

**Office of Internal Oversight Review**  
**Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal**  
**532 North 9<sup>th</sup> Street – March 19, 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 19, 2019, at approximately 1433 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV190300091291. The incident occurred near 532 North 9<sup>th</sup> Street Las Vegas, NV 89101. This address was located within the LVMPD Downtown Area Command (DTAC); sector beat Adam 4 (A4).

The incident was an officer-involved shooting (OIS) and LVMPD Sergeants Jason Harries, Kenneth Nogel, Officers Zachary Solomon, and Gregory Ludwig were the involved officers who discharged their firearms at suspect Steve Garcia, who was armed with a firearm (handgun).

Prior to the OIS, a female called 9-1-1 and stated her brother, Garcia was armed with a handgun and threatening her and their father. Her father was in the front yard with Garcia. She further advised her brother was wearing blue jean shorts, a red shirt, and was in possession of a loaded .22 caliber revolver. Her brother was recently released from prison and on parole.

A family disturbance call was generated and broadcast as a Supervisor Tactics for Armed Subject Response (STAR) Protocol and forwarded to the DTAC dispatcher. A STAR Protocol requires response with a minimum of three officers as well as acknowledgement and response from a patrol supervisor.

Patrol officers were dispatched and quickly arrived on scene as the residence was across the street from the DTAC substation. As officers arrived, Garcia pointed his firearm at officers who were positioned just south of the residence. Garcia's father was still in the front yard. Officers gave several verbal commands to Garcia to drop his firearm, as they used their LVMPD marked patrol vehicles as cover/concealment. Garcia ignored the officers' orders and continued to point his firearm at officers.

Officers discharged their firearms. Garcia was struck one time, fell to the ground and was taken into custody. Shortly after, medical units arrived and provided medical attention to him on scene. Garcia was then transported to UMC Trauma Hospital and received additional medical attention but was later 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 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 October 17, 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: Sergeants Jason Harries, Kenneth Nogle, Officers Gregory Ludwig and Zachary 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 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.

During the call to 9-1-1, the person reporting (PR) advised a call-taker Garcia was armed with a loaded .22 revolver. The call-taker did not include the description of the firearm (revolver) in the computer aided dispatch (CAD) document or that it was loaded.

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- The administrative review determined the call-taker's accurately recording and updating information, specifically reference the suspect's description and firearm details were not within standardized LVMPD tactics, training, and policy.

While officers were responding to the residence, a dispatcher failed to acknowledge, assign, and update the locations of patrol units responding to the call.

- The administrative review determined the dispatcher failed to acknowledge and assign officers on this incident and update officer locations which was not within standardized LVMPD tactics, training, and policy.

When Sergeant Nogle arrived in the area, he broadcast over the radio he was in plain clothes and in an unmarked vehicle wearing his identifiable "police" tactical vest. After Sergeant Nogle parked his unmarked police vehicle, he observed the suspect in the front yard.

Less than a minute later, Sergeant Nogle broadcast over the radio "the male in the red shirt is outside and still on scene." During this time, Sergeant Nogle failed to broadcast the location of the residence (corner of 9<sup>th</sup> and Bonanza Road, across from DTAC), which would have assisted officers responding to the call with their preplanning and approach to the residence.

- The administrative review determined Sergeant Nogle's information sharing, as the first arriving officer, specifically updating arriving units as to the location of the suspect's residence, was not within standardized LVMPD tactics, training, and policy.

After shots were fired, a dispatcher immediately notified Communications Supervisors who completed the appropriate notifications regarding the OIS.

- The administrative review determined that all Communications supervisors worked together to make the proper notifications reference the OIS and completed other tasks related to the critical incident. The performances of the supervisors was within standardized LVMPD tactics, training, and policy.

A review of the DTAC radio traffic for this incident, showed that on numerous occasions supervisors attempted to broadcast critical information (Garcia pointing a firearm at officers) over the radio channel, but they were unable to do so.

- The administrative review determined the overall radio traffic for this incident was not 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.

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While driving to the call Officer Solomon mentally prepared for an armed subject with multiple people involved.

Sergeant Harries, was concerned how close the call was from DTAC; therefore, he drove to the area of the call.

