

TO: Chief of Police
VIA: Deputy Chief
VIA:

REPORT NUMBER(S) IF ANY: 1502-0658
NAME OF PERSON ABOUT WHOM REPORT IS WRITTEN
NAME: Board of Inquiry

EXECUTIVE REVIEW

Division Lieutenant	Chief of Police	Deputy Chief
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Reference: **Board of Inquiry – Use of Deadly Force Incident**

Details:

I have read the report created by the members of the Board of Inquiry and I find they conducted a thorough review of the facts and circumstances leading to the use of deadly force (via a vehicle) by Officer Mike Rapiejko. Before addressing any of the Board's findings and recommendations, I think it would be appropriate to make a number of observations relative to the incident itself and the aftermath following the release of the in-car camera video. The Board was tasked with reviewing the use of force incident; however there was a dynamic we dealt with that was unprecedented for this agency and I think it bears inclusion in this investigation.

It may go without saying but this was an unusual incident. It was unusual, in part, because deadly force is seldom used and seldom necessary in our Community. What made it even more unusual was the type of deadly force utilized in this particular incident, namely the use of a vehicle.

This incident was also unusual in regard to the national, even international, attention it received in the media. The video went viral much faster than we anticipated and landed us squarely in the middle of a national debate regarding police use of force. Heated discussions waged about whether Officer Rapiejko's use of force was excessive - with people on national news stations declaring the officer should be terminated and indicted. The video by itself is graphic and violent and there is no debating it was an unconventional use of deadly force. If someone only watched the video without knowing the details that led up to the use of force, it looked bad. So I understood why the video was lumped in with other high profile police use of force incidents. People wanted answers, but before we had a chance to provide answers - conclusions were drawn, assumptions were made, and judgments were handed down. That aspect of the media frenzy was difficult to manage. Following are several observations and thoughts on our response to this aspect of the incident;

- Our initial approach of sitting down with the *local* media and taking them through the video scene by scene to explain the incident as it unfolded proved to be an effective means of ensuring accurate information was relayed to our community. I was impressed with the detail and overall accuracy reported by our local media and I don't know that I would change anything about how we handled the initial release of information. Additionally, I am grateful to the local media for the care and concern they demonstrated in getting the story right.

- As indicated earlier the national media jumped on the story much quicker than we anticipated. Many of them ran the video with little context (and a great deal of bad information) and used “experts” to comment on whether or not the force was excessive. This was very difficult to manage initially and in hindsight I think it would have been advantageous for us to release a document that detailed important aspects of the incident in an attempt to minimize the misinformation and increase accuracy.
- The work of our staff to coordinate and respond to the deluge of requests for information and interviews was nothing short of outstanding. They coordinated dozens of interviews with local, national and international news outlets with an eye toward correcting false information, providing accurate details and answering tough questions. Although everything was chaotic for a short time, it is my personal observation that our team came together quickly and handled this unusual situation very well.
- I initially thought that we erred in releasing the video when we did. I felt we should have waited to release the video until the Board of Inquiry had an opportunity to review the investigation and relate their findings. In retrospect I think releasing the video following the County Attorney’s review was the appropriate thing to do. Even though releasing the video prior to the BOI convening placed me in the position of concluding (and declaring) the agency’s finding with regard to the justification of the use of force, it needed to be done as soon as possible in the interest of transparency and public trust.

I also have some additional observations relating specifically to the incident, which were touched upon by the board but I think bear additional emphasis. This situation unfolded quickly and it escalated quickly. Officers had to act swiftly and decisively and make tough decisions under very dangerous conditions. Each of the officers on scene was in imminent danger of being shot by the suspect, yet they placed themselves in harm’s way to prevent innocent citizens from becoming part of this potentially lethal situation.

