

Office of Internal Oversight Review
Key Findings, Conclusions, and/or Recommendations of an Officer-Involved Shooting: Fatal
South Broadbent Boulevard & Cherry Street – January 6, 2022

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 January 6, 2022, at approximately 1038 hours, the Las Vegas Metropolitan Police Department (LVMPD) was involved in a critical incident under LVMPD Event LLV220100023103. The incident occurred near South Broadbent Boulevard and Cherry Street, Las Vegas, Nevada 89122. This address was located within the LVMPD Southeast Area Command (SEAC); sector beat John Four (J4).

The incident was an officer-involved shooting (OIS). SEAC Officer Jason Guerra was the involved officer who discharged his firearm at suspect Ricardo Otero, who was armed with a large, fixed blade hunting style knife with an approximate 6-inch blade. Otero was struck multiple times and was later pronounced deceased at the hospital.

Prior to the OIS, at approximately 1024 hours, LVMPD Communications received a call from a person reporting (PR) who advised Otero was at his residence located at 6750 Frances Celia Avenue, Las Vegas, Nevada 89122. The PR stated Otero was attempting to break into the residence and Otero was armed with a knife. The LVMPD call-taker initiated a Burglary call at the Frances Celia Avenue address and routed the incident to the SEAC dispatcher.

As the SEAC dispatcher broadcast the incident over the radio, multiple officers (including Officer Guerra) were assigned. While the officers were en route, they were informed (by the dispatcher) Otero vandalized a vehicle's tires located at the residence. The dispatcher then broadcast, over the radio, Otero placed the knife in his pants and had left the area, walking east away from the residence toward Broadbent Boulevard.

A two-officer marked patrol unit, along with Officer Guerra, arrived in the area and observed a subject, later identified as Otero, walking on Broadbent Boulevard. Before they approached Otero, near Broadbent Boulevard and Broadlake Lane, the officers briefly discussed over the radio if the subject was Otero or not. At this time, Otero was carrying a black backpack and per the incident details, he did not have one, but Otero's clothing matched. The officers determined they would contact Otero and approached him in their marked patrol vehicles.

Officer Guerra broadcast the person stop over the radio stating, "We're going out on a possible at Broadbent and Cherry." He drove past Otero, conducted a U-turn, and stopped to the northeast of him. The two-officer marked patrol unit activated their lights and siren as they approached Otero from the south. As they parked, they exited their patrol vehicle and issued verbal commands stating, "Face away from us Ricardo, we need you to listen." Officer Guerra also issued verbal commands to the subject stating "Ricardo, we need you to listen." Otero did not comply; instead, he took off his backpack and dropped it on the ground and stated, "You want to play this fucking squid game and shit? Come on." Using his right hand, Otero drew a knife from the small of his back area and immediately walked toward Officer Guerra.

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As he retreated to the rear of his patrol vehicle, Officer Guerra drew his firearm and issued verbal commands to Otero stating, “Drop the knife Ricardo, drop the knife!” Otero did not comply and continued to close the distance, forcing Officer Guerra to move away from his marked patrol vehicle, retreating onto the sidewalk of Broadbent Boulevard.

Connected to the sidewalk, directly behind Officer Guerra, was a high cinderblock wall, which limited the officer’s ability to retreat. Officer Guerra adjusted his movement and continued to back away while issuing verbal commands to “Drop the knife!” Again, Otero did not comply; instead, he aggressively picked up his pace and began running toward Officer Guerra, closing the distance, still armed with the knife.

At this time, after retreating approximately 77 feet, Officer Guerra discharged his firearm at Otero from approximately 12 feet away, striking him. Immediately, Otero dropped the knife and fell onto the sidewalk on Broadbent Boulevard. Officer Guerra broadcast “Shots fired!” over the SEAC radio channel.

With the arrival of additional officers, an immediate action team was created, approached Otero, and took him into custody. Once Otero and the surrounding area were made safe, officers provided life-saving measures on Otero. Medical personnel arrived, assessed, and treated Otero. He was then transported to the hospital where he was pronounced deceased.

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 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 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

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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 May 26, 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 Jason Guerra

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 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 promptly created a call for service, correctly designated it as a Supervisors Tactic for Armed Subject Response (STAR) De-Escalation Protocol, accurately recorded the information into CAD, and routed the call to the SEAC dispatcher. The call-taker updated the information about the specific type of weapon and correct location of the call.

- The administrative review determined the call-taker's performance regarding accurately recording and updating information was within standardized LVMPD tactics, training, and policy.

