



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



2023-1626
Officer Involved Critical Incident – 439 E Mulberry Street,
Lebanon, Ohio 45036 (L)

Investigative Activity: Interview with Officer
Date of Activity: 06/20/2023
Activity Location: Lebanon Police Department – Business – 25 West Silver Street,
Lebanon, OH 45036
Author: SA David Hornyak, #112

Narrative:

On June 20, 2023 at approximately 1405 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agents Dave Hornyak and Ken Smith interviewed Lebanon Police Sgt. ██████ in regard to an Officer-Involved Critical Incident that occurred the evening of June 17, 2023. Also present was Sgt. ██████ attorney, Steve Lazarus. The interview was recorded on a handheld digital recording device. This report is a summary only. The entire interview can be reviewed on the recording.

Prior to any questioning, Sgt. ██████ signed the BCI Criminal Investigation Notification form acknowledging that he was attending the interview voluntarily. Sgt. ██████ then answered preliminary questions from BCI prior to reading from a prepared written statement, which is attached in-full to this report. Some of the information Sgt. ██████ provided was as follows:

On June 17, 2023 at approximately 2330 hours, the Lebanon Police Department and the Warren County Sheriff's Office responded to a "subject with a weapon complaint" at 439 E. Mulberry Street in Lebanon. Upon arrival, Sgt. ██████ observed Officer Greg Stallard engaging with a male whom Sgt. ██████ observed to be known subject Dione Kellum. Kellum was standing near the residence and holding a pistol pressed up to his own head. Kellum would not respond to commands to put his gun down and instead stated multiple times that he "had nothing left" and was going to kill himself. At one point during the encounter, Kellum took a drink from "a tall Budweiser can" and also began smoking a cigarette. Kellum also produced a shotgun during the engagement.

As the incident continued, Kellum walked to the back of the property and officers followed. Kellum stationed himself at the back of the garage. Officers followed and Sgt. ██████ retained cover on Kellum taking up position behind a tree at the rear of 437 E. Mulberry. Several times, Kellum stated that the firearms with him were real and then demonstrated this by firing a single pistol shot into the ground. Sgt. ██████ continued to give commands to Kellum who still would not give up his weapons.

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.

Kellum became increasingly agitated about the officers' flashlights shining upon him. Kellum picked up his shotgun, asked officers if they knew what the shotgun slugs would do to them, and then fired one shot. Sgt. [REDACTED] fired one round in return fire and Kellum fell to the ground. As he and other officers approached, Kellum raised his pistol and fired one round into his own head. Officers secured Kellum's weapons and EMS took over the scene to provide life-saving efforts. After the incident, Sgt. [REDACTED] learned that Warren County Deputy [REDACTED] had also fired his weapon during the incident.

After Sgt. [REDACTED] finished reading his prepared statement, he answered questions from the agents. Sgt. [REDACTED] verified that he knew Kellum from previous incidents and stated that he had no animosity against him. Sgt. [REDACTED] said that everyone on-scene did their best to de-escalate the situation and that he personally repeatedly begged Kellum to put down his weapons.

Sgt. [REDACTED] stated that, just before Kellum fired the round from his shotgun, he observed Kellum raising the shotgun toward Deputy [REDACTED] and Patrolman (Brandon) Magee. Sgt. [REDACTED] said he was "100% in fear" that their lives were in danger when he fired a single round at Kellum. Sgt. [REDACTED] stated that he stopped firing upon seeing Kellum go down. Sgt. [REDACTED] verified he was carrying his duty-issued Glock 17 during the incident and that his body worn camera was active.

During the final portion of the interview, the agents played portions of Sgt. [REDACTED]'s bodycam video for Sgt. [REDACTED]'s review. Sgt. [REDACTED] acknowledged that he had seen the video prior to the interview. Sgt. [REDACTED] verified that the bodycam video being showed was his own. Sgt. [REDACTED] answered limited additional questions from the agents and stated that he was personally upset at the way the incident ended as the ultimate goal was for no one to get hurt.

The interview terminated at approximately 1434 hours.

References:

Copy of Lebanon PD Records – USB Thumbdrive – Black/Silver

Attachments:

Attachment # 01: 2023-06-20 / Sgt. [REDACTED] interview

Attachment # 02: Crim Inv Notification form – [REDACTED]

Attachment # 03: Sgt. [REDACTED] statement

Exhibit 1

Included as a separate file.

Exhibit 2



Ohio Attorney General's Office Bureau of Criminal Investigation



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

6/20/23 1407
 Date / Time



SA DAVE HORNYAK #112
 BCI Agent (Printed)


 BCI Agent (Signature)

Exhibit 3

On 6/17/23 at approximately 2330, Lebanon Police units were dispatched to a subject with a weapon complaint at 439 E. Mulberry St. Dispatch advised that the caller stated "Dione" was outside the residence stating that if they don't come outside, he is going to shoot.

Ptl. Stallard arrived on scene first and I arrived just after, followed by Ptl. Magee. Several Warren County Sheriff's Office deputies also arrived on scene to assist. After parking my marked cruiser, I approached the front yard area of the residence. Ptl. Stallard was walking from the east side of the residence toward the west side of the residence. At this point, Ptl. Stallard made contact with a subject on the west side of the residence. Ptl. Stallard immediately began giving the subject commands to show his hands. As I then approached, I observed a male subject standing next to the residence and immediately recognized him as Dione Kellum from prior dealings.

Dione was standing next to the house and by a trash can. I also immediately observed that Dione had a handgun pressed up against his lower jaw area and pointed up to his head. I then drew my duty issued firearm and trained it on Dione. I then began speaking with Dione.

