

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
455 East Twain Avenue – April 21, 2020

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 April 21, 2020, at approximately 1502 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV200400100961. The incident occurred near 455 East Twain Avenue, Las Vegas, Nevada 89169. This address was located within the LVMPD South Central Area Command (SCAC); sector beat Nora Two (N2).

The incident was an officer-involved shooting (OIS), and Officer Alex Kempf and Officer Johnathan Tomaino were the involved officers who discharged their firearms at suspect Chase Rosa, who was armed with a firearm (shotgun). Rosa was struck multiple times and was later pronounced deceased at the hospital.

Prior to the OIS, a sergeant working in a plainclothes capacity initiated a traffic stop on Rosa's vehicle for extreme speeds. Rosa did not comply and fled at a high rate of speed. Additional units responded and utilized the bubble tactic, which is a technique used to contain a mobile vehicle. The Air Unit responded, assumed surveillance mode, located, and maintained a visual of Rosa's vehicle throughout the incident. While the Air Unit followed, Rosa drove approximately 50 miles through the valley at excessive speeds and violated various traffic laws.

The Air Unit observed Rosa pull into a Chevron gas station at Sunset Road and Spencer Road. Two females exited the vehicle and Rosa immediately left the area and was followed by the Air Unit. Minutes later, a two-officer patrol unit arrived at the gas station and encountered the females. They immediately told one of the officers they were in the car with Rosa, he was armed with a shotgun and initially, he would not let them out of the vehicle.

The officer did not acknowledge the information; instead, the females were placed in handcuffs and the officer then broadcast, over the radio, they were in custody. Shortly after, one of the females reiterated she was in the car with Rosa, he was armed with a shotgun, and he would not let her out of the vehicle. This time, the officer acknowledged the information but did not share it over the radio.

Two minutes after the first officers located and contacted the females, the watch commander (WC) arrived at the location of the females. The WC instructed the officers to ask the females about Rosa and determine if he was armed. Again, both females advised they knew Rosa and stated he was armed with a shotgun. At 1449 hours, the WC broadcast this over the radio.

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At approximately 1502 hours, as Rosa neared 455 East Twain Road, he stopped his vehicle, exited with the shotgun, and approached a citizen's vehicle in what appeared to be an attempted "carjacking" by Rosa. The driver of this vehicle was unaware of the unfolding law enforcement events.

Officers Kempf and Tomaino, were in the vicinity following Rosa in their unmarked LVMPD vehicle. The officers were operating in a plainclothes capacity but had donned their tactical gear prior, which had police identifiers.

As Rosa attempted to "carjack" the citizen, officers Kempf and Tomaino exited their vehicle and issued verbal commands to Rosa. He did not comply, instead he turned and pointed his shotgun at the officers. At this time, officers Kempf and Tomaino discharged their firearms, striking Rosa multiple times. Rosa immediately fell on the ground with the firearm by his right arm.

Additional units arrived and issued verbal commands to Rosa. Moments later, a K9 sergeant arrived and deployed his canine toward Rosa. However, his canine mistakenly established "target lock" on Officer Kempf and moved toward him, biting Officer Kempf on his upper right arm. The K9 sergeant was able to retrieve his canine and redeployed it on Rosa successfully. Officers then approached Rosa, took him into custody, treated his injuries, and performed cardiopulmonary resuscitation (CPR) on him. Additionally, officers rendered aid to Officer Kempf and ensured he was transported to the hospital.

As the scene was made safe, medical personnel arrived and began treating Rosa. Shortly after, medical personnel transported Rosa to the hospital where he was pronounced deceased.

The Criminal Investigation

LVMPD Force Investigation Team (FIT) conducted the criminal investigation of this incident. The 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

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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 August 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 Review Board

UFRB: Officers Alex Kempf and Johnathan Tomaino

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.

Two dispatchers from differing area commands handled the critical incident by accurately documenting information obtained from various units. They also handled multiple tasks related to the OIS and Communications supervisors made appropriate notifications reference the OIS.

- The administrative review determined the dispatching and broadcast techniques utilized for this incident were within standardized LVMPD tactics, training, and policy.

Throughout the incident, officers effectively utilized radio, verbal, and non-verbal communication to provide pertinent information. Additionally, a lieutenant assumed command and control of the mobile surveillance and ensured his plan was broadcast and understood. The Air Unit also provided pertinent information on Rosa's location. Lastly, supervisors were able to slow the momentum and ensure additional responding officers were aware of how and where to respond.

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

During the incident, Rosa pulled into a gas station and dropped off two females. When Rosa left the area, a two-officer patrol unit arrived at the gas station and encountered the females. During the initial encounter, the females immediately advised one of the officers that Rosa was armed with a shotgun and that he prevented them from exiting the vehicle. The officer did not acknowledge this critical information and failed to provide it to other units involved in the incident.

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- The administrative review determined an officer’s information sharing 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.

