



Ohio Bureau of Criminal Identification & Investigation



PROSECUTOR'S SUMMARY

Date: February 5, 2013

To: Cuyahoga County Prosecutor Timothy J. McGinty

CC: Special Agent Supervisor Dennis Sweet, Ohio Bureau of Criminal Investigation

From: Special Agent Mark Kollar, Ohio Bureau of Criminal Investigation

Subject: Cleveland Police Department officer-involved shooting, November 29, 2012
Decedents: Timothy R. Russell and Malissa A. Williams

BCI Case #: Investigations: SI-18-12-82-1493
Crime Scene: CS-18-12-82-1488
Cyber Crimes: CC-12-3-0116
Laboratory: 12-39820

Preface:

This report serves as a synopsis of the investigation into the November 29, 2012 Cleveland Police Department officer-involved shooting which resulted in the deaths of Timothy R. Russell and Malissa A. Williams. This report only summarizes the information that the investigative team determined to be the most useful in achieving an overall understanding of what occurred in this incident. Every fact and detail is not presented in this summary report. Therefore, it is recommended that each individual report from which this document is derived be read in order to obtain a complete understanding of this investigation. Further, audio and/or video recordings exist for the majority of the interviews conducted, revealing further details of statements given regarding the incident.

This report is organized into the following sections:

- **Table of Contents**
- **Incident Overview** – A condensed overview of the facts obtained this case
- **Investigative Team** – Describes the composition of the investigative team and the involvement of various agencies
- **Summary of Process** – Investigative activities from which this report was derived
- **Officers Who Discharged Their Weapons** – Summarizes the statements given by each of the police officers who discharged their weapons during the incident

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- **Other Officers** – In general terms, this section summarizes some of the more significant statements provided by officers who did not discharge their firearms
- **Witnesses** – Summarizes some of the statements of non-officers which are helpful to the understanding of the incident
- **Radio Transmissions** – Discussion of the CPD radio system and dispatching procedures, along with an account of pertinent radio transmissions in this incident
- **Decedents** – Summary of known information pertaining to Malissa A. Williams and Timothy R. Russell
- **Physical Evidence** – Examines the information obtained through the identification, collection and analysis of items of potential evidence
- **Autopsy Reports** – Summarizes the significant findings of the post-mortem examinations
- **Chronology** – A more comprehensive examination of the incident and investigative actions, though still only constituting a partial summary
- **Conclusion**

Final Notes:

This investigation was conducted with the purpose of determining, to the extent possible, the facts and circumstances surrounding this incident. As unbiased collectors of fact, the investigative team has not and will not render any opinion of the legality of officers' actions. Instead, it is anticipated that this investigation will provide the basis of information for decisions to be rendered by the appropriate authorities.

As used in this report, the pronouns "subject" or "subjects" will be used to identify Malissa A. Williams and/or Timothy R. Russell. "Subject vehicle" will be used to identify Timothy Russell's 1979 Chevy Malibu, bearing Ohio registration FSA3495, which was involved in this incident. "Zone car" is a term commonly used by the Cleveland Police Department to describe a marked police cruiser.

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Incident Overview:

On the evening of Thursday, November 29, 2012, Cleveland Police Department Officer John Jordan was working alone, in plain clothes and in an unmarked police vehicle, as part of the Downtown Service Unit. Jordan's usual partner, Officer Christopher Wilson, reportedly called-off sick that evening. As part of Jordan's normal patrol routine, he would frequent an area near the 2100 block of Lakeside Avenue that was known for drug use and trafficking, oftentimes referred to as "the wall" (near the Lutheran Metropolitan Ministry, a men's homeless shelter). At approximately 10:26 PM, Jordan radioed his dispatch center requesting the Ohio license plate "FSA3495" (Timothy Russell's vehicle) be run only for "info," stating the vehicle was parked at East 22nd and Lakeside. Dispatch advised Jordan that it checked "clean," providing the year, make and color of the vehicle, along with name and city of the registered owner and expiration date of the registration.

