

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 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 August 19, 2019, at approximately 0049 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV190800092064. The incident occurred near 1900 South Casino Drive, Laughlin, Nevada 89029. This address was located within LVMPD Resident Area 81. Laughlin is in the southeast corner of Clark County, NV. Laughlin shares a boarder to the east with Bullhead City, AZ.

The incident was an officer-involved shooting (OIS) and Special Weapons and Tactics (SWAT) Officers Cory Mikkelson and John Susich were the involved officers who discharged their firearms at suspect Michael Lopez, who was armed with a firearm (handgun). Lopez was struck multiple times and later pronounced deceased, on-scene, by medical personnel.

Prior to the OIS, Lopez attempted to commit two separate robberies at two Laughlin Casinos: the Golden Nugget Laughlin and the Aquarius Casino and Resort. At each casino, Lopez approached the cashier's cage, produced a handgun, and demanded money from the teller. The attempts were unsuccessful, and Lopez left the businesses.

Security for the Aquarius Casino Resort located at 1900 South Casino Drive, Laughlin, NV 89029, followed Lopez through the hotel parking lot. Lopez produced a handgun, turned toward a security officer and fired one round, missing him.

LVMPD dispatch was contacted and notified of the incident. LVMPD Laughlin patrol units responded to the casino and located Lopez sitting inside his vehicle. Officers blocked Lopez's vehicle and attempted to establish communication. Lopez refused to surrender and the incident was classified as a barricade.

SWAT and the Crisis Negotiator Team (CNT) were notified and responded. SWAT utilized Bearcat armored tactical vehicles to block, contain, and communicate with Lopez. SWAT Officer Susich and other SWAT officers were to the rear of the Bearcat positioned behind Lopez's vehicle. SWAT Officer Mikkelson, a SWAT sniper, took an "overwatch" position on the third floor of the adjacent parking garage. As containment was established, CNT began to communicate with Lopez.

Several hours later, Lopez exited his vehicle, reached into the back-passenger area of his vehicle and produced a handgun. He turned toward the Bearcat, positioned behind his vehicle, and began to run toward it. As Lopez neared the back of the Bearcat, he pointed his firearm toward the SWAT officers staged behind it, including SWAT Officer Susich.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 19, 2019

At this time, SWAT Officers Susich and Mikkelson discharged their firearms at Lopez, striking him. Lopez immediately fell to the ground and was unresponsive. As the scene was made safe, medical personnel approached Lopez and determined he was deceased.

The Criminal Investigation

LVMPD Force Investigation Team (FIT) conducted the criminal investigation of this incident. Their investigation was submitted to the Clark County District Attorney's Office for review. The District Attorney's Office determined that "no criminal prosecution of the 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 February 27, 2020. 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 Board

UFRB: Officers John Susich and Cory Mikkelson

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."

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 19, 2019

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.

3-1-1 and 9-1-1 calls are answered by a call-taker who receives the information and determines if response or broadcast is required. From there, the call-taker enters the appropriate information into the computer aided dispatch (CAD) document as it is received from the caller. The relevant information is routed electronically by the call-taker to the dispatcher. The computer records the time a call-taker takes an action and links it to the incident and the unit records for later review.

CIRT reviewed the audio files of the phone calls related to this incident and compared them to the CAD document.

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

LVMPD Laughlin officers were first dispatched to the attempted robbery event at the Golden Nugget Laughlin. They diverted to the Aquarius Casino and Resort after reports of an assault/battery with a gun incident. Officers received information from LVMPD dispatch and security officers that Lopez fired a handgun at a security officer when fleeing the casino. Officers were also advised Lopez was observed entering a blue Chevy Avalanche parked in the southwest parking lot.

The information was broadcast, over the radio, for other arriving officers. They were able to locate Lopez inside his vehicle. Officers established containment around Lopez's vehicle utilizing their LVMPD marked patrol vehicles and issued him verbal commands to exit, but Lopez refused to comply. Due to the totality of circumstances, officers treated the incident as a barricade and notified SWAT and CNT.

When SWAT and CNT arrived, they communicated with Lopez while gathering intelligence on him. The information learned was shared with the other SWAT team members and SWAT leadership.

- The administrative review determined the radio traffic and information sharing by all officers involved in this incident 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.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 19, 2019

LVMPD patrol, K9, CNT, and SWAT officers took steps to gather intelligence on Lopez. For instance, Patrol used the public address (PA) system in the patrol vehicle, CNT officers communicated with Lopez via cell phone and a loudspeaker, and SWAT officers had direct talks with Lopez.

With the intelligence, plans were developed to contain Lopez. SWAT developed plans to include deployment of a robot that would deliver pepper spray, distract devices, and using K9. These plans provided SWAT low lethal options to take Lopez into custody. Lethal contingencies were also developed by SWAT.

- The administrative review determined the preplanning for all officers were within standardized LVMPD tactics, training, and policy.

LVMPD patrol officers positioned their patrol vehicles to keep Lopez from “going mobile” in his vehicle while still able to communicate with him. When Lopez refused to follow their directions, they used a shield and the PA to maintain distance to de-escalate the incident.

When SWAT officers arrived, they were able to relieve patrol officers from the inner perimeter and effectively contained Lopez using the Bearcats. This allowed CNT officers to negotiate with Lopez for several hours. SWAT snipers, positioned on the third floor of the adjacent parking garage, provide lethal coverage for SWAT and CNT team members negotiating with Lopez.

- The administrative review determined patrol officers and SWAT officers’ approach to the scene were within standardized LVMPD tactics, training, and policy.
- The administrative review determined all officers’ use of contact and cover were within standardized LVMPD tactics, training, and policy.
- The administrative review determined all officers’ use of cover and concealment were 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

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 19, 2019

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.

SWAT Officers Mikkelson and Susich had their firearms drawn because it was known Lopez was a suspect in two attempted armed robberies at two different Laughlin casinos. It was also known Lopez had fired at least one round from his firearm at hotel security. Finally, Lopez barricaded in his vehicle, still armed with a firearm.

- The administrative review determined that Officer Mikkelson's and Officer Susich's drawing of their firearms was within standardized LVMPD tactics, training, and policy.

Officer Mikkelson's backdrop was the front portion of the south Bearcat, an unoccupied patrol vehicle (left of the Bearcat), the rear of Lopez's truck, and the pavement of the parking lot due to being in an elevated position on the third floor parking garage.

Officer Susich's backdrop contained several vehicles and a concrete parking lot.

- The administrative review determined Officers Mikkelson and Susich's assessment of their backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

At the time deadly force was used by SWAT Officers Mikkelson and Susich, Lopez ran from his vehicle, toward the rear of the Bearcat where SWAT officers were located, including SWAT Officer Susich. As he neared the rear of the Bearcat, Lopez pointed his firearm at the SWAT officers.

- The administrative review determined Officer Mikkelson and Susich's threat assessments were 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.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
1900 South Casino Drive – August 19, 2019

LVMPD supervisors from the Laughlin resident section, K9, CNT, and SWAT responded to the incident and managed the scene from the first report of Lopez firing his weapon at the security officers, through the barricade, and after the OIS. A resident lieutenant became the incident commander and managed the command post (CP) located at the Regency Hotel.

- The administrative review determined all supervisors' response to and their management of the incident, CP, and OIS scene were within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

Medical was requested by patrol and staged at the CP for the duration of the incident. Search and Rescue Tactical Medics also responded and were present during the incident.

- The administrative review determined the medical response and intervention for Lopez and SWAT officers were within standardized LVMPD tactics, training, and policy.