

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 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 October 12, 2021, approximately 1110 hours, the LVMPD was involved in a critical incident under LVMPD Event LLV211000048218. The incident occurred near 5881 East Charleston Boulevard, Las Vegas, Nevada 89142. This address was located within the LVMPD Southeast Area Command (SEAC); sector beat John One (J1).

The incident was an officer-involved shooting (OIS), and SEAC Officer Ramon Hiestand was the involved officer who discharged his firearm (rifle) at suspect Mario Lawrence Martinez, who was armed with a handgun. Martinez was struck by the officer's gunfire and was pronounced deceased on scene by medical personnel.

Prior to the OIS, LVMPD Communications received a call at approximately 0535 hours. The person reporting (PR) advised Martinez was banging on the front door of the PR's apartment, which he shares with Martinez's ex-girlfriend. The PR reported Martinez parked a white Nissan pick-up truck by the apartment's front door. Before police arrived, Martinez left the area in an unknown direction.

Approximately twenty minutes later, the PR called LVMPD Communications a second time and stated Martinez returned to the residence and was banging on the PR's door again. As police officers arrived at the PR's residence, they observed the white Nissan pick-up truck which was running and occupied by Martinez. As officers observed the pick-up truck, Martinez fled from the area. Officers did not initiate a vehicle pursuit. Instead, they contacted the PR and took a report, documenting the actions of Martinez. After completing their investigation, officers left the PR's residence.

At approximately 0933 hours, LVMPD Communications received a third call from the PR's neighbor, who reported hearing an argument and gun shots at the PR's apartment. Officers were dispatched to the residence of Martinez's ex-girlfriend and contacted the original PR. He reported Martinez was armed with handgun, shot his apartment, and forcibly took his roommate (Martinez's ex-girlfriend) from the apartment.

Through investigative means, officers determined the ex-girlfriend was around the area of East Charleston Boulevard and South Sloan Lane. As officers arrived in the area, they observed Martinez and his ex-girlfriend walking in the parking lot of the Albertsons located at 5881 East Charleston Boulevard. Officers requested medical to respond and stand by in the area. Officers then issued verbal commands, telling Martinez to put down his firearm. Martinez did not comply; instead, he pointed his weapon in the direction of the officers.

Martinez proceeded to take the ex-girlfriend, at gunpoint, into the Albertsons where he waived his firearm around while the ex-girlfriend screamed. During this time, officers continued their attempts to communicate with him to drop his firearm or let his ex-girlfriend go. Again, Martinez did not comply with the officers' commands; instead, he proceeded to exit a back door of the Albertsons, entering an alleyway.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

While in the alleyway, Martinez attempted to enter an unoccupied box truck, but the vehicle was locked. Martinez used his firearm and shot out a window, entered the box truck, and attempted to start it but was unsuccessful. As he exited the box truck, Martinez (still armed with his firearm and controlling the ex-girlfriend) attempted to steal another vehicle but was unsuccessful.

Martinez walked westbound toward Sloan Lane with his ex-girlfriend to the rear alley of a restaurant, where officers had positioned themselves. As he entered onto Sloan Lane, Martinez walked southbound, away from the restaurant and officers.

With his right hand holding his firearm, Martinez used his left hand to “rack” the weapon’s slide. He turned back toward the officers and pointed it at them. Simultaneously, the ex-girlfriend broke from Martinez’s control and ran away from him. Moments later, Officer Hiestand, who had deployed his rifle and was positioned at the front of an LVMPD marked patrol vehicle, discharged his weapon at Martinez but missed. Officer Hiestand then repositioned himself toward the back of the marked patrol vehicle. Simultaneously, Martinez shot his firearm at officers. Once positioned at the back of the patrol vehicle, Officer Hiestand discharged his rifle at Martinez for a second time, striking him. Martinez fell to the ground but held onto his firearm. While lying on the ground, Martinez raised, pointed, and fired his weapon at officers again. At this time, Officer Hiestand discharged his rifle for a third time, stopping Martinez’s life-threatening actions.

Officers formed an immediate action team, approached Martinez, placed him in handcuffs, and requested medical aid. Clark County Fire Department responded, and Martinez was pronounced deceased on scene.

The Criminal Investigation

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. The District Attorney’s Office determined that, “no criminal prosecution of the officer(s) involved in the above referenced event number 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

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

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 April 7, 2022. 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: Officer Ramon Hiestand

The board's finding for all three of Officer Hiestand's volleys was Administrative Approval. 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 three calls to LVMPD Communications, all call-takers promptly created a call for service and accurately recorded information into the computer aided dispatch (CAD) event. Call-takers updated details and officer safety information to include the specific type of weapon (handgun) that was used during the event.

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

The overall dispatching and broadcast techniques utilized during the event were completed correctly by the NEAC dispatchers.

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

A review of the LVMPD radio traffic conducted during this incident was found to be timely and pertinent.

- The administrative review determined officers' radio traffic/communication reference the details of the incident were within standardized LVMPD tactics, training, and policy.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

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 officers arrived in the area of Martinez, they employed correct tactics in their response. For example, Officers parked their vehicles at a distance from the Martinez and created an approach/custody plan; Roles and responsibilities were assigned to officers such as verbal contact, lethal coverage, low lethal coverage, hands-on, traffic control, stop stick deployment, and rifle deployment. Additional support resources were also requested, to include air support, K-9, and medical. Finally, an LVMPD tactical vehicle was assigned to the event, allowing the use of a ballistic shield by an Immediate Action Team (IAT).