Officer Jordan claimed to have initiated a traffic stop of the subject vehicle on East 18th Street, between Rockwell and Superior, after observing a turn signal violation. He stated his intention was to investigate the occupants of the vehicle, believing they were involved in illegal drug activity. The vehicle stopped for several seconds, during which Jordan claimed the passenger was screaming and acting unstable. Shortly after Jordan exited his vehicle, but prior to approaching the subject vehicle to make contact with the occupants, the vehicle accelerated away, turning right onto Superior Avenue. Jordan pursued but eventually lost sight of the vehicle on Superior Avenue. He never radioed dispatch regarding the traffic stop or pursuit, did not document the incident on his duty log and never came forward with this information; investigators first learned of his actions through witnesses at the shelter and by running an off-line NCIC check on the subject vehicle's license plate number. Jordan reportedly returned to the shelter where he demanded to know who the occupants of the vehicle were, threatening arrests if he was not told. Jordan reportedly did not become involved in the subsequent pursuit or shooting incident which followed. There is no evidence that any officer involved in the subsequent pursuit or shooting was aware of Officer Jordan's prior contact with the subject vehicle.

Less than five minutes after Jordan's brief pursuit with the subject vehicle, the subject vehicle drove past the Justice Center, in the 200 block of St. Clair Avenue, traveling at a speed calculated to be approximately 66 miles per hour. Outside of the municipal building at 205 W. St. Clair Avenue, Officer Vasile Nan was retrieving a computer from his marked police cruiser to give to Mobile Services Unit Officer Alan Almeida to be repaired. Both officers were standing outside when the subject vehicle passed by. Reportedly, just as the subject vehicle passed the officers, a loud bang emanated from the vehicle, believed by both to be a gunshot directed towards them. Upon hearing this sound, both officers ducked. (It was later learned during the course of the investigation that other individuals in the area, including detectives, a security guard and a parking attendant also heard this noise and reported their belief that it was consistent with a gunshot.) The parking attendant expressed her concern of having been shot at to Officer Almeida. Officer Nan ran to his cruiser and attempted to locate the subject vehicle, radioing a description to dispatch, along with the assertion that he was shot at from a vehicle occupied by two, black male occupants (incorrectly believing both subjects to be male). Officer Almeida ran into the building to retrieve his duty belt and later joined the tail-end of the pursuit in a marked cruiser.

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Another marked unit in the area, manned by Officers David Siefer and James Hummel, heard the radio transmission and observed a vehicle matching the description on the Detroit/Superior Bridge. An attempt to traffic stop the vehicle was made, however the subject vehicle reportedly fled, failing to obey the order to stop (emergency lights and sirens). A pursuit of this vehicle lasted approximately 25 minutes, reportedly reaching speeds in excess of 100 miles per hour at points. Surveillance videos obtained along the pursuit route depict that at one point, a minimum of 62 police vehicles were in pursuit or following along the pursuit route. These vehicles included marked and unmarked Cleveland Police Department vehicles, with Ohio State Highway Patrol troopers, Cuyahoga County Sheriff deputies, Bratenahl Police Department officers and officers of the RTA Police Department peripherally involved.

During the course of the pursuit, significant radio traffic from pursuing officers, which was relayed by dispatchers, indicated a belief that the passenger of the vehicle was armed with a gun, had already fired at officers, was pointing the gun at pursuers and was believed to be reloading a gun. One officer, Officer Kevin Fairchild, indicated at one point during the pursuit the passenger was not armed, but instead was wearing black gloves and holding a red pop can. According to Fairchild, this did not preclude that a gun may have otherwise been involved. At least two officers reported hearing the subject vehicle backfire during the pursuit, although this information was not radioed to others. One officer reportedly heard a bang from the vehicle and observed debris in the roadway, incorrectly believing and transmitting on the radio that the vehicle had blown a tire. An additional radio transmission during the pursuit informed officers that the subject vehicle had rammed a zone car. However, it was later learned to be an apparent accidental contact during a quick turn during the pursuit, with Officer Fairchild's cruiser striking the rear of the subject vehicle.

The pursuit eventually entered the City of East Cleveland where the subject vehicle entered a dead-end, staff parking lot at the Heritage Middle School, 14410 Terrace Road, East Cleveland, Ohio. The lot was incorrectly believed to be a water treatment plant by some of the Cleveland officers who were unfamiliar with the area. A number of Cleveland police vehicles followed the vehicle into the lot, by way of the only access drive. Other police vehicles eventually blocked this drive, essentially trapping the vehicle (and some police vehicles) in the lot. This contributed to a situation where police personnel were located on both sides of the subject vehicle, after the subject vehicle doubled-back on the access drive (while apparently attempting to exit the lot).

