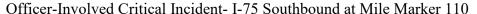


Investigative Report

2023-2307





Investigative Activity: Interview with Trooper

Involves:

10/30/2023 BG Office

Activity Date:
Activity Location:

Authoring Agent:

SA Chris Hamberg #69

Narrative:

On Monday, October 30, 2023, at 1140 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Chris Hamberg (SA Hamberg) and SA Josh Rammel (SA Rammel) interviewed Ohio State Highway Patrol (OSHP) Sergeant (Sgt.) , who was accompanied by his attorney, Tom Matuszak. The interview took place in a small conference room at the Bowling Green BCI office. The interview was audio recorded.

Sgt. read, understood, and signed the BCI Criminal Investigation Notification form.

During the course of the interview, agents utilized tactics designed to illicit truthful responses and to test the veracity of information provided. As many of the details of the investigation into the incident were publicly available, it was necessary to utilize alternative tactics (beyond the typical methodology of retaining confidential "holdout" information regarding the incident and then comparing/contrasting witness statements with information that could only be known by those with actual knowledge of the incident). These tactics include developing rapport and potentially providing information known to be erroneous. Therefore, misstatements of facts or evidence in the recorded interview by the interviewing agents are intentional and align with the strategy for the overall investigative plan.

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 interview. 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. It is suggested that the full recording be reviewed to clarify any content or contextual questions regarding the information from the interview.



Investigative Report

2023-2307

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



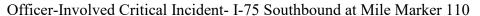
Preliminary and Demographic Information:

Name:	Rank: Sergeant (Sgt.)	
Badge Number:	Cruiser/Vehicle Number:	
Radio Call Sign:	Immediate Supervisor: Sgt. Nick Boes	
Radio Channel Utilized: Lima Frequency	Mobile Data Terminal: Present & Utilized	
Cruiser Description: Marked OSHP cruiser	Occupants of Cruiser and Seating	
with lights and standard markings	Positions: NA	
Assignment: Van Wert County Fair	Normal Shift: 1400 hours 2200 hours	
In-Car Camera: Operational & Utilized	Spotlight: Present; Not utilized	
Emergency Lights: Present & Utilized	Siren: Present & Utilized	
Shift Day of Incident: 1430 hours.	Duty Status: On-Duty	
Days Off: Previous Thursday and Friday	Prior Overtime or Extra Details within	
Days Off: Flevious Thursday and Friday	Preceding 48 Hours: None	
Total Length as Officer: 7 years	Consider Self Well Rested? Yes	
Physical Disabilities (to include hearing	Length at Current Agency: 7 years	
aid): None	Length at Current Agency. / years	
Uniform Worn: Standard OSHP marked	Corrective Lenses: No Corrective Lenses	
uniform	Corrective Lenses. Two Corrective Lenses	
Ballistic Vest: Concealed Armor	Equipment and Less-Lethal Options	
	Carried on Person/Belt/Vest: Sig Sauer P	
	320 9mm; extra magazines, handcuffs, taser	
Other Recording Devices: None	Body Worn Camera: Present & Used	
Injuries: None	Partner: None	
Training or Areas of Specialty: None	Equipment Damage: None	
Military Experience/Training: None	OPOTC Certification: 9/28/2016 160th	
	Basic Academy at the OSHP	
Prior Shooting Incidents: None		
Medications, Prescriptions, or Drugs that	Prior Discipline or Use-of-Force	
might Impair Your Duties at Time of	Complaints: None	
Incident: None		
Alcohol in Past 24 Hours? No	Medications, Prescriptions, or Drugs that	
	might Impair You Now for Interview:	
	None	



Investigative Report

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Officer's Firearm(s):

Weapon #1

Make: Sig Sauer	Model: P 320	
Caliber/Gauge: 9 mm	Serial:	
Type: Semi-Auto Handgun	Method of Carry: On the hip, right side	
Discharged During Incident? No	Primary or Backup Weapon: Primary	
Rounds Remaining After Incident: NA	Number of Rounds Fired: None	
Right/Left-Handed Carry: Right-Handed	Ownership: Department Owned	
Last Qualification Date: 5/17/2023	Type of Holster, if any: Retention	

