



POLICE DEPARTMENT
City of Newark

Memorandum

DATE: February 23, 2021
TO: Gina Anderson, Police Chief (via chain of command)
FROM: Jolie Macias, Police Lieutenant
SUBJECT: Internal Investigation of Officer Involved Shooting 2020-01618

IA #: 2020-I-001

Subject Officer:
Officer Steven Losier, Badge #101

SUMMARY:

On May 20, 2020 Detective Steven Losier was involved in an on-duty officer involved shooting. The Newark Police Department Policy Manual issued on 08/31/2018 was the applicable publication that governed this incident; therefore, all of the following referenced policy sections and subsections are referring to that Policy Manual issuance. As per the Newark Police Department Policy Section 310.7 – Administrative Investigation (Officer-Involved Shootings and Deaths), an administrative internal investigation was conducted to determine if there were any violations of the Newark Police Department Policies. Policy 300 - Use of Force (Deadly Force Applications Policy 300.4) and Policy 312 – Firearms (Patrol Rifles Policy 312.3.3) were reviewed for potential violations (see attached policies for applicable policy verbiage). This investigation was comprised of an inspection of the scene, review of all investigative reports including NPD Police Report 2020-01618, all body-worn camera footage, and statements from the officers who were on scene at the time of the incident. The conclusions were based upon



facts which were reasonably believed or known by Detective Steven Losier at the time of the incident, while applying the Newark Police Department policies to those facts.

SYNOPSIS:

On May 18, 2020, Newark Police Department Sergeant Ackerman was contacted by bail bondsman, [REDACTED], from the State of Washington. [REDACTED] advised that [REDACTED] was wanted for the following felony charges out of Clark County in Washington State:

- (2) counts of attempted rape of a child in the first degree
- (2) counts of attempted molestation of a child in the first degree
- (1) count of attempted rape of a child in the second degree
- (1) count of attempted molestation of a child in the second degree

[REDACTED] told Sergeant Ackerman that [REDACTED] was likely residing with [REDACTED] in the city of Newark at [REDACTED] Beutke Drive.

On May 20, 2020, members of Newark Police Department Detective Unit and Newark Detective Steven Losier, who was assigned to the Southern Alameda County Major Crimes Task Force, conducted surveillance of [REDACTED] Beutke Drive in an effort to apprehend wanted felon, [REDACTED]. A pre-operational briefing was held at the City of Newark Corporation Yard located at 37440 Filbert Street. During the briefing, it was determined that Detective Musantry would drive his assigned unmarked police vehicle containing both Sergeant Hodayoun and Detective Losier, who was designated to be a lethal cover officer equipped with his assigned M4/AR-15 rifle. Detective Waybright and Detective Nobbe were also present for the briefing and were assigned to their own assigned unmarked police vehicles with a primary responsibility of north and south mobile surveillance capabilities. The intent of the operation was to safely take [REDACTED] into custody outside the residence.



At approximately 1148 hours, [REDACTED] arrived at the residence in his vehicle and parallel parked on the west side of Sycamore Avenue facing southbound. Once he was parked, a pedestrian enforcement stop was conducted by the detectives. All three unmarked police vehicles pulled up to the east of [REDACTED] vehicle. All detectives were clearly identifiable with "police" markings on the front and rear of their outer carrier vests that clearly displayed their police badges worn on the exterior of their plain clothes attire. Flashing red and blue emergency lighting and a brief siren was sounded prior to giving multiple commands to include, "Police Department, put your hands up!" and "Drop the backpack."

[REDACTED] ignored commands and walked from the driver side of the vehicle to the passenger side where he retrieved a black backpack. [REDACTED] removed a .45 caliber pistol out of the backpack and made a statement similar to, "You guys are going to have to take me out" as he backed up onto the east facing lawn of the residence with the pistol in his right hand held down at his side. Detectives pleaded for him to put the gun down, with Sergeant Homayoun stating, "Please, put the gun down!" [REDACTED] raised the pistol toward Detective Musantry's vehicle where Detective Musantry, Sergeant Homayoun, and Detective Losier were all standing outside of. Fearing for their safety, Detective Losier fired one round from his department issued M4/AR-15 Sig Sauer SIG 516 rifle. Within seconds, [REDACTED] turned his weapon toward his own head and fired a single round that was later determined to have entered on the right side of his face just below his right ear. The Alameda County Coroner Thomas Wayne Rogers, M.D. performed an autopsy which determined that [REDACTED] cause of death was due to a self-inflicted gunshot wound to the head. The rifle round fired by Detective Losier was later located embedded in the wood siding of adjacent residence [REDACTED] Sycamore Street.