In the parking lot, but prior to doubling-back, the zone car driven by Officer Wilfredo Diaz made inadvertent contact with the rear corner of the subject vehicle after the subject vehicle made a quick left turn in front of Diaz. The subject vehicle turned directions, facing back towards Diaz, jumping a curb onto a grass island. Being left-handed and believing the occupants to be armed, Diaz felt vulnerable in his position behind the steering wheel (being unable to quickly draw and fire if necessary). Therefore, Diaz reported that he quickly exited his vehicle, failing to place the vehicle in park first. The vehicle was later placed in park by his partner as his vehicle began rolling away from him. After exiting and yelling "stop," Diaz reportedly observed the passenger, whom he believed to be a male at the time, reach towards something and produced a black object which he perceived as being a gun.

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Reportedly fearing for his life, based upon the belief that the passenger was armed and had already fired at officers, Diaz fired his handgun, one to three times, with his point of aim being at the passenger. The vehicle's engine revved and the car began accelerating across the grass island, turning and coming directly towards Diaz. Diaz stated he felt as though the subject vehicle was going to ram him, pinning him between the subject vehicle and his cruiser (not realizing his cruiser was rolling away). Therefore, he fired his handgun one to three times with the point of aim being at the driver. As the vehicle came off of the island, it straightened and missed striking Diaz. The vehicle then began traveling back out the same driveway in which it had entered the parking lot. Diaz, who was the first officer to discharge a weapon, stated he fired a total of four shots. However, he was uncertain exactly how many he directed toward the passenger and driver - but thinks perhaps two rounds each. Radio traffic after Diaz fired his weapon indicated that shots had been fired, but did not specify who had fired. This reportedly led other officers to incorrectly believe that the subjects had fired upon police officers.

The subject vehicle reportedly continued to accelerate towards the exit, narrowly missing striking other police vehicles and officers in the process. A marked, Cleveland Police Department zone car, occupied by Officer Robert Radosevic (driver) and Officer Scott Sisteck (passenger), parked their vehicle in the access drive, partially blocking the subject vehicle's exit route. As Sisteck exited the passenger door, he looked up to find the subject vehicle traveling directly towards him, being only what he estimated to be 15 feet away. Reportedly fearing that he was about to be struck, Sisteck began firing his weapon at the driver, through the windshield of the subject vehicle, while running backwards. The subject vehicle did in fact strike Sisteck's open passenger's door, slamming it shut and collapsing a portion of the passenger's side of the cruiser. Upon reaching the rear of his zone car, Sisteck stated he went to the ground for cover, remaining in this position until all following shots ceased. Sisteck stated that he fired 12 times. Sisteck is believed to be the second officer to discharge his sidearm.

Officer William Salupo, who by now was on foot to the rear of the subject vehicle, observed the subject vehicle strike the parked zone car (with the subject vehicle's engine continuing to rev), heard gunfire and saw Sisteck go to the ground, incorrectly believing that Sisteck had been run-over by the subject vehicle and that Sisteck was trapped beneath. Therefore, Salupo reported that he fired two rounds through the back window of the subject vehicle, towards the driver. Salupo advised that he then sensed bullets were coming towards him, bullets that he believed were coming from the subject vehicle (but, in reality, were likely bullets being fired from officers positioned on the opposite side of the subject vehicle). Salupo reportedly took cover having only fired two rounds.

In the following seconds, multiple officers began firing, stating they believed a shootout was taking place between officers and the occupants of the subject vehicle. Zone cars were damaged by friendly fire, as well as by officers utilizing "ambush" training they recently received. This training taught officers to fire through their windshields towards the threat, beginning while still seated and then retreating from their vehicle, taking cover behind it. Reportedly, officers mistakenly perceived the damage to the police vehicles as evidence that the officers were being fired upon by the subjects, contributing to their decision to also discharge their weapons. In the end, the subject vehicle had been fired upon from all sides, indicating crossfire had taken place.