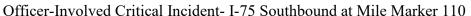
Weapon #2

Make: Aero	Model: M4E1	
Caliber/Gauge: .223 caliber	Serial:	
Type: Rifle	Method of Carry: Sling	
Magazine Capacity: 30 rounds	Total Rounds as Carried (including	
	chamber): 28 rounds	
Extra Magazines: None	Number of Rounds in Extra Magazines:	
	NA	
Discharged During Incident? Yes	Primary or Backup Weapon: Backup	
Rounds Remaining After Incident: 27	Number of Rounds Fired: One (1)	
Right/Left-Handed Carry: Right-Handed	Ownership: Department Owned	
Last Qualification Date: 5/17/2023	Type of Holster, if any: NA	



Investigative Report

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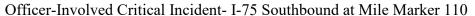
Narrative:





Investigative Report

2023-2307



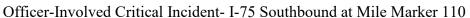


subject had a handgun in his hand. added due to the heavy smoke and his angle, he could not observe the subject. stated that the subject then began walking southbound on the roadway, when he came around the cruiser and the discussion was to utilize Lieutenant Evan Slates' SUV cruiser as a moving barricade.
stated that he was walking along the left/driver side of Slates' cruiser when Trooper Brandon Schreiber was to the right side of him and was walking adjacent to Slates' cruiser. added that the Lima Police Department had a K-9 unit and Trooper John Sanders-Tirado was talking to the subject and they were on the right side of Slates' cruiser, but did not know their exact location or any other Trooper's exaction location when they were walking down the roadway.
stated as the subject was walking southbound, the subject was holding the handgun by the trigger guard, in a non-aggressive manner and continued walking away from the Troopers. Troopers were yelling verbal commands for the subject to drop the gun and get on the ground, when the subject refused the verbal commands and continued walking, and crisscrossed from the left side of the roadway back over to the right side of the roadway and back again. Stated he did not remember how may times this occurred.
said that the subject was a threat, due to the subject being suspect in a possible homicide in Chicago, IL, being in the pursuit and now having a handgun in hand, but the subject was not being aggressive with the handgun at that time, and he was not in fear of his life or his fellow Troopers at that time. Stated eventually the subject turned around and faced the Troopers and grabbed the handgun by the handle and put the gun up to the right side of his head. Said at that time, he was in fear for his life and his fellow Troopers, because the subject could point the gun right at them.
stated at this time, the subject stated that he had one (1) bullet that was for himself, and he was not going back to jail. Stated, with his experience, he was concerned for himself and his fellow Troopers, as he thought the gun might get pointed toward them. Stated at this time, Staff Lieutenant Crow authorized a shot to be taken at the subject. Stated he thought he told everyone that he would take the shot. Added as he was getting ready to take the shot, the subject turned around and began walking away from them again. Added he did not take the shot, as he was not being threatened at that time; however, they were getting closer to the stopped civilian traffic on the northbound side of I-75 and that was a concern for also. SA Hamberg asked if they needed permission from command staff to use lethal or deadly force. Stated no. Stated no. Added if the command staff is on the scene or notified of a situation, they will authorize a pit maneuver or other actions that could be taken.



Investigative Report

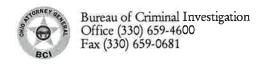
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stated that the subject kept walking and he was yelling out verbal commands for the
subject to drop the gun and get on his knees, when the subject failed to comply with the verbal
commands and continued walking down the roadway. SA Hamberg asked as the time
went on, did the subject get more agitated with the situation. stated yes, as the subject
was not talking to them and he was refusing to comply with their orders and continued walking
down the roadway. stated that the subject then turned around abruptly and was facing the
Troopers with the gun to his head again. stated at that time, he stopped walking, aimed
the rifle at the subject's "center mass" and took one (1) shot at the subject.
gun came out of the subject's hand and the subject fell to the ground.
told agents that they walked up to the subject when he gave the orders to secure the subject's gun and secure the subject. Stated someone got on the radio and asked for a squad. Stated he asked for a medical bag and assisted with rendering medical aid to the subject and continued with that until the paramedics arrived. SA Hamberg asked if he had any additional medical training.
The interview concluded at approximately 1203 hours.
The interview was audio recorded. The audio recording was attached to this report. The signed
BCI Criminal Investigation Notification form is also attached to this report. Sgt. also provided a written statement of the critical incident. Sgt. signed his written statement.
The written statement is also attached to this report. Please see the attachments for further
details.





