized their patrol vehicle as a barrier. For approximately five minutes, Sergeant Kenton and Officer Gunn attempted to get Napouk to comply and issued him verbal commands to drop the weapon. Napouk did not comply, and at one point, he told the officers they would have to shoot him.

As the sergeant and officer continued trying to get Napouk to comply, he advanced again still armed with the machete. Sergeant Kenton and Officer Gunn both discharged their firearms at Napouk striking him and causing him to fall to the ground. Shortly after, Napouk was taken into custody.

Medical was requested but prior to their arrival, officers conducted Cardiopulmonary Resuscitation (CPR) on Napouk. Upon the arrival of medical personnel, Napouk was pronounced deceased on 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 or officers involved in the referenced case is appropriate."

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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 March 4, 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: Sergeant Buford Kenton and Officer Carmeran Gunn

The Board's finding was Tactics/Decision-Making. Tactics/Decision-Making is defined as "objectively reasonable force was used based on the information available to the Department member at the time. However, it acknowledges even though the use of deadly force was within policy, the actions of the Department member worked to limit alternatives that may have otherwise been available to the Department member. A different approach or overall response by a Department member may have lessened the need for the Department member to employ deadly force and potentially changed the outcome of the incident."

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.

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Communications properly broadcast and documented information in the computer aided dispatch (CAD) document from officers and supervisors, who advised and/or requested information throughout the incident.

- The administrative review determined the LVMPD Communications Bureau all worked together as a team to handle the incident and 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.

Prior to and upon their arrival, before making contact with Napouk, Sergeant Kenton and Officer Gunn did not preplan before they approached and contacted Napouk.

- The administrative review determined Sergeant Kenton's and Officer Gunn's preplanning was not within standardized LVMPD tactics, training, and policy.

Sergeant Kenton and Officer Gunn drove slowly through the neighborhood looking for Napouk. Napouk appeared suddenly from the middle of two houses and officers used their vehicles as barriers.

- The administrative review determined Sergeant Kenton's and Officer Gunn's approach was within standardized LVMPD tactics, training, and policy.

A supervisor on scene failed to advise Sergeant Kenton he had the low lethal shotgun and was approaching Napouk.

- The administrative review determined the supervisor's approach was not within standardized LVMPD tactics, training, and policy.

Sergeant Kenton and Officer Gunn utilized their vehicles as a barrier to contact Napouk. Sergeant Kenton was the contact officer and Officer Gunn assumed the role of cover officer.

- The administrative review determined Sergeant Kenton's and Officer Gunn's principles of contact and cover were within standardized LVMPD tactics, training, and policy.

Sergeant Kenton and Officer Gunn continually adjusted their position to maintain a position of cover using their vehicles as a barrier.

- The administrative review determined Sergeant Kenton's and Officer Gunn's principles of cover and concealment were within standardized LVMPD tactics, training, and policy.

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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.

Sergeant Kenton and Officer Gunn drew their firearms, when contacting Napouk who was holding a machete in his hand.

- The administrative review determined Sergeant Kenton's and Officer Gunn's deployment of their handguns was within standardized LVMPD tactics, training, and policy.

At the time Officer Gunn discharged his weapon, his patrol vehicle was his backdrop.

- The administrative review determined Officer Gunn's target identification, isolation, and backdrop were within standardized LVMPD tactics, training, and policy.

At the time Sergeant Kenton discharged his weapon, his backdrop was a garage door.

- The administrative review determined Sergeant Kenton's target identification, isolation, and backdrop were within standardized LVMPD tactics, training, and policy.

When Sergeant Kenton and Officer Gunn discharged their firearms, Napouk was holding a machete and advancing toward them, closing the distance.

- The administrative review determined Sergeant Kenton's and Officer Gunn's threat assessment was within standardized LVMPD tactics, training, and policy.

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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.

Sergeant Kenton heard the call being broadcast and Officer Gunn was the only officer assigned. Sergeant Kenton assigned himself to the call and began asking for additional resources. Sergeant Kenton requested the next available unit to the scene deploy the low lethal shotgun.

- The administrative review determined Sergeant Kenton's command and control was within standardized LVMPD tactics, training, and policy.

The second supervisor to arrive failed to advise arriving officers on how to approach the scene. He did not make any attempts to get additional resources to the scene and stated his role was to set up containment but did not take any steps to further containment.

- The administrative review determined this supervisor's actions were not within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions and/or Recommendations

A supervisor on scene failed to activate his BWC.

- The administrative review determined the supervisor's failure to activate his BWC was not within standardized LVMPD tactics, training, and policy.

Prior to the arrival of medical personnel, officers conducted CPR on Napouk. Upon the arrival of medical personnel, Napouk was pronounced deceased on scene.

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