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Excluding the initial shots from Officer Diaz near the grass island, the remaining shots (the audio of which was analyzed from a dash cam recording) lasted approximately 17.8 seconds. Thirteen officers were determined to have discharged their weapons:

- Patrol Officer Wilfredo Diaz (4 shots)
- Patrol Officer Michael Brelo (approximately 49 shots)
- Patrol Officer Cynthia Moore (19 shots)
- Patrol Officer Michael Farley (4 shots)
- Patrol Officer Brian Sabolik (4 shots)
- Patrol Officer Paul Box (1 shot – shotgun)
- Patrol Officer Randy Patrick (9 shots)
- Patrol Officer Scott Sistik (12 shots)
- Detective Michael Demchak (4 shots)
- Detective Erin O'Donnell (12 shots)
- Detective Christopher Ereg (6 shots)
- Detective Michael Rinkus (13 shots)
- Detective William Salupo (2 shots)

All 13 of these officers stated that they felt as though they had no other choice other than to discharge their firearms in order to deal with what they believe to be an imminent threat to their safety and the safety of other officers. Additionally, all other officers from the scene (non-shooters) stated that they too felt deadly force was justified, despite not firing their own weapons. There were varying reasons for not firing (such as not being in a position to fire or recognizing the crossfire situation).

No weapon was present in the subject vehicle at the conclusion of the incident. Investigators conducted a physical search along sparsely inhabited portions of the pursuit route, such as the Steel Yard Commons area, where a firearm could have been discarded without having been readily located. The statements of pursuing officers and radio traffic regarding where a weapon was purported to have been observed also contributed to narrowing the search area. Additionally, the Cuyahoga County Sheriff's Office Dive Team was utilized to search some of the waterways along the route where evidence potentially could have been thrown from the vehicle. Numerous surveillance videos, traffic cameras, and dash cam videos also were reviewed for any photographic evidence of a weapon being possessed or brandished by the vehicle's occupants. The access drive, staff parking lot and surrounding lawn areas at the Heritage Middle School were searched, as was the interior of the subject vehicle. None of these searches resulted in the discovery of a weapon.

Gunshot residue test kits were collected from the hands of both of the decedents, as well as from the interior of the subject vehicle above the side-front and side-rear windows (headliners). Particles highly indicative of gunshot primer residue were located on all of the collected samples. However, it must be noted that this condition would be expected due to the large amount of gunfire occurring within close proximity of the subject vehicle (being directed into the vehicle). No scientific conclusion can therefore be made from these results as to whether or not either of the subjects had recently possessed or fired a weapon.

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Investigative Team:

At the time of this incident, the East Cleveland Police Department assumed initial investigatory responsibility as the shooting had occurred within their jurisdiction. Reportedly, no East Cleveland officers were directly involved in the pursuit or shooting. Detective Sergeant Scott Gardner of the East Cleveland Police Department requested BCI Crime Scene Unit assistance at approximately 2:15 AM on November 30, 2012, with the first Special Agent arriving on-scene at approximately 3:15 AM (S/A Daniel Winterich). Due to the volume of evidence, additional BCI Crime Scene Unit personnel were summoned (S/A George "Ed" Staley and S/A Brenda McNeely), as well as the Special Agent Supervisor (SAS Dennis Sweet) and an agent from the Special Investigations Unit (S/A Mark Kollar).

The role of BCI at this time was to document and process the scene for potential evidence, as well as to provide advice to the East Cleveland Police Department as to investigative considerations with officer-involved shootings.

On December 3, 2012, during a meeting between administrators of BCI, the Cuyahoga County Sheriff's Office and the East Cleveland Police Department, it was agreed that BCI would assume the lead investigatory role in the case. An investigative team was assembled, consisting of investigators from BCI, the East Cleveland Police Department and the Cuyahoga County Sheriff's Office. S/A Mark Kollar was assigned as the BCI case agent for this investigation.

The aforementioned investigative team was comprised of four (4) investigators from the Cuyahoga County Sheriff's Office, two (2) from the East Cleveland Police Department and 29 BCI employees. The exact number of BCI special agents varied daily depending upon a needs assessment and agent availability. The team worked primarily from the BCI Northeast Regional Office located in Richfield, Ohio.