Criminal Investigation Notification

- 1. This investigation is being conducted in order to determine whether any criminal laws have been violated on the part of those involved in this incident. Specifically, to collect facts and information to be provided to the prosecutor and/or grand jury in order for them to determine whether the conduct involved is authorized or prohibited by criminal statutes.
- 2. Your participation in this interview is voluntary and you may decline to answer or cease the interview at any time. You are entitled to have an attorney present if you wish.
- 3. The criminal investigation is separate from any internal, administrative investigation which your employer may or may not be independently conducting. You are not being compelled to give any statement or answer any questions. This is **not** a "Garrity" interview (where you could be required to answer).

Printed Name of Interviewee	/0/30/23 Date / Time	1/30A
Signature of Interviewee		
BCI Agent (Printed)		
BCI Agent (Signature)		

Statement of Sergeant

, Unit

"I prepared this report based upon my observations and/or those of other troopers relative to the instant offense(s). The facts contained herein are intended solely to give the prosecuting authority a basic understanding of the facts pertaining to this case. The facts contained herein are not intended to be an exhaustive recitation of the facts pertaining to pretrial or trial issues. Instead, I anticipate that, during the pretrial proceedings in this case, both the prosecutor and defense counsel will take the opportunity to interview me in order to ascertain any and all relevant facts which might be the subject of my testimony in court proceedings."

This statement regards my involvement in an incident that occurred between approximately 1339 hours and 1445 hours on Sunday, September 3rd, 2023 in Auglaize County, Ohio. I am making this statement voluntarily as part of the investigation being conducted by the Ohio Bureau of Criminal Investigation.

I started my career with the Ohio State Highway Patrol as a dispatcher at the Van Wert Dispatch Center in June of 2014. In April of 2016, I entered the 160th academy class. I graduated the academy in September of 2016 and was assigned to the Lima Post. I was promoted to the rank of sergeant in October of 2021 at the Defiance Post. In July of 2022, I transferred back to the Lima Post, and that is my current assignment.

On the day of this incident, I was wearing the uniform of the day. This consisted of dark gray trousers, short-sleeved light gray shirt, and a straw hat. On my shirt I wore my badge and sergeant chevrons. I was also wearing a body-worn camera that was positioned on my chest, and was activated during this incident. I was operating patrol car SP This car is a fully marked patrol car. It is equipped with a light bar and sirens. There is also a dash camera mounted to the windshield that was activated during this incident.

I was carrying my duty-issue primary service weapon, a Sig Sauer P320 9mm handgun. I was also carrying my duty-issue secondary handgun, a Sig Sauer P365 9mm handgun. My range qualifications are current for both weapons; however, I did not use either weapon during this incident. Instead, I was equipped with my duty-issue semi-automatic Aero Precision AR-style rifle. This weapon holds 30 rounds, but I only load 28 rounds, consistent with my training and division policy. I am current in my range qualifications with this weapon.

On Sunday, September 3rd, 2023, I reported to the Van Wert Post at approximately 1100 hours. While I am assigned to the Lima Post, I assist with recruitment events in the Findlay District. On this day, I was going to be at the Van Wert County Fair.

I was checking my emails and read an officer safety email put out from the Chicago Police Department. The email was for Danny Berry. It stated that Danny Berry is traveling to Cleveland from Chicago after just shooting a victim in the head. It also stated that Danny Berry made statements to his family that he is not going to jail and would kill himself. The email also had a description of the last vehicle Danny Berry was seen driving; it was a 2006 blue Chrysler Pacifica.

While getting ready to leave the Van Wert Post, I was advised of a murder suspect that was possibly on Interstate 75 near Bowling Green. I got into my patrol car where my in-car radio system was on the Lima Post frequency. At this time, I heard Lieutenant Evan Slates advise that he had visual on the suspect vehicle and that it was going to be a pursuit. The vehicle matched the description of the vehicle that the suspect, Danny Berry,

was supposed to be driving.

I started to respond to the area on U.S. Route 30. I was attempting to get into the area to assist with paralleling the pursuit or a perimeter if needed. When I got into the area of the pursuit, I heard a trooper advise that he was out of the pursuit due to running out of fuel. At this same time, I observed a trooper disabled along the road changing a tire. Rather than attempting to parallel, I believed it would be beneficial to stay on Interstate 75 to assist with stopping traffic when the pursuit comes to an end. Another trooper and I stayed approximately a mile behind the pursuit so we could stop all traffic when needed.