Sergeant Nogle was driving an unmarked vehicle the day of the incident and was in a good position to get eyes on the residence and broadcast important information over the radio to responding officers. Additionally, Sergeant Nogle requested resources to the east of the residence for containment.

- The administrative review determined Officer Solomon and Sergeants Harries and Nogle's preplanning was within standardized LVMPD tactics, training, and policy.

Due to his plain clothes and unmarked vehicle, Sergeant Nogle made his approach from the north and drove past the residence to gather additional intelligence. He parked six houses south of Garcia's residence. Sergeant Nogle utilized distance so that his position was not compromised.

- The administrative review determined Sergeant Nogle's approach to the residence was within standardized LVMPD tactics, training, and policy.

Officers who responded to this call specifically, Sergeants Harries, Nogle, Officers Solomon and Ludwig utilized contact and cover when they encountered Garcia in the front yard. Garcia pointed a firearm at officers and verbal commands were issued by Sergeant Harries who was positioned the closest to Garcia.

During this incident officers remained behind their patrol vehicles in a position of cover while contact was made with Garcia. Sergeant Nogle and Officer Ludwig utilized a parked sports utility vehicle (SUV) on the same side of the street at Garcia's residence as cover during this incident.

- The administrative review determined the officers who fired shots and those who responded after shots were fired used contact and cover appropriately and were within standardized LVMPD tactics, training, and policy.

As officers arrived on scene, they utilized their patrol vehicles as cover and remained on the far side of the vehicles, including the other SUV, thus creating more distance during this incident. Officer Ludwig was the furthest officer away from the suspect when he shot.

- The administrative review determined officers' cover and concealment 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.

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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.

As Sergeant Nogle walked northbound toward officers arriving on scene, an officer advised Garcia was pointing a gun; therefore, he drew his firearm.

After he parked and exited his patrol vehicle, Officer Solomon drew his firearm and moved to a position of cover, behind a sergeant's patrol vehicle.

Officer Ludwig exited the driver's side of his patrol vehicle when he arrived and walked to a position of cover near Officer Solomon's patrol vehicle. As officers issued verbal commands to Garcia, Officer Ludwig drew his firearm and moved to the rear of the tan SUV that allowed him additional cover.

- The administrative review determined Sergeants Harries, Nogel, Officers Ludwig and Solomon's drawing of their firearms were within standardized LVMPD tactics, training, and policy.

Sergeant Harries maintained a two-handed firing position and his backdrop was a stucco residence, two large trees, and east and westbound traffic on Bonanza Road. There were family members in the front yard but not directly in his backdrop.

Officer Solomon maintained a two-handed firing position and his backdrop was Bonanza Road, Garcia's house, and a vehicle parked in the driveway.

- The administrative review determined Sergeant Harries' assessment of his backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.
- The administrative review determined Officer Solomon's assessment of his backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

At the time the officers discharged their firearms, Garcia was outside his residence, and pointed his firearm at arrived officers who were issuing him verbal commands to drop his weapon.

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- The administrative review determined the threat assessment of the officers who fired shots during this incident 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.

Sergeant Nogle was the first supervisor to arrive. Sergeant Nogle provided no updates as to the location of the residence. There was no communication from Sergeant Nogle and responding officers including Sergeant Harries until after shots were fired.

- The administrative review determined Sergeant Nogle's command and control of resources prior to the OIS was not within standardized LVMPD tactics, training, and policy.

Supervisors who arrived after shots were fired worked together during ICS to preserve the crime scene following the OIS. LVMPD leadership arrived and maintained the crime scene and command post (CP).

- The administrative review determined the supervisory response to this incident and their management of the OIS and CP locations were within standard LVMPD tactics, training, and policy.

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

Sergeant Nogle requested medical to the scene immediately following shots fired. Sergeant Harries secured Garcia and clear the residence so medical personnel could approach and provide treatment to Garcia. It is standard operating procedure for medical personnel not to approach a scene until cleared by officers.

Clark County Fire Department (CCFD) responded as well as the City of Las Vegas Fire Rescue. Garcia was provided medical attention and transported to UMC where he was pronounced deceased.

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