Summary of Process:

Following is a partial list of investigative activities or methods which were employed during the course of this investigation in an effort to thoroughly and accurately locate and document all pertinent facts and circumstances regarding this incident:

- Recorded interviews of the 13 officers who discharged their weapons
- Recorded interviews of 72 Cleveland Police Department officers who were involved in the pursuit or potentially at the scene of the shooting incident
- Recorded interviews of 16 Cleveland Police Department supervisors who were responsible for the aforementioned officers or who otherwise had involvement in this incident
- Recorded interviews of eight (8) Cleveland Police Department communications operators who were dispatching during the incident
- Recorded interviews of Officer John Jordan who had contact with the subjects just prior to the incident

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- Interviews of two (2) Ohio State Highway Patrol troopers who had some involvement in the pursuit or responded to the scene shortly thereafter
- Interviews of two (2) Bratenahl Police Department officers who had some involvement in the pursuit or responded to the scene shortly thereafter
- Interviews of three (3) Cuyahoga County Sheriff's Office deputies who had some involvement in the pursuit or responded to the scene shortly thereafter
- Interviews of eight (8) East Cleveland Police Department officers who had some involvement in the pursuit or responded to the scene shortly thereafter
- Interviews of eight (8) RTA Police Department officers who were peripherally involved in the pursuit
- Interviews of the family members or associates of the decedents (those who consented to be interviewed)
- Interviews of shelter patrons and employees (a total of 13 civilian interviews)
- Interviews of RTA Police Department officers who had contact with Malissa Williams the day prior to this incident (and a review of the surveillance video of this encounter)
- Interviews of Cleveland Police Department officers who had arrested Malissa Williams on a previous occasion and recorded their contact
- Review of all available dash cam videos for vehicles involved in this incident (Cleveland PD, Bratenahl PD, Ohio State Highway Patrol)
- Review of Automated Vehicle Locator (AVL) data for Cleveland PD, RTA PD and Ohio State Highway Patrol equipped vehicles
- Processing of the scene for potential evidence (photographing, searching, measuring, documenting and collecting)
- Processing of the subject vehicle for potential evidence
- Processing of the Cleveland Police Department marked patrol cars that were damaged by gunfire or collisions with the subject vehicle
- Examination of the subject vehicle by a private forensic mechanic in order to determine the vehicle's propensity to backfire and to document the window positions (as much of the glass was broken)
- Spherical video (360 degree camera) of the pursuit route
- Employment of a private company to produce a two-dimensional, overhead animation of the final moments of the pursuit and shooting, based upon information supplied by officers during their interviews
- Review of audio communications on various Cleveland Police Department radio channels, as well as the radio recordings from the Cuyahoga County Sheriff's Office, East Cleveland Police Department, Ohio State Highway Patrol and the Bratenahl Police Department.
- Located, collected and reviewed available surveillance videos along the route of the pursuit and of the subject vehicle prior to the initiation of the pursuit (to include red light cameras, traffic cameras, RTA cameras, homeland security cameras and privately owned cameras)
- Canvassed neighborhood surrounding Heritage Middle School for potential witnesses
- Interviewed additional individuals who reported hearing what they believed to be a gunshot near the Justice Center as the subject vehicle passed

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- Issued preservation letters for the phone records of the numbers used by the involved police officers
- Consensually obtained photographs and/or text messages relating to this incident from officers' phones
- Obtained search warrants for the subjects' phones and performed an analysis of the data present
- Conducted laboratory examinations to include firearm identification testing of firearms, casings and bullets, chemistry (drug identification), gunshot residue testing (GSR), fingerprinting and DNA
- Collected and reviewed the departmental personnel files of the officers involved in the shooting, to include firearm qualification and training records
- Collected and reviewed the City of Cleveland, Human Resources personnel files of the officers involved in the shooting
- Collected Cleveland Police Department's policy and procedures for use of force and vehicle pursuits
- Verified the current Peace Officer status of the officers who discharged their weapons through the Ohio Peace Officer Training Commission
- Subpoenaed and obtained Channel 5 news footage for video of the chase captured during a reporter's ride-along with the Cleveland Police Department (and interviewed reporter)
- Constructed a timeline of events and radio traffic
- Requested and obtained assistance from the Ohio State Highway Patrol in determining the approximate speed of the subject vehicle as it passed 205 W. St. Clair (calculating time intervals between fixed points on surveillance video)
- Reviewed both subjects' previous encounters with the Cleveland Police Department
- Obtained and reviewed dash cam footage and reports from a previous pursuit involving Timothy Russell
- Enhancement of audio and video recordings with the assistance of the Ohio Organized Crime Investigations Commission
- Review of EMS records pertaining to their response after the shooting
- Review of the post-mortem examination reports for both decedents
- Verified no construction was taking place at the Medical Mart location at the time the alleged gunshot was heard near the Justice Center
- Performed a NCIC off-line search for both decedents and the subject vehicle
- Conducted a physical search along sparsely inhabited portions of the pursuit route where a firearm could have been discarded without having been readily located
- Utilized the Cuyahoga County Sheriff's Office dive team in order to search waterways along the pursuit route where a firearm could have reasonably been discarded
- Requested and received a transcription of the CPD radio traffic from the multiple involved radio frequencies
- Obtained a subpoena for the involved officers' limited access, internal affairs files
- Obtained search warrant for documentation of the psychological/mental history of Malissa Williams
- Interviews of a Cleveland Metropolitan Housing Authority Police Department officer who had observed Malissa Williams earlier in the day on the date in question