When intentional contact occurred, there was another unit in the rear to assist with stopping traffic. I advised them to stop the traffic and I responded up to the suspect vehicle to assist. The vehicle came to rest in the median of Interstate 75. I exited my patrol car and retrieved my rifle from the trunk. I walked up to an area where I could see the suspect vehicle. I used a patrol car for cover. At this time, I was standing in the median near the cable barrier. I could not see into the suspect vehicle due to window tint and smoke. Other units were giving commands to the driver to exit his vehicle.

The fire under the vehicle began to grow and smoke filled the driver area. The suspect exited the vehicle and had a handgun in his hand. Several troopers were ordering him to drop the gun. The suspect began to walk down the southbound lanes of Interstate 75. I moved from the patrol car that I had for cover to another patrol car where I had visual on the suspect. The suspect kept walking southbound on Interstate 75 away from where I was. Lieutenant Evan Slates drove his patrol car for cover and several troopers

walked down Interstate 75 next to the patrol car. I was positioned on the left side of Interstate 75's southbound lanes. Directly to my right was Trooper Brandon Schreiber. Directly to his right was the patrol car driven by Lieutenant Evan Slates.

The suspect was walking away from us with the gun in his right hand. Several troopers advised the suspect to drop the gun multiple times. The suspect refused to put the gun down. We were attempting to get close enough to the suspect for a K9 unit to deploy. At this time, the suspect stopped and faced us and put the gun to his head. Again, troopers ordered the man to put the gun down. At this time, I heard the suspect state that he had one bullet for himself. The suspect was ordered to drop the gun and he responded back no. I then heard the suspect say I am not going to jail.

The suspect was facing us and walking backwards with the gun to his head. I was in fear for the life of my fellow officers on scene and me. The suspect's statements made it obvious that he was not going to surrender peacefully. The suspect kept walking and was now approaching the northbound traffic of Interstate 75. This is where a trooper had motorists stopped for their safety. The closer the suspect got to the stopped traffic the more lives that were in danger from either him or from troopers if there were shots fired. At this time, I thought to myself it was time to shoot the suspect before anyone else would get seriously hurt or killed. An order then came from Staff Lieutenant Matthew Crow to take the shot. I communicated to fellow officers that I would take the shot.

As I was getting ready to shoot, the suspect turned away from us, and started walking towards the west edge of Interstate 75. The suspect again was told several times to put the gun down and to get on his knees. He refused to do so. The suspect then began

to walk to the east edge of the southbound lanes of Interstate 75. The suspect was directly in front of me. The suspect stopped and faced directly towards me with the gun in his right hand up to his head. Again, I feared for the life of my fellow officers on scene and me. I stopped walking and fired one shot at the suspect's center mass. I was getting ready to fire a second shot, but I saw the firearm drop out of the suspect's hand. The suspect fell to the ground.

I began to approach the suspect. I advised the other trooper to secure the suspect in case he had another gun on his person. I then advised a trooper to bring me a medical bag. I donned my gloves to begin first aid to the suspect. I handed my rifle to a trooper standing behind me as I could not give proper care to the suspect with the rifle in my way. I cut the suspect's shirt off to expose the area where he had been shot. I found the bullet wound in the top right portion of his chest near his shoulder. I placed gauze over the wound and applied pressure in an attempt to stop the bleeding. Other troopers and I spoke with the suspect in attempt to keep him alert as we waited for the medical personnel to arrive. The suspect stated his name was Danny Berry. When medical personnel arrived on scene, I assisted with wound pressure as they began patient care. I held wound pressure until the suspect was loaded into the ambulance and Sergeant Rodney Kiefer relieved me.

In this incident, I fired one round. I fired this shot from a stationery position using my red dot sights. I fired at the suspect's center mass. I was approximately 25 to 30 feet from the suspect. I fired in the southern direction. The only person in my line of fire was the suspect. There were no civilians or officers in my line of fire. The suspect and I were standing in the southbound lanes of Interstate 75. I would estimate that I was

approximately five feet from the yellow edge line, and the suspect was approximately two feet from the yellow edge line. I did not have any cover or concealment at the time I fired.

I was in fear for the lives of my fellow officers and me at the time of the shooting. The suspect was facing us with a handgun to his head. The suspect was given orders several times to drop the gun, and he refused to do so. From his prior statements, I felt there was no other way to end this encounter and to keep everyone in the area safe.

I do not know the suspect, Danny Berry. I do not believe that I have ever encountered him, professionally or outside of work.

This concludes my statement.

Sergeant