CONCLUSION:

[REDACTED] confronted the officers that were in and around Detective Musantry's vehicle (Detective Losier, Sergeant Homayoun, and Detective Musantry) by raising his .45 caliber pistol weapon toward them with his right arm after being told multiple times to drop the weapon. The raising of the pistol toward officers is best captured on Sergeant



Homayoun's body worn camera footage. The action of [REDACTED] raising his pistol toward detectives is also confirmed by on-scene detectives' statements. Detective Losier fired one round in response to [REDACTED] raising his firearm toward them. His statement regarding this critical moment was, "(I) thought he was going to shoot at us or at least attempt to hurt me or my friends, so I feared for my life, I feared for them." The video shows [REDACTED] turn the weapon from the direction of the officers to the direction of his own head immediately prior to firing one round that entered near his right ear.

Based upon the facts of the investigation, the use of deadly force as defined in Newark Police Department Policy 300 in this incident, it is determined:

The employee's actions were within department policy.

Based upon the facts of the investigation, the use of a Patrol Rifle as defined in Newark Police Department Policy 312.3.3 (Firearms Policy) in this incident, it is determined:

The employee's actions were within department policy.

EXHIBITS:

- ☐ NPD Case# 2020-01618 including: CAD Incident Report, Main Report, Supplemental Reports, Photographs, Body-Worn Camera Recordings, Search Warrants, and Suspect [REDACTED] intelligence information, to include all reports associated with his warrants.
- ☐ Outside Agency Reports: Fremont Police Department Outside Assist Report 200520023, Alameda County Sheriff's Office Crime Laboratory Examination Report L20-0890-1 and L20-0890-2, Silicon Valley Regional Computer Forensics Laboratory Examination SV-20-0073, County of Los Angeles Department of Medical Examiner-Coroner Gunshot Analysis Report M20-01882, and Alameda County Coroner Investigation 2020-01898.
- ☐ Newark Police Department Policy 300 - Use of Force (08/31/2018 issuance)
- ☐ Newark Police Department Policy 312 – Firearms (08/31/2018 issuance)
- ☐ Use of Force Review Board 2020-01618 Summary and Findings



Confidential and Privileged

Subject to All Applicable privileges



Newark Police Department

Use of Force Review Board

NPD Case #20-01618

January 25, 2021

Authored by: Jolie Macias, Support Services Lieutenant

INTRODUCTION

The Newark Police Department was contacted by a bail bondsman from the State of Washington who provided information regarding a suspect wanted for multiple felony charges of attempted rape and molestation of a child. The suspect, [REDACTED] was likely residing with [REDACTED] in the city of Newark at [REDACTED] Beutke Drive.

On May 20, 2020, Newark Police Detective Steven Losier assigned to the Southern Alameda County Major Crimes Task Force, along with members of the NPD Detective Unit conducted surveillance of [REDACTED] Beutke Drive in an effort to take [REDACTED] safely into custody. [REDACTED] arrived at the residence in his vehicle. Once he was parked, a pedestrian enforcement stop was conducted by the detectives. [REDACTED] presented a firearm resulting in Detective Losier firing one round from his issued rifle during the incident. Within seconds, [REDACTED] turned his weapon toward his own head and fired a single round that was later determined to have entered on the right side of his face just below his right ear. The Alameda County Coroner Thomas Wayne Rogers, M.D. performed an autopsy which determined that [REDACTED] cause of death was due to a self-inflicted gunshot wound to the head. The rifle round fired by Detective Losier was later located embedded in the wood siding of adjacent residence [REDACTED] Sycamore Street.

