

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
2775 Fremont Street – May 4, 2021

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 May 4, 2021, at approximately 2045 hours, the LVMPD was involved in a critical incident under LVMPD Event LLV210500018141. The incident occurred at an apartment complex located at 2775 Fremont Street, Las Vegas, Nevada 89104. This address was located within the LVMPD Downtown Area Command (DTAC); sector beat Baker Five (B5).

The incident was an officer-involved shooting (OIS). DTAC Officer Erik Lindberg was the involved officer who discharged his firearm twice at suspect William Holt, who was armed with a rifle. Holt was struck each time and was later pronounced deceased on scene by medical personnel.

Prior to the OIS, at approximately 2017 hours, several citizens called LVMPD Communications to report hearing several gunshots near 2775 Fremont Street and seeing a white male adult shooting a rifle from the balcony of his apartment. At approximately 2023 hours, the gunshots generated a ShotSpotter notification around 3040 East Charleston Boulevard (neighboring apartment complex). Due to the phone calls and the ShotSpotter notification, an illegal shooting event was created, and officers were assigned.

At approximately 2029 hours, two officers arrived at 2775 Fremont Street and tactically approached the apartment complex on foot. The officers observed two males, one armed with a handgun, taking cover near a building. They instructed the male armed with the firearm to drop the weapon and he complied. Both subjects were taken into custody and advised a white male, later identified as Holt, had shot at them as they walked through the complex. The subject armed with the firearm informed the officers he returned fire with his handgun, in self-defense.

While still in custody, the subjects pointed to the location from where Holt fired from, building 4, on a balcony of an upstairs apartment. This information was broadcast over the radio and that Holt shot from an elevated position. The subjects then informed the officers Holt was possibly armed with a shotgun.

At approximately 2032 hours, while the officers spoke with the subjects, Holt walked out of his apartment armed with a rifle. He then fired one round toward the officers and subjects but missed. Four minutes later, a sergeant and officers from the DTAC FLEX Team (FLEX) arrived on scene, formed an Immediate Action Team (IAT), and established containment around Holt's apartment.

Some of the FLEX officers to include Officer Lindberg were working in a plainclothes capacity. However, for this incident, all officers donned and displayed LVMPD identifiable markings. As containment was established, Officer Lindberg arrived, deployed his rifle, and provided lethal cover on Holt's apartment with another officer acting as his observer. Once positioned, Officer Lindberg was approximately forty-nine yards from Holt's apartment balcony.

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At approximately 2044 hours, Holt exited his apartment armed with a rifle and stood on his balcony. He then raised his rifle and aimed it at Officer Lindberg and other officers. At this time, Officer Lindberg discharged one round at Holt, striking him. Holt staggered, but then aimed his rifle again toward Officer Lindberg. Seconds after he first discharged his rifle, Officer Lindberg discharged a second round at Holt, striking him. Holt fell to the ground behind a stucco wall, out of the view of officers.

At approximately 2053 hours, a K9 sergeant arrived and formed an additional IAT. This IAT approached Holt's apartment and located Holt on the balcony. After being taken into custody and the area made safe, officers started life saving measures on Holt. As medical personnel arrived and assessed Holt, he was pronounced deceased on scene.

The Criminal Investigation

The LVMPD's Force Investigation Team (FIT) conducted the criminal investigation of this incident. The investigation was submitted to the District Attorney's Office for review and determined, "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 the 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 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 September 16, 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.

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Use of Force Review Board

UFRB: Officer Erik Lindberg

The Board's finding was Administrative Approval for both volleys of fire during Officer Erik Lindberg's OIS. Administrative Approval is defined as: "objectively reasonable force was used under the circumstances, based on the information available to the officer 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 administrative review of this incident, it was determined an LVMPD call-taker had available information that met the LVMPD's policy on Supervisors Tactic for Armed Subject Response (STAR) Protocol. There was credible information Holt was armed with a firearm and was using it in a manner that can cause death or serious bodily injury. Prior to officers' arrival, the LVMPD call-taker failed to document this information accordingly.

- The administration review determined the call-taker's performance regarding STAR Protocol was not within standardized LVMPD tactics, training, and policy.

During the administrative review of this incident, it was determined an LVMPD dispatcher had available information that met the LVMPD's policy on Supervisors Tactic for Armed Subject Response (STAR) Protocol. There was credible information Holt was armed with a firearm and was using it in a manner that can cause death or serious bodily injury. Prior to officers' arrival, the LVMPD dispatcher failed to document and/or broadcast this information accordingly.

- The administration review determined the dispatcher's performance regarding STAR Protocol was not within standardized LVMPD tactics, training, and policy.

A review of the DTAC radio traffic conducted during this incident was timely and pertinent.

- The administrative review determined the radio traffic 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.

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Officers received a ShotSpotter notification and due to their proximity to the alert they began responding to the location. As the initial officers arrived, they parked north of the ShotSpotter location, out of view from the potential shooting area.

- The administrative review determined the officers pre-planning was within standardized LVMPD tactics, training, and policy.

After Holt fired a round at the initial officers, they broadcasted, over the radio, to other responding officers to not enter from the west, north, or the south side of the apartment complex, and to only enter from the east to avoid being in Holt's line of sight. All officers who responded to the scene before, during, and after the OIS were able to safely arrive and approach the apartment.

- The administrative review determined the officers' approach 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.

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.

When Officer Lindberg deployed his rifle, the following was known; Holt was observed shooting a firearm from an elevated position and the gunshots generated a ShotSpotter alert.

- The administrative review determined Officer Lindberg's drawing of his firearm was within standardized LVMPD tactics, training, and policy.

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At the time Officer Lindberg discharged his rifle, for both volleys, his backdrop consisted of Holt's apartment. Additionally, the trajectory of Officer Lindberg's rounds were in an upward direction. Holt's apartment was on the second floor, with no apartment above his.

- The administrative review determined, for both volleys, Officer Lindberg's assessment of backdrop, target identification, and isolation were within standardized LVMPD tactics, training, and policy.

During both of Officer Lindberg's volleys of fire, Holt had aimed his rifle at him and other officers. Additionally, Holt had already fired his weapon multiple times at citizens and other officers.

- The administrative review determined, for both volleys, Officer Lindberg's threat assessment 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.

Regarding the supervisory response for this incident, the following was accomplished: a FLEX sergeant coordinated the tactics for this incident (both verbally to his team and over the radio), formulated a plan, ensured citizens were safely cleared out of the area, managed the response of additional resources; a DTAC lieutenant arrived and established a Command Post; a K9 sergeant arrived and with the assistance of officers created an additional IAT; the LVMPD Watch Commander requested the response of additional resources to assist; another sergeant arrived and read the Public Safety Statement (PSS) to the involved officer; all supervisors worked together and managed the scene of the OIS and command post.

- The administrative review determined the supervisory response and incident management by the LVMPD supervisors were within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

Once Holt was in custody and the area was determined safe, officers immediately started life saving measures on Holt. Medical was on scene and were immediately summoned to the apartment after the OIS and rendered first aid to the suspect; however, Holt was pronounced deceased at the scene.

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