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

Once the roles and responsibilities of arrived officers were established, the officers approached Martinez and his ex-girlfriend (victim) who was being held hostage. Initially, the officers issued verbal commands to Martinez in an attempt to de-escalate the situation and affect his surrender. Martinez refused to comply and remained mobile with the victim.

The entire time officers attempted to de-escalate the incident, Martinez was armed with a firearm, held his ex-girlfriend hostage, and clearly demonstrated his attempt to flee from officers. First, he attempted to enter several citizens' vehicles to escape. He then entered an Albertson's to evade officers. Next, he attempted to enter a box truck. Finally, he pointed his firearm and fired his handgun towards officers multiple times.

- The administrative review determined approach of all officers during this incident was within standardized LVMPD tactics, training, and policy.

During their contact with Martinez, officers properly utilized the principles of contact and cover preceding and following the OIS. Supervisors on scene ensured an officer was assigned to issue verbal commands to the suspect as other officers were assigned lethal coverage, low lethal coverage, and hands on roles.

- The administrative review determined all officers' use of the contact and cover tactics before and after the OIS were within standardized LVMPD tactics, training, and policy.

During this incident, officers used multiple options for cover and concealment. As Martinez produced a firearm, maintained control of his hostage, and became mobile, officers utilized cover and concealment behind patrol vehicles, citizen vehicles, a ballistic shield, and building interiors/exteriors.

- The administrative review determined all officers' use of cover and concealment during this hostage incident was within standardized LVMPD tactics, training, and policy.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

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 Hiestand deployed his rifle, the following was known: the suspect was armed with a handgun and had discharged it several times during the event. The suspect pointed his firearm at officers multiple times while maintaining control of his hostage.

- The administrative review determined Officer Hiestand's drawing of his rifle during this incident was within standardized LVMPD tactics, training, and policy.

At the time Officer Hiestand discharged the first volley of fire, his backdrop consisted of a block wall behind Martinez. During Officer Hiestand's second volley of fire, his backdrop was a roadway which was devoid of both pedestrians and vehicles. During Officer Hiestand's third and final volley of fire, his backdrop was the asphalt on the ground, as he was firing at a downward angle at Martinez, who was laying on the asphalt.

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

With his right hand holding his firearm, Martinez used his left hand to "rack" the weapon's slide. He then turned back toward the officers and pointed it at them. Moments later, Officer Hiestand, who was positioned at the front of an LVMPD marked patrol vehicle, discharged his weapon at Martinez but missed. Officer Hiestand then repositioned himself toward the back of the marked patrol vehicle. Simultaneously, Martinez shot his firearm at officers. Once positioned at the back of the patrol vehicle, Officer Hiestand discharged his rifle at Martinez for a second time, striking him. Martinez fell to the ground but held onto his firearm. While lying on the ground, Martinez raised, pointed, and fired his weapon at officers again. At this time, Officer Hiestand discharged his rifle for a third time, stopping Martinez's life-threatening actions.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

- The administrative review determined Officer Hiestand’s threat assessment for all his volleys of fire 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.

In evaluating the supervision (command and control) of this event at the sergeant rank, the following was accomplished by NEAC sergeants: Confirmed the validity of the call for service, identifying the call as a legitimate kidnapping event and adjusted officer response accordingly; Formed IATs, while delegating roles and responsibilities to officers; Maintained control of the event by issuing clear and consistent direction to officers on scene, requesting applicable resources, and preplanned appropriately; Post OIS, ensured Martinez was provided medical attention, and confirmed items of evidentiary value were safeguarded by an assigned officer.

- The administrative review determined the incident management for the NEAC sergeants, before and after the OIS, was within standardized LVMPD tactics, training, and policy.

In evaluating the supervision (command and control) of this event at the lieutenant rank, the following was presented during the TRB where a lieutenant failed to do the following: Set up and take command and control of the command post (CP) to identify what resources he had and where they were located; Establish a rally point for the Special Weapons & Tactics (SWAT) team and the Crisis Negotiation Team (CNT); Identify and broadcast his Commander’s Intent over the radio; Direct resources where needed or most effective; Delegate responsibilities; Assign tasks and give clear direction to his resources; Gather an understanding of the area and establish containment and broadcast a containment plan; Communicate a contingency plan for a mobile armed suspect with a hostage; Establish an incident command post (ICP) at an appropriate location to brief arrived investigative units.

- The administrative review determined the Lieutenant’s incident management during the hostage situation and after the OIS was not within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

When Martinez and his ex-girlfriend were located, officers requested medical to respond and stage in the area. After the OIS, medical was immediately summoned to the scene where Martinez was taken into custody to render aid. Medical attention was also provided to the hostage.

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
5881 East Charleston Boulevard – October 12, 2021

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

Prior to Officer Hiestand's arrival, he responded to the area in his LVMPD marked patrol vehicle using his emergency equipment (Code 3). While driving eastbound, Officer Hiestand approached the intersection of Charleston Boulevard and Sacramento Drive. The light for eastbound traffic was red; however, Officer Hiestand did not come to a complete stop as he cleared the intersection. As he continued east, he approached the intersection of Charleston Boulevard and Lamb Boulevard. Again, the traffic light was red for eastbound traffic. Officer Hiestand failed to come to a complete stop while clearing this intersection as well.

- The administrative review determined Officer Hiestand's Code 3 driving when he failed to come to a complete stop and clear two intersections while en route to the hostage situation, was not within standardized LVMPD tactics, training, and policy.