I requested numerous times for Dione to drop the handgun. Dione stated numerous times that he had nothing left and that he was going to kill himself. I continued to talk with Dione and give him commands to drop the gun. Dione did not comply with these commands and continued to make suicidal statements. Dione also became agitated about our flashlights being pointed at him. I told him numerous times that we had to be able to see him.

In between speaking with Dione, I requested more police units to assist. Several more deputies arrived on scene.

As I continued to speak with Dione, Ptl. Stallard was communicating with dispatch. Ptl. Stallard requested a squad to be staged and confirmed with me before requesting the Warren County Tactical Response Unit.

At this time, I was attempting to gain some sort of cover and was in front of the front porch of 439 E. Mulberry St. From here, I had a clear line of sight at Dione. During this time, all police units were communicating with each other updates as to what we were able to see. At this point, Dione had not taken the handgun away from his head.

As I continued to speak with Dione and request that he drop the gun, he continued to disobey the requests. During this time, Dione took a drink with his free hand out of a tall "Budweiser" can, and he also took out a cigarette and began smoking it. Dione was requesting us to have his son exit the residence so that he could speak to him. I advised Dione numerous times that we could not grant that request. At one point, Dione began hitting the side of the residence with the handgun and yelling for "Brandon."

Dione was still in the side yard area just to the west of the residence. Dione then grabbed a long object with his free hand that was wrapped in cloth. Dione began unwrapping it and it was immediately apparent that it was a long gun. Dione then held the long gun with his free hand while the other hand still held the handgun up to his head.

At this time, I was still communicating with Dione and pleading with him to put the guns down. This went on for several minutes. At one point, Dione did lay the long gun down on top of the trash can, but

he later picked it back up. Dione then stated that he didn't want someone to see him and began walking toward the backyard of the residence. The backyard of this residence has a partial privacy fence. On the west side of the backyard was a smaller chain link type fence. The front and back fence were taller wooden fences. With the handgun still to his head and the long gun in his other hand, Dione walked through the gate of the fence to enter the backyard. I advised Dione several times not to walk away from us, but he continued.

All police units then advanced toward the backyard to maintain contact with Dione. I also requested any available police units to stage on Chillicothe which is a dead-end street that is behind the residence.

Police units were continuing to communicate the location of Dione to each other and attempting to maintain contact with him. I then scaled the chain link fence and saw that Dione had exited the back gate of the backyard. I then went to the southeast corner of that yard, the yard of 437 E. Mulberry, and took a position behind a large tree.

Dione had exited the backyard and stopped at the corner of a detached garage that was behind the residence of 439 E. Mulberry. Right next to Dione was a piece of furniture. Dione was directly at the southwest corner of the detached garage.

At this point, Dione still had the handgun to his head and the long gun in the other hand. I continued to request Dione to drop the guns but, he did not comply. At one point, Dione did set the long gun down on the piece of furniture and began taking items out of his pockets. Dione still had the handgun to his head.

Dione became extremely agitated that we had flashlights pointed at him. I told him several times that we were only doing that so that we could see him. Dione continued to become agitated about the lights and kept stating things like "get that fucking light out of my eyes." Dione then said that he had a flashlight too and grabbed it from his things on the furniture. Dione then began shining his light at each of us.

Several times, Dione stated that the guns he had were real and stated that he would prove it. While Dione was standing next to the detached garage, he took the handgun away from his head and pointed it directly at the ground next to him and fired a single shot.

I continued to plead with Dione to put the guns down and he continued to disobey. I told him numerous times that we didn't want anyone to get hurt but, he continued to disobey the requests to drop the guns.

At this time, I was still behind the large tree. Off to my right side was another detached garage. From hearing Deputy [REDACTED] and Ptl. Magee speak, I knew that they were just around the corner of this detached garage. I also could see where their flashlights were originating from and from watching Dione's body language and eye contact, I knew the officers were on the other side of the detached garage.

Dione continued to become increasingly agitated about the flashlights and had picked up the long gun again. The long gun appeared to be a shotgun. Facing Ptl. Magee and Deputy [REDACTED], Dione stated that he had the shotgun loaded with "slugs." Dione also stated something to the affect of, do you know what these slugs would do to you.

At that time, Dione began raising the shotgun up toward the area where Deputy [REDACTED] and Ptl. Magee were positioned. Dione then fired one shot with the shotgun. At that time, I fired one round with my duty issued handgun at Dione.

Directly after, Dione dropped the shotgun and grasped his chest area. Dione turned away from me and fell to the ground. At this time, Dione was laying on his side with his back directly toward me. I then began to approach Dione.

As I was approaching, I could not see his hands or what he was doing. As I got closer to Dione, I saw him reach for something and bring it to his head. I immediately recognized it as a handgun. Dione then brought the handgun to the right side of his head and fired a single shot into his head.

Other police units and I approached Dione and moved the guns away from him. Lebanon Fire/ EMS were then notified to enter the scene and begin their life saving efforts.

I then contacted my supervisor, Captain McCutchan, and requested he respond for assistance. I was then also made aware that Deputy Lansdell had also fired his firearm by a Warren County Sheriff's Office Sergeant.

Other units then assisted with taping off the area and providing scene security.

Sgt. Trout responded to the scene and contacted me. Sgt. Trout then escorted me back to the Lebanon Police Department. Sgt. Trout informed me that he would be contacting the Ohio Bureau of Criminal Investigations (BCI) to conduct the investigation.

BCI later made contact with me at the Lebanon Police Department where pictures were taken, and my duty issued firearm was collected as evidence.

No further information at this time.

This incident occurred in the city of Lebanon in the county of Warren.

Respectfully submitted,

Sgt. [REDACTED] # [REDACTED]



6/20/23 1436