As the incident continued to evolve, a lieutenant formulated a plan to have plainclothes officers “bubble” Rosa while the Air Unit conducted mobile surveillance. The lieutenant broadcast the plan several times over the radio to ensure everyone was aware. Plainclothes officers donned their tactical gear, monitored the radio traffic, and were in constant communication with each other on an alternate radio channel. Furthermore, a sergeant formulated a contingency plan to treat the vehicle as a barricade situation in the event Rosa was stopped and refused to exit the vehicle. After the OIS, a K9 sergeant assisted in taking Rosa into custody.

- The administrative review determined the preplanning among the Air Unit, K9 units, patrol officers, and supervisors involved in the incident was within standardized LVMPD tactics, training, and policy.

As Rosa neared 455 East Twain Road, he stopped his vehicle, exited with the shotgun, and approached a citizen’s vehicle in what appeared to be an attempted “carjacking” by Rosa. The driver of this vehicle was unaware of the unfolding law enforcement events.

Officers Kempf and Tomaino, were in the vicinity following Rosa in their unmarked LVMPD vehicle. The officers were operating in a plainclothes capacity but had donned their tactical gear prior, which had police identifiers. As Rosa attempted to “carjack” the citizen, officers Kempf and Tomaino exited their vehicle and issued verbal commands to him.

- The administrative review determined officers Kempf and Tomaino’s approach was within standardized LVMPD tactics, training, and policy.

When officers Kempf and Tomaino initially encountered Rosa, he was attempting to “carjack” a citizen. Due to his proximity, Officer Tomaino assumed the contact role and Officer Kempf assumed a cover role. After the OIS, two additional officers joined officers Kempf and Tomaino and formed an immediate action team. The officers communicated and established different roles and responsibilities.

- The administrative review determined officers Kempf and Tomaino’s contact and cover were within standardized LVMPD tactics, training, and policy.

After the OIS, officers Kempf, Tomaino, and two additional officers formed an immediate action team. To change their backdrop, the team moved deeper into the parking lot of 455 East Twain Avenue. When

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they stopped, they were in the open and approximately five to ten feet away from Rosa who was still near the shotgun.

- The administrative review determined officers Kempf, Tomaino, and the two additional officers' use of cover and concealment was not within standardized LVMPD tactics, training, and policy.

A K9 sergeant responded to the incident where he deployed his canine. The K9 sergeant did not leash the canine but instead held onto its collar to facilitate a rapid deployment. When the K9 sergeant approached, he believed his canine obtained "target lock" on Rosa and rushed the deployment. When he released the canine, it ran toward the immediate action team and bit Officer Kempf.

- The administrative review determined a K9 sergeant's approach was 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 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.

Throughout the incident, Rosa failed to comply to officers, drove in a reckless manner for approximately 50 miles, and was armed with a shotgun. As Rosa neared 455 East Twain Road, he stopped his vehicle, exited with the shotgun, and approached a citizen's vehicle in what appeared to be an attempted "carjacking" by Rosa. The driver of this vehicle was unaware of the unfolding law enforcement events.

- The administrative review determined officers Kempf and Tomaino's drawing of their firearms was within standardized LVMPD tactics, training, and policy.

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Officers Kempf and Tomaino's backdrop consisted of an empty sidewalk and street.

- The administrative review determined officers Kempf and Tomaino's assessment of backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

When officers Kempf and Tomaino approached Rosa, he was pointing a shotgun at a citizen. Rosa then turned toward officers Kempf and Tomaino and pointed the firearm at them.

- The administrative review determined officers Kempf and Officer Tomaino's threat assessment was within standardized LVMPD tactics, training, and policy.

An officer who responded to the incident positioned his vehicle east of the OIS location. The officer deployed his rifle and believed Rosa was still inside the vehicle. The officer's backdrop consisted of Rosa's vehicle, a wall, and the immediate action team.

- The administrative review determined an officer's assessment of backdrop, target identification, and isolation were not 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.

After the OIS, a lieutenant assumed the role of Incident Commander where he established the command post and managed the outer perimeter. The lieutenant requested additional units to help stabilize the scene. The Air Unit assisted with securing the scene and creating ingress/egress for medical personnel.

Another lieutenant managed the inner perimeter and the OIS scene. An additional lieutenant responded and managed the involved and witness officers. A sergeant assisted and had calls-for-service moved to an alternate radio channel. Lastly, patrol detectives and additional supervisors assisted with the preliminary investigation.

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

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Additional Key Findings, Conclusions, and/or Recommendations

Immediately after the OIS, medical personnel were requested. Prior to their arrival, officers on scene treated Rosa's injuries and performed CPR. When medical personnel arrived, they began treating Rosa. Shortly after, medical personnel transported Rosa to the hospital where he was pronounced deceased. Additionally, officers rendered aid to officer Kempf and ensured he was transported to the hospital.

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

Officers Kempf, Tomaino, and two additional officers were operating in a plainclothes capacity and were advised to "bubble" Rosa, while the Air Unit maintained surveillance. With the possibility of encountering Rosa, the officers were required to activate their body worn cameras (BWCs). They failed to activate the cameras until after the OIS.

- The administrative review determined officers Kempf, Tomaino, and two other officers' failure to active their BWCs was not within standardized LVMPD tactics, training, and policy.