In accordance with Newark Police Department Policy #302, a Use of Force Review Board ("UOFRB" or Board") was convened in order to determine whether Detective Losier's actions were within departmental policy. The following is a synopsis of the Board's findings and analysis.

PURPOSE OF THE USE OF FORCE REVIEW BOARD

The purpose of the Use of Force Review Board is to evaluate a critical incident objectively and the actions of Newark Police Department (NPD) personnel, including

actions leading up to and during that critical incident, in order to make one of the following findings as required by Newark Police Department Policy #302 Use of Force Review Boards:

- a) The employee's actions were within department policy and procedure, or
- b) The employee's actions violated department policy and procedure.

The Board recognizes that tactical decisions by officers are time-sensitive, often require split-second decision making on the part of officers and may involve risk of serious bodily injury or death to persons involved in the critical incident. It is important to remember that balancing time and decision-making in a tactical environment is challenging and benefits from continuous practice. Law Enforcement Officers may not have the time to carefully analyze and compare every possible option as a critical incident unfolds and thus must act based on their training, department policy and the specific facts of each critical incident.

SUMMARY OF INCIDENT UNDER REVIEW

During the time of this incident, Detective Losier was assigned to the Southern Alameda County Major Crimes Task Force (SACMCTF). Although assigned to SACMCTF, Detective Losier assisted the Newark Police Department Detective Unit under the supervision of Sergeant Yama Homayoun on occasion. It is also relevant to mention that Detective Losier was a member of the Newark Police Department SWAT Team under the supervision of Sergeant Homayoun during the time of this incident.

On May 18, 2020, Newark Police Department Sergeant Ackerman was contacted by bail bondsman, [REDACTED] from the State of Washington. [REDACTED] advised that [REDACTED] was wanted for the following felony charges out of Clark County in Washington State:

- (2) counts of attempted rape of a child in the first degree
- (2) counts of attempted molestation of a child in the first degree
- (1) count of attempted rape of a child in the second degree
- (1) count of attempted molestation of a child in the second degree

██████ told Sergeant Ackerman that ██████ was likely residing with ██████ in the city of Newark at ██████ Beutke Drive.

Sergeant Ackerman relayed this information to Sergeant Homayoun who assigned Detective Musantry to write an operations plan and for Detective Christi Waybright to conduct intelligence gathering. Detective Waybright confirmed that indicated that the residence at [REDACTED] Beutke Drive belonged to [REDACTED]

On May 18, 2020, the Newark Police Detective Unit conducted a surveillance operation at [REDACTED] Beutke Drive and positively identified [REDACTED] as he exited the residence to empty trash. He was not apprehended on this date. On May 19, 2020, the Newark Police Detective Unit conducted a surveillance operation at [REDACTED] Beutke Drive but did not observe [REDACTED] outside the residence.

On May 20, 2020, surveillance of [REDACTED] Beutke Drive was conducted with a pre-operational briefing held at the City of Newark Corporation Yard located at 37440 Filbert Street. During the briefing it was determined that Detective Musantry would drive his assigned unmarked police vehicle containing both Sergeant Homayoun and Detective Losier, who was designated to be a lethal cover officer equipped with his assigned M4/AR-15 rifle. Detective Waybright and Detective Nobbe were also present for the briefing and were assigned to their own assigned unmarked police vehicles with a primary responsibility of north and south mobile surveillance capabilities. The intent of the operation was to take [REDACTED] safely into custody outside the residence.

At approximately 1148 hours, [REDACTED] arrived at the residence in his vehicle and parallel parked on the west side of Sycamore Avenue facing southbound. Once he was parked, a pedestrian enforcement stop was conducted by the detectives. All three unmarked police vehicles pulled up to the east of [REDACTED] vehicle. All detectives were clearly identifiable with "police" markings on the front and rear of their outer carrier vests that clearly displayed their police badges worn on the exterior of their plain clothes attire. Flashing red and blue emergency lighting and a brief siren was sounded prior to giving multiple commands to include, "Police Department, put your hands up!" and "Drop the backpack."