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Officers Who Discharged Their Weapons:

All officers who fired their weapons were found to have active Ohio Peace Officer certifications as confirmed by the Ohio Peace Officer Training Commission. Further, Cleveland Police Department documentation was examined for each of these officers indicating that all were current with the mandatory yearly firearms qualifications.

All officers interviewed indicated that they had heard the radio transmissions concerning the alleged actions of the occupants of the subject vehicle, including the belief that the subjects fired a weapon at police officers, the brandishing of a weapon during the pursuit, the alleged ramming of a police vehicle during the pursuit, the disregard of traffic control laws by the subject vehicle and the alleged threatening actions of the vehicle's occupants. The officers also said when the shooting occurred, numerous zone cars' sirens were still on, as were headlights and flashing strobe lights.

Wilfredo Diaz

Wilfredo Diaz is a four-year veteran of the Cleveland Police Department, having worked four years prior at Cleveland EMS. Diaz was assigned to the 2nd District Patrol Division on November 29, 2012, which was only his second day in this assignment. Diaz and his partner, Dymphna O'Neill, were in car 215 with Diaz driving.

Diaz and O'Neill became involved in the pursuit early and, at times, were approximately 5-6 cars back from the subject vehicle. While on Wymore in East Cleveland, Diaz ended up immediately behind the subject vehicle as they entered the school parking lot. According to Diaz, the subject car began to go right around a grass island in what Diaz believed was an attempt to find an exit out of the dead-end parking lot. As Diaz closed the distance, the subject vehicle turned left in front of Diaz, with Diaz's zone car inadvertently coming into contact with the subject vehicle's driver's side, rear quarter panel, in a low-speed impact. Diaz reportedly observed the subject vehicle continue to turn to the left, eventually facing back the way they came. Diaz thought that, being left-handed, he would not be able to draw his weapon effectively, especially if the subject vehicle would pass on his left side. Diaz reportedly felt that someone in the subject vehicle would be able to shoot him before he could draw his weapon, and felt fearful of this distinct possibility. In his mind, Diaz stated he was convinced that both of the vehicle's occupants had guns, "...and the passenger, for sure, is the one that has a gun, in my mind." With this thinking, Diaz did not want to be trapped in his zone car and therefore, Diaz quickly exited his car (leaving it still in gear). He was not sure where his car was, as it began to roll away. Diaz stated that he was scared as he was yelling "stop," while looking directly at the passenger in the car.

As the subject vehicle turned directions, facing back towards Diaz, it jumped a curb onto a grass island. Diaz reportedly observed the passenger, whom he believed to be a male at the time, reach towards something and produced a black object which he perceived as being a gun – and point the object towards him as if they were going to shoot. Diaz stated that he had his gun out and was thinking, "...that I wasn't going to be able to shoot fast enough."

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Reportedly fearing for his life, based upon the belief that the passenger was armed and had already fired at officers, Diaz fired his handgun, one to three times, with his point of aim being at the passenger. Diaz then stated that the car came off the curb, "I remember making eye contact with the driver. Over all the noise, I vividly remember the engine rev up. Like, like he accelerated the car, as he's coming towards me. And I fired two rounds at him, or his direction, and, I remember jumping out the way. Thinking, if he continues to pull his car towards me, he's going to pinch me between my zone car and his car (not realizing his zone car had rolled away). I felt he was going to ram the car at me." As the vehicle came off of the island, it straightened and missed striking Diaz, to which Diaz stated he was relieved to have not been run over. The vehicle then began traveling back out the same driveway in which it had entered the parking lot.

