

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
2868 Cygnus Street – August 16, 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. A variety of actions 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 16, 2020, at approximately 1702 hours, the LVMPD was involved in a critical incident under LVMPD Event LLV200800068484. The incident occurred at 2868 Cygnus Street, Las Vegas, Nevada 89117. This address was located within the LVMPD Spring Valley Area Command (SVAC); sector beat Paul 1 (P1).

The incident was an officer-involved shooting (OIS). Officers John Fieweger and Isaiah Garcia were the involved officers who discharged their firearms at suspect Jeffrey Hubbard who was armed with a firearm (handgun). Hubbard was struck multiple times and was later pronounced deceased on-scene by medical units.

Prior to the OIS, LVMPD Communications received a call from Hubbard's wife, who advised Hubbard fired his gun into their bedroom wall. Hubbard's wife also reported Hubbard had three guns, was in mental duress and had made threats to shoot a neighbor. Around the same time, LVMPD received a second call from a neighbor who reported a gunshot had been fired into their residence. The LVMPD call-taker classified the incident as an Assault/Battery with a Gun event and routed the incident to the SVAC Dispatcher, who assigned multiple officers.

When officers arrived in the vicinity, they met with a patrol sergeant and a K9 sergeant at Edna Avenue and Arden Brook Street to preplan. The patrol sergeant assigned roles and responsibilities for each officer, established an Immediate Action Team (IAT), communicated an approach to the residence (which was inside a gated community), and requested for medical to be staged nearby.

As the plan was being developed, an officer requested Dispatch to call Hubbard's wife to have her exit the residence and meet officers at Edna Avenue and Arden Brook Street. Dispatch made contact and the wife agreed. When she arrived, the patrol sergeant talked with her and gathered information about Hubbard's mental status, obtained his phone number, and confirmed there was no one else inside the residence. The patrol sergeant then assigned two rifle officers to containment positions around Hubbard's residence. Officer Fieweger was one of the rifle officers and he took a position on the west side of Hubbard's residence with another officer who acted as his observer.

Once the plan was established, officers entered the neighborhood with their marked patrol vehicles and quickly took to the positions they were designated. The IAT was assigned to the east with the patrol sergeant who tasked himself as the verbal/hands-on officer. The patrol sergeant also tasked Officer Garcia and another officer as low lethal cover. He had the K9 sergeant and his canine as an additional low lethal option.

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The patrol sergeant called Hubbard's phone three different times to have him exit his residence peacefully. All phone contact attempts were unsuccessful as Hubbard's phone went to voice mail. The patrol sergeant used the public address (PA) system from a marked patrol vehicle in another attempt to contact Hubbard and have him exit the residence peacefully.

Hubbard exited his residence with his left hand concealed behind his back. The rifle observer for Officer Fieweger witnessed this and issued verbal commands to Hubbard to put his hands up. Hubbard did not comply; instead, he stood outside his residence for approximately 16 seconds with his left hand behind his back. Moments later, Hubbard raised his left hand, which held a firearm, and pointed it at the IAT.

Although they were in different locations, Officers Fieweger and Garcia and both observed Hubbard armed with the firearm. Simultaneously, Officer Garcia discharged his handgun and Officer Fieweger discharged his rifle, striking Hubbard. After the OIS, Hubbard fell to the ground near the front entryway to his residence and dropped his weapon. As Hubbard moved his left hand toward his gun, the K9 Sergeant issued verbal commands to him to not reach for it, but Hubbard did not comply.

The K9 Sergeant confirmed the IAT was ready to move forward to take Hubbard into custody. The K9 sergeant deployed his canine off leash toward Hubbard and a bite was applied to keep Hubbard from gaining possession of the firearm. The IAT moved forward with the K9 sergeant, and as they reached Hubbard, the K9 Sergeant removed his canine. The IAT then took Hubbard into custody.

Once in custody, officers entered and cleared the residence to make the scene safe. Medical personnel were requested to treat Hubbard's injuries. Hubbard was determined to be deceased at the scene.

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 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 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 commissioned and citizen members. The Critical Incident Review Team (CIRT) presents the facts related to the use of deadly force. The board issues findings

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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 of four 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 January 18, 2021. 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 John Fieweger and Isaiah Garcia

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.