[REDACTED] ignored commands and walked from the driver side of the vehicle to the passenger side where he retrieved a black backpack. [REDACTED] removed a .45 caliber pistol out of the backpack and made a statement similar to, "You guys are going to have to take me out" as he backed up onto the adjacent lawn of the residence with the pistol in his right hand held down at his side. [REDACTED] raised the pistol toward Detective Musantry's vehicle where Detective Musantry, Sergeant Homayoun, and Detective Losier were all standing outside of. Detective Losier fired one round from his department issued M4/AR-15 Sig Sauer SIG 516 rifle. Within seconds, [REDACTED] turned his weapon toward his own head and fired a single round that was later determined to have entered on the right side of his face just below his right ear. The Alameda County Coroner Thomas Wayne Rogers, M.D. performed an autopsy which determined that [REDACTED] cause of death was due to a self-inflicted gunshot wound to the head. The rifle round fired by Detective Losier was later located embedded in the wood siding of adjacent residence [REDACTED] Sycamore Street.

USE OF FORCE REVIEW BOARD

Pursuant to Newark Police Department Policy #302, Chief Gina Anderson initiated a

Use of Force Review Board to review this incident. The Board consisted of the following members in their respective capacities:

1. Chomnan Loth, Police Captain (Commanding Officer)
2. Jolie Macias, Police Lieutenant (Training Manager/Chairperson)
3. Kris Kokotaylo, City Attorney (Risk Manager)
4. Jeff Mapes, Police Sergeant (Non-Administrative Supervisor)
6. Ariel San Pedro, Police Officer (Rifle Instructor)
7. Elsa Cervantes, Police Officer (Peer Officer)
8. Sam Ackerman, Police Sergeant, (Observer)

The Use of Force Review Board was held on January 25, 2020 and took place at the Clark W. Redeker Newark Senior Center located at 7401 Enterprise Dr, Newark, CA, 94560. The involved detective, Steven Losier, received notification of the convening of the Board. He elected not to attend or have a representative present on his behalf. The Board officially convened at 1503 Hrs and concluded at 1552 Hrs. The Board read and reviewed NPD Policy #302 - Use of Force Review Boards and the purpose and objectives of the Board were explained. The Newark Police Department Policy Manual issued on 08/31/2018 was the applicable publication that governed this incident; therefore, all of the following referenced policy sections and subsections are referring to that Policy Manual issuance. NPD Policy #300 Use of Force was read and reviewed with the following sections emphasized: NPD Policy # 300.3.2 Factors used to determine the reasonableness of force, and NPD Policy # 300.4 Deadly Force Applications. Additionally, NPD Policy #312 – Firearms Policy section 312.3.3 – Patrol Rifles was read and reviewed with the Board. All policies reviewed were from the Newark Police Department Policy Manual that was published on August 31, 2018 – this was the policy that was in effect on the day of the incident being reviewed. Investigating Detective Gustavo Arroyo provided all members with a comprehensive overview of the pertinent facts of this case. As a group, the Board reviewed all body camera footage of all five detectives who were present at the time of the incident.

It should be noted that on January 14, 2021, prior to the Board being convened, I provided each member of the UOFRB with a full copy of NPD report # 20-01618, which included all evidence photographs, as well as digital links to enable viewing of all of the recovered body worn camera footage. This information was provided early due to the amount of physical and digital evidence recovered as well as the overall length of the police report. Also provided were copies of the Newark Police Departments Policies that were pertinent to this review. Afterward, each board member was asked if they had any questions pertaining to the case or if they had any questions specific to their respective areas of expertise. All members of the Board had no specific questions regarding the policies under review.

FINDINGS

The findings are based upon those facts, which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time were not used to justify nor call into question an officer's decision regarding the use of force.

In reviewing the facts of this case and applying the foregoing principles and in accordance with NPD Policy #300 Use of Force, the Board made the following finding on a unanimous basis:

The employee's actions were within department policy and procedure.

In reviewing the facts of this case and applying the foregoing principles and in accordance with NPD Policy #300.4 Deadly Force Applications, the Board made the following finding on a unanimous basis.

The employee's actions were within department policy and procedure.

End of report.