When we account for the fact that less than two minutes elapsed from the time we first made contact with the suspect to the time the threat to our community was neutralized; that’s not a lot of time to make life and death decisions. There were those who questioned why we didn’t call out a crisis team to talk with the suspect and to that question I can only respond by saying; that’s not realistic. The suspect, by his actions, made it clear he had no interest in talking. Additionally, the officers had 30 to 40 seconds before the suspect could have walked into the front door of one of the business and started shooting – that’s not enough time to get *any* additional personnel on scene, let alone a crisis team with a response time of 30 minutes or more. Officers had less than five seconds before the suspect cleared the wall and was “in line of site” to start shooting into a two story building that is covered with windows. The suspect posed an immediate threat to our community, and with no way to know what he intended to do, Officers took the action necessary to ensure he could not, and did not, hurt or kill any innocent people.

The following are my findings with regard to the five areas of review considered by the Board of Inquiry:

With regard to the Board’s findings and recommendations regarding Use of Force:

I agree with the Board’s finding as it pertains to Officer Rapiejko’s use of force. There is no question in my mind that the force he used was justified, necessary and appropriate given all the

circumstances and facts surrounding this incident. His “big picture” thinking as he responded to the scene was very commendable and I personally believe that his quick thinking and decisive actions likely saved lives.

With regard to the Board’s findings and recommendations regarding Policy;

- I agree with the Board’s finding that Officer Rapiejko violated general orders when he used profanity toward the two loss prevention employees just prior to the use of force. This violation was acknowledged very early on in the investigation and it was discussed with Officer Rapiejko. Circumstances being what they were, adrenaline doing what it does, and people being human – I understand how his statements could be made in the heat of the moment and I see no need for discipline beyond the verbal reminder that has already been given. This issue is closed with no further action required.
- I concur with all other recommendations detailed by the Board with regard to policy. I believe that General Orders does address the concern detailed by the Board in the final bullet but I recommend Deputy Chief Nunez review this section of policy to determine if there is a need for greater detail.
- All other recommendations regarding policy are assigned to Deputy Chief Nunez to ensure they are carried out as outlined in the report.

With regard to Tactics:

- The Board focused on some deficiencies as it related to Officer Rowan’s initial contact. I agree with their assessment but would emphasize a point the Board acknowledged in their findings; namely, this incident unfolded very quickly. Officer Rowan had less than two minutes (111 seconds) to formulate a plan, direct resources, coordinate a response, and give commands to the suspect, etc. Added to all of this is the fact that in the middle of trying to do all of these things he was interrupted by a citizen who diverted Officer Rowan’s attention from the suspect and our response. All that being said, the Board’s findings are well stated and all of our officers can learn valuable lessons from this. Therefore I am directing the Deputy Chief to develop a way, via training, to convey how we can improve responses to quickly evolving incidents of this nature in the future.
- I am in agreement with all other findings as they pertain to Tactics and I am directing Deputy Chief Nunez to ensure any recommendations made by the Board are carried out as indicated in the report.

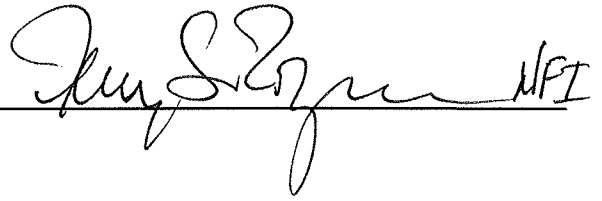
With regard to Judgment/Supervision:

- I am in agreement with all other findings as they pertain to Judgment/Supervision and I am directing Deputy Chief Nunez to ensure any recommendations made by the Board are carried out as indicated in the report.

With regard to Equipment/Training:

- I am in agreement with all other findings as they pertain to Equipment/Training and I am directing Deputy Chief Nunez to ensure any recommendations made by the Board are carried out as indicated in the report.

Terry S. Rozema, Chief of Police July 10, 2015

A handwritten signature in black ink, appearing to read "Terry S. Rozema", with the letters "NFI" written at the end of the signature.