During the administrative review of this incident, it was determined the LVMPD dispatcher relayed pertinent information to responding officers and broadcast the STAR De-Escalation Protocol over the SEAC radio channel. After the OIS occurred, the dispatcher promptly confirmed officers were not injured, made a request for medical personnel, and assisted in providing further information to all units involved.

- The administrative review determined the dispatcher's performance regarding emergency radio situations was within standardized LVMPD tactics, training, and policy.

During the administrative review of this incident, it was determined the SEAC officers radio traffic and communication reference the initial response to the attempt burglary event was timely and pertinent. Officers communicated with each other about possible suspect location, description, and were able to meet up together prior to making their approach.

- The administrative review determined the officers' performance regarding voice radio communications was within standardized LVMPD tactics, training, and policy.

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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.

Officer Guerra utilized the mobile display terminal (MDT) in his vehicle to gather further information about Otero. Officer Guerra broadcast this information which assisted officers to assemble resources and slow the momentum of their response. Officer Guerra verbally communicated and verified Otero was still armed with a knife over the radio. Officer Guerra drove past Otero and met up with other officers, assessed the risk and assembled resources prior to conducting a person stop.

- The administrative review determined Officer Guerra's preplanning was within standardized LVMPD tactics, training, and policy.

During the administrative review of this incident, it was determined the officers approached Otero as a two-vehicle team to conduct a person stop. The officers positioned themselves on both sides of Otero, creating a "Tactical L."

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

When contacting Otero, all officers remained behind the engine blocks and/or doors of their respective patrol vehicles, while issuing initial verbal commands. Once Otero charged toward Officer Guerra, Officer Guerra secured his patrol vehicle by locking and shutting the door. He retreated to the rear of his patrol vehicle and utilized the vehicle as cover and concealment for as long as possible.

- The administrative review determined the officers' 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.

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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.

During the administrative review of this incident, it was determined Otero dropped his backpack to the ground and drew a knife from the small of his back. Officer Guerra recognized the deadly threat and drew his firearm with his right hand.

- The administrative review determined Officer Guerra's drawing or exhibiting firearm was within standardized LVMPD tactics, training, and policy.

When Officer Guerra made his initial contact with Otero, his backdrop was a tall cinderblock wall. However, Otero advanced towards Officer Guerra, putting himself between Officer Guerra and two other LVMPD officers on scene. As Officer Guerra gained distance from Otero his backdrop changed to a patrol vehicle. Officer Guerra adjusted his retreat in a different direction, where his backdrop became a cinderblock wall on the east side of the street.

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

At the time Officer Guerra discharged his firearm, Otero (armed with a knife) was charging at him and closing the distance. Officer Guerra had retreated approximately 77 feet and was approximately 12 feet away from Otero when he discharged his firearm.

- The administrative review determined Officer Guerra'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 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.

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A SEAC sergeant was at the substation when the STAR De-Escalation Protocol was broadcast on the radio. Shortly after the broadcast, the sergeant, canceled the STAR De-Escalation Protocol designation prior to the arrival of any units to assess the incident. The SEAC sergeant, who was the only sergeant in SEAC, made the decision to leave the area command boundaries to eat lunch. After Officer Guerra located Otero and after Officer Guerra verified Otero was still armed, the sergeant assigned himself to the call from an intersection outside of the area command.

The sergeant communicated to his officers to have a plan, have a low lethal option and to consider requesting medical to stage in the area. However, the sergeant failed to request any additional resources to include the Air Unit or K-9 to assist his officers in locating Otero and de-escalating the situation. The sergeant did not get involved in the management of the officers' response, did not coordinate resources and did not manage the tactical actions of his officers. The sergeant did not ensure the officers under his supervision had clear tactical direction or supervision for the incident and did not give clear direction to his officers with regards to containment and roles and responsibilities.

- The administrative review determined the sergeant's incident management was not within standardized LVMPD tactics, training, and policy.

A SEAC lieutenant assigned himself to the call after the OIS, assumed the role of incident commander (IC), and responded to the scene and established the command post (CP). The Watch commander (WC) was assigned to the call and responded to the scene. The supervisors worked together and managed the CP and scene of the OIS.

- The administrative review determined the supervisors' response to this incident post OIS and their management of the various scenes associated with the OIS were within standardized LVMPD tactics, training, and policy.

Additional Key Findings, Conclusions, and/or Recommendations

After the immediate action team (IAT) took Otero into custody and removed all weapons from his person, officers immediately began rendering medical aid to Otero. Officers placed Otero in the recovery position, applied direct pressure to his wounds and applied a tourniquet to his leg. Officers utilized the trauma kit, located in the LVMPD patrol vehicles, to further render medical aid by wrapping and packing the various wounds. Officers continued to monitor Otero until medical personnel arrived on scene and transported Otero to the hospital.

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