His zone car now being a distance away, Diaz ran back to it and turned around to pursue the car back down the driveway, firing no additional shots. The subject vehicle fled down the driveway the way it entered, eventually striking zone car 238. After the shooting ceased, Diaz ran to the subject vehicle. Reverting to his paramedic training, Diaz said he jumped onto the hood of a zone car to check on the occupants to determine if they required EMS. Diaz stated he pulled up the passenger's sleeve and checked for a pulse, finding none. He reportedly told other officers that they could lower their weapons, as he believed it was over with. Diaz advised that he also slightly moved the passenger's leg, looking for a gun – and finding none. Diaz did not go to the driver's side of the subject vehicle.

Diaz, who was the first officer to discharge a weapon, stated he believed he fired a total of four shots. However, he was uncertain exactly how many he directed toward the passenger and driver - but thinks perhaps two rounds each. Radio traffic after Diaz fired his weapon indicated that shots had been fired, but did not specify who had fired. This reportedly led other officers to incorrectly believe that the subjects had fired upon police officers.

Scott Sistik

Scott Sistik is a five-year veteran of the Cleveland Police Department, currently assigned to the 2nd District Patrol Division. Sistik was partnered with Robert Radosevic in car 238 on the night of November 29, 2012. Radosevic was driving.

The two officers became involved in the pursuit of the subject vehicle near 44th and Clark, entering as the third car back from the subject vehicle. However, they had fallen greatly behind by the time the pursuit entered the school parking lot. Sistik stated that when everyone first went in to the parking lot, he could see the subject vehicle and a "bunch" of zone cars following them. Sistik stated he lost sight of everyone in the lights and then he heard "shots fired" come across the radio. Not being able to see what was occurring, Sistik told his partner to stop the car. Sistik stated that when he heard the shots fired call, he thought that the zone cars had the subjects cornered and that the subjects were shooting at the police. Sistik told his partner that they needed to get cover and get out of their car.

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Sistek stated that at this point he did not know where the suspect vehicle was. As Sistek opened his passenger door, he stated the "Oh shit" factor kicked in, because he had stepped out of his car just as the subject vehicle was coming right at him, being around 15 feet away. Sistek stated that he immediately drew his service weapon and, as he ran backwards, fired his weapon at the windshield. Sistek stated that it was happening so fast that he did not really have time to aim - he just began shooting at the direction of the car. The subject vehicle did in fact strike Sistek's open passenger's door, slamming it shut and collapsing a portion of the passenger's side of the cruiser.

Sistek stated that once he got to the rear of his zone car that he went down on the ground for cover. He stated that he heard gun fire and thought that the suspects were shooting at him. Sistek stated that he "popped" his head up and there was still gun fire going on so he ducked back and went over towards the driver's side of the rear of his unit where he "popped" his head up again. He stated that he heard more gun shots and "ducked" back down. Sistek stated that he just held position there until everyone stopped firing.

Sistek later learned that he had fired 12 times (from CPD Homicide who inventoried his remaining ammunition.) Sistek is believed to be the second officer to discharge his sidearm.

William Salupo

William Salupo is a 14-year veteran of the Cleveland Police Department, with a prior 2 years as a Cuyahoga County Corrections Officer. Salupo was a plain clothes officer assigned to the 2nd District vice unit on the night of November 29, 2012, partnered with Michael Rinkus in an unmarked Dodge Charger. Salupo and Rinkus were at the 2nd District Station when they heard of the pursuit. They became involved when the pursuit was on Lorain Ave. Rinkus was the driver of the vehicle.

As the pursuit entered the Heritage Middle School parking lot, Salupo described that they came up straight into the lot from Wymore. Salupo stated that they were about five cars back at the time. Salupo stated that as they pulled in, he heard radio traffic that it was a dead end. He described that they were about half way into the parking lot when the subject vehicle began to turn around up near the school. Salupo said that it came into contact with a zone car and spun around near an island in the parking area, with the subject vehicle now facing them. He said that a couple of zone cars pulled in front of their position and he heard "shots fired" on the radio.

Salupo said that the subject vehicle then drove right past the passenger side of the vehicle that he was in, being somewhat able to see inside the car due to the headlights of their unit illuminating it. Salupo advised that he was trying to see if he could see anything that the occupants were holding up, but that he did not see anything. He described the driver having a "gaze" and was fixed straight ahead. He stated that as soon as the subject vehicle got by them that Rinkus did a U-Turn and pulled up to their final resting location.