The person reporting (PR) advised the call-taker that her husband (Hubbard) fired rounds through the neighbor's residence. When the shooting was made known to the call-taker, she failed to classify the incident as a Supervisors Tactic for Armed Subject Response (STAR) Protocol event, which requires a minimum response of three patrol officers and a supervisor.

- The administrative review determined the handling of this incident by the call-taker was not within standardized LVMPD tactics, training, and policy.

The dispatcher on channel acknowledged all radio traffic, placed a Code Red on the channel and properly documented all officers' updates throughout the incident. The dispatcher notified the Communications supervisor of the OIS and ensured medical was notified to respond to the incident. The Communications supervisor made the proper OIS notifications to investigative personnel to respond to the incident.

- The administrative review determined all dispatchers and Communications supervisors involved with this incident performed within standardized LVMPD tactics, training, and policy.

A patrol sergeant directed officers assigned to the call to meet at a location near the residence to coordinate a plan prior to entering the gated community. Officers communicated officer safety information and the challenges of setting up containment around the target residence. The patrol sergeant communicated his plan to enter the gated community with the IAT and a K9 sergeant.

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- The administrative review determined all officers' and supervisors' information sharing and radio traffic for this incident was 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.

The patrol sergeant coordinated a plan to safely approach Hubbard's residence. Officer Fieweger along with another officer were assigned to take a containment position on the west side of the residence. The supervisor assigned Officer Garcia along with other officers to the IAT and assigned roles and responsibilities to the officers. The K9 sergeant along with his canine were assigned to the IAT as another low lethal option to de-escalate the critical incident.

- The administrative review determined the approach to the residence for all officers and supervisors was within standardized LVMPD tactics, training, and policy.

Officer Fieweger and his partner discussed the details of the call while driving code 3 to the incident. They also reviewed a map of the neighborhood and discussed their approach to the residence. Officer Garcia asked dispatch to call the PR and have her meet officers at their location. Officer Garcia and the patrol sergeant gathered information from the PR to assist in developing a plan to contact Hubbard.

- The administrative review determined Officers Fieweger and Garcia's preplanning for this incident was within standardized LVMPD tactics, training, and policy.

Due to the details of the incident, Officer Fieweger deployed his rifle and another officer acted as his observer. Officer Garcia was assigned as lethal coverage for the IAT.

- The administrative review determined Officers Fieweger and Garcia's use of contact and cover was within standardized LVMPD tactics, training, and policy.

Officers Fieweger and Garcia used their patrol vehicles as cover and concealment when they entered the gated community. Officer Fieweger also used a nearby tree and a cinder block wall as cover.

- The administrative review determined Officers Fieweger and Garcia's use of 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.

Officers Fieweger and Garcia along with other officers on scene knew Hubbard had three handguns and had fired one of the handguns into the neighbor's residence. Due to the details of the call, Officer Fieweger deployed his rifle and another officer acted as his observer. Officer Garcia was assigned as lethal coverage for the IAT and had his handgun drawn.

- The administrative review determined Officers Fieweger and Garcia's drawing of their weapons during this incident was within standardized LVMPD tactics, training, and policy.

Officer Fieweger's backdrop was the front entrance door along with the garage wall. Additionally, he was aware no one else was inside the residence. Officer Garcia's backdrop was an exterior wall of Hubbard's residence and there was no potential of a crossfire.

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

At the time Officers Fieweger and Garcia discharged their firearms, Hubbard was armed with a firearm and was pointing the weapon at the IAT.

- The administrative review determined Officers Fieweger and Garcia'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

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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.

Prior to the OIS, a patrol sergeant controlled the incident by coordinating a plan with officers and assigned roles and responsibilities to them. After the OIS and once Hubbard was in custody, the K9 sergeant assisted officers in clearing and securing Hubbard's residence. The K9 sergeant then separated the involved officers, assigned monitoring officers to them, and completed the Public Safety Statement (PSS) for both. Thirty seconds after the OIS, the Watch Commander (WC) responded to the scene and assisted. An additional patrol sergeant arrived and became the incident commander (IC).

- The administrative review determined the supervisors' incident management for this event was within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

Approximately 32 minutes prior to contacting Hubbard, officers requested medical to respond and standby. After the OIS, officers placed Hubbard in handcuffs and placed him on his side in the recovery position. Officers monitored Hubbard's vital signs until medical arrived at the OIS location.

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