



Ohio Attorney General's Office
Bureau of Criminal Investigation
Investigative Report



2023-2307

Officer Involved Critical Incident – I-75 Southbound at Mile
Marker 110

Investigative Activity: Interview with Officer
Involves: Justin Powell (W)
Date of Activity: 09/03/2023
Author: SAS Scott A. Stranahan, #98

Narrative:

On Sunday, September 3, 2023, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Christopher Hamberg (Hamberg) and Special Agent Supervisor (SAS) Scott Stranahan (Stranahan) conducted an interview with Ohio State Highway Patrol (OSP) Sergeant (Sgt.) Justin Powell. The purpose of the interview was to ascertain the actions and/or observations of Sgt. Powell during the pursuit and subsequent Officer Involved Critical Incident (OICI) involving subject Danny Berry.

The interview took place at the OSP Post in Wapakoneta which is located at 15472 Wapak-Fisher Road, Route 5, Wapakoneta, Ohio. Also present during the interview was OSP Staff Representative Bruce Elling (Elling). The interview was digitally recorded. A copy of that recording has been placed in this case file and attached to this Investigative Report. During the interview, Sgt. Powell provided the following details.

Sgt. Powell stated he is currently assigned to the OSP Findlay Post. His unit number is 384 and his assigned cruiser number is 3131. According to Sgt. Powell, he signed on the radio for overtime at approximately 13:45 hours. When he signed on, he heard someone broadcast a "signal 40" [meaning, no additional or unnecessary radio traffic]. Sgt. Powell recalled hearing a vehicle was traveling southbound on Interstate 75 (I-75) and was near his location. Sgt. Powell confirmed the entrance and exit ramps to I-75 were shut down at the Bluelick Road exit. A short time later, Sgt. Powell said he blocked off an emergency cross-over so the subject vehicle (SV) could not cross over to the northbound lanes of I-75. Sgt. Powell then entered I-75 and joined the pursuit with the other patrol vehicles.

Sgt. Powell observed a vehicle (SV) in front of the cruisers. He also observed patrol vehicles from Sheriff's Offices and the Lima Police Department were engaged in the pursuit as well.

According to Sgt. Powell, both front tires of the SV were "gone." Sgt. Powell was told the vehicle drove over stop sticks before his involvement in the pursuit. Sgt. Powell also recalled the SV was traveling at approximately 65 – 70 miles per hour (MPH). According to Sgt. Powell, he observed sparks coming from the vehicle and at some point, the vehicle caught on

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency except as provided by law – a statute, an administrative rule, or any rule of procedure.

fire during the pursuit. Sgt. Powell stated the SV maintained its speed. He also said Troopers were told the subject was in possession of a firearm.

At some point during the pursuit, Sgt. Powell recalled hearing Staff Lieutenant Matthew Crow broadcast that they needed to "end" the pursuit and if the opportunity presented itself, Troopers were to initiate a PIT maneuver. According to Sgt. Powell, Trooper Damian Roose then executed a successful PIT maneuver. Sgt. Powell observed the SV spin and come to rest in the median of I-75. Once the vehicle was stopped, the vehicle fire increased its intensity and filled with smoke.

Sgt. Powell observed numerous Troopers on I-75 in the area of the SV with their guns drawn issuing verbal commands to the subject (Berry) to show his hands. Sgt. Powell recalled that at one point, the subject did put one hand out the window, but would not show both of his hands despite their repeated requests. As the incident unfolded, the subject did show both of his hands. It was at that time that Sgt. Powell observed what he described as a "small caliber revolver in his hand." According to Sgt. Powell, the subject was still inside the vehicle at this time. The subject also did not point the gun at any of the Troopers on scene.

Troopers continued to issue verbal commands to the subject. Sgt. Powell stated there was some concern the subject would burn to death as he would not exit the vehicle. When describing the status of the vehicle fire, Sgt. Powell said "...the flames were quite high at this point."

Sgt. Powell stated that at some point the subject exited the SV. Sgt. Powell observed the subject had a "gun in his hand" and "he did not point it at us." According to Sgt. Powell, the subject raised the gun in the air, turned and then put the gun to his own head. Sgt. Powell said "at no point in time did he point the gun at us; that I saw." Sgt. Powell clarified that he was behind other Troopers on scene and was slightly away from the scene and may have missed it if the subject pointed the gun at Troopers.

Troopers then used two patrol cars as cover and moved closer as the subject walked south on I-75. According to Sgt. Powell, one of the cruisers used for rolling cover was Lt. Evan Slates'.

Sgt. Powell did not know the driver of the second cruiser only that the vehicle was a Dodge Charger. As the incident continued to unfold, Sgt. Powell recalled hearing Staff Lieutenant Crow give the order (permission) for Troopers to "take the shot" and "take him out if necessary."

Sgt. Powell observed the subject continued to walk away with the gun to his head despite Troopers repeated commands to drop the gun. At some point, Sgt. Powell heard a single gun shot. He described it as being from a small caliber firearm, but clarified that he was not certain what type of gun was used. Following the sound of the gun shot, Sgt. Powell observed the subject's head jerk and then the subject fell to the ground. Troopers later discovered there was only one round in the subject's gun. It was determined the subject did not fire his gun, but rather Sgt. [REDACTED] fired the shot with his rifle.

SA Hamberg then asked Sgt. Powell if he knew the identity of the Troopers who were involved in this incident. Sgt. Powell then provided the following list of individuals: Staff Lieutenant Crow, Lt. Slates, Trooper Damian Roose, Trooper Scott Mershman, a K-9 Officer from Lima PD

This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency except as provided by law – a statute, an administrative rule, or any rule of procedure.

and Trooper Fitzgerald. Sgt. Powell said there were other Troopers on scene but at the moment he could not recall their names.

SA Hamberg asked Sgt. Powell what happened after he heard the shot fired. According to Sgt. Powell, Troopers moved up to the subject and began to render first-aid. Sgt. Powell recalled he asked dispatch to have the fire department respond to the scene to put the vehicle fire out.

He also asked that rescue respond to treat the subject. Sgt. Powell was unable to provide any additional information regarding the incident and the interview was concluded.

This report only summarizes the information deemed by the author to be of the most relevance to the investigation and does not purport to contain all questions and answers from the audio recording. Further, this report was placed in a chronology to aid the reader's overall understanding of the information elicited during the interview and may not be reflective of the actual sequencing of questions or responses. It is suggested that the reader refer to the audio recording in its entirety.

Attachments:

Attachment # 01: Interview Sgt. Justin Powell