

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
3600 South Las Vegas Boulevard – March 15, 2019

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 March 15, 2019 at approximately 2146 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV190300073205. The incident occurred near the Bellagio Hotel & Casino valet area at 3600 South Las Vegas Boulevard, Las Vegas, Nevada 89109. This address was located within the LVMPD Convention Center Area Command (CCAC); sector beat Mary 3 (M3).

The incident was an officer-involved shooting (OIS). Officer Joaquin Escobar was the involved officer. Officer Joaquin Escobar discharged his firearm at suspect Michael Cohen, who was armed with a firearm (handgun). Cohen was struck one time. Cohen was transported to the hospital by medical units and later pronounced deceased.

Prior to the OIS, Cohen committed an armed robbery of the casino poker room. As Cohen exited the casino, he attempted to "carjack" a citizen in the hotel valet. When officers approached Cohen, he shot one officer and fled on foot away from other officers. After Cohen had shot one officer and began running through the valet parking lot with a firearm, Officer Escobar immediately chased Cohen for a short distance and then fired one round, striking Cohen.

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.

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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 October 10, 2019. Below are the key findings, conclusions, and/or recommendations from the CIRP determined by the UFRB and TRB members and accepted by the Sheriff.

Use of Force Review Board

UFRB: Officer Juaquin Escobar

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.

Officers broadcasted relevant and accurate radio traffic which assisted officers who were still in route to the incident.

- The administrative review determined the overall radio traffic for this incident was within standardized LVMPD tactics, training, and policy.

The communication from the dispatchers in this incident were completed and accurately logged the information from the officers involved in this incident.

- The administrative review determined the dispatching and broadcasting techniques by the dispatchers 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

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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 immediately reacted to this incident but were not afforded time to pre-plan an approach. Officers acted quickly and tactically to address Cohen who was a threat to officers and citizens in the area.

- The administrative review determined the officers' pre-planning prior to their arrival and contact with Cohen was within standardized LVMPD tactics, training, and policy.

Officers tactically approached Cohen using the "Tactical L" while communicating with each other their intentions to take Cohen into custody prior to Cohen firing at officers.

- The administrative review determined the officers' approach as they attempted to take Cohen into custody by approaching in a "Tactical L" and communication with one another was within standardized LVMPD tactics, training, and policy.

Officer Escobar pursued Cohen on foot before discharging one round, striking Cohen. Officer Escobar re-holstered his firearm after firing the round and turned his back on Cohen losing sight of the threat. Next, Officer Escobar turned back toward and approached Cohen, taking him into custody while other officers approached as cover officers.

- The administrative review determined the contact and cover tactics used by Officer Escobar after he had discharged his firearm and incapacitated Cohen 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

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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.

Cohen was the suspect in the casino robbery and attempted to carjack a citizen in the valet. Cohen fired one round at officers when they confronted him. Officer Escobar then drew his firearm.

- The administrative review determined Officer Escobar's drawing of his firearm when he attempted to stop Cohen running towards Flamingo Road and Las Vegas Boulevard with a firearm was within standardized LVMPD tactics, training, and policy.

Officer Escobar's backdrop when he fired his round was Flamingo Road and he was aware of his backdrop.

- The administrative review determined Officer Escobar isolated and identified his target and was aware of his backdrop. His actions were within standardized LVMPD tactics, training, and policy.

When Officer Escobar discharged his firearm, Cohen had already fired and struck an officer with a round.

- The administrative review determined Officer Escobar'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.

Supervisors arrived on scene working together to manage the incident and made the proper notifications.

- The administrative review determined the supervisors' response to this 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

Officers immediately requested medical after shots were fired. Medical arrived and transported the shot officer and Cohen to the hospital.

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