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Salupo described that he observed Sistek, passenger from CPD Unit 238, jump out of his police unit. Salupo stated that he could tell that Sistek did not know that the suspect vehicle was there and had an “Oh Shit” look on his face. Salupo continued by stating that the subject vehicle then hit Sistek’s car (CPD Zone Car 238) and he (Sistek) ran backwards when the subject vehicle struck the car, shutting the passenger door of CPD238. Salupo stated that he and Rinkus had exited their unit and were running diagonally towards the subject vehicle. Salupo stated that as they were running, he began to hear gun shots and observed Sistek go down. Salupo stated that Sistek was near the trunk of his car and that he was thinking that the subject vehicle was on top of him. When the subject vehicle came to rest after striking the zone car, the engine was reportedly still “revving.” Salupo stated that he thought that the subject vehicle was going to disengage and completely run Sistek over. Therefore, Salupo stated that he fired two rounds through the back window, towards the driver.

Salupo described that he continued to run and ended up near the sidewalk. He stated that glass was flying around and he could sense bullets coming at him, during which time he became separated from Rinkus. Salupo stated that he went back behind the silver Charger for cover. He stated that Rinkus eventually came around to the back of the Charger as well, stating that he (Rinkus) was out of ammo. They both remained behind the unmarked car until the shooting ceased.

Salupo was later told that upon an inventory of his weapon, he had fired two shots.

Cynthia Moore

Cynthia Moore is a five-year veteran of the Cleveland Police Department, assigned to 2nd District Patrol Division on the evening of November 29, 2012. Moore and her partner, Michael Brelo, were in car 217 with Brelo driving.

Starting on the Detroit-Superior Bridge, Moore and Brelo were the second car in the pursuit. As the pursuit continued, they dropped back further from the subject vehicle, being well behind when the pursuit entered the Heritage Middle School parking lot. Moore stated that as they were pulling in, they heard “shots fired!” on the radio and heard the shots themselves.

Moore stated that she knew there was a police car next to their vehicle as she observed the subject vehicle coming towards them. Moore saw the subject vehicle ram the zone car that was next to them (CPD unit 238, assigned to Sistek and Radosevic). Moore said she could see two subjects in the vehicle and what she thought were guns pointed at her. This observation was immediately followed by Moore hearing the sound of shots fired, believing the subjects were firing at her. Moore stated she returned fire through the windshield of the zone car. She then exited the zone car and was standing next to it, still firing. She said shots were still being fired and a lot of people were yelling. Moore stated the shooting was going on, “for forever.” Moore said she felt she was being shot at, as glass was flying at her also. Moore remembered another officer coming up and her telling him to get the shotgun out of the zone car. She does not remember who the officer was. They were “tucked down behind the zone car” because rounds were coming through the windshield.

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Although there were numerous sirens sounding in the immediate area, Moore seemed to recall hearing a lot of yelling, including “let me see your hands, let me see your hands.” She couldn’t recall if she gave any verbal orders.

Moore stated her point of aim was at the driver of the vehicle, where she believed she had seen a weapon pointed at her. She was later told that she had fired 19 rounds. Moore stated that during the incident she was scared and “trying not to get killed.” She did not see any alternatives to resolve the situation and believed that she, as well as the other officers, had acted in a manner consistent with their training.

Michael Brelo

Michael Brelo is a five-year veteran of the Cleveland Police Department, assigned to 2nd District Patrol Division on the night of November 29, 2012. He was driving marked zone car 217 and was partnered with Cynthia Moore.

Brelo advised that he became involved in the pursuit as the second car on the Detroit-Superior Bridge. During the pursuit, they ended up dropping back from the lead.

As Brelo was pulling into the parking lot at the Heritage Middle School, he reportedly heard “Shots fired! Shots fired!” on the radio. Brelo stated that he observed a zone car to his left. He reportedly heard Sgt. Coleman say she thought the suspect car would stop and therefore, Brelo advised he drove to the right of zone car 238 and stopped his car (along the access drive to the staff parking lot). Brelo stated that he saw the subject vehicle’s headlights coming at them, with the subject vehicle striking car 238 on the passenger’s side. The subject vehicle then began to veer off 238 and came towards Brelo, causing him to think they were about to get rammed. Brelo could see both occupants in the subject vehicle, with both occupants pointing dark objects at them in a manner consistent with the way one normally holds a gun. Brelo stated he then heard shots being fired from the area of the subject vehicle.

During Brelo’s interview, he stated, “I’ve never been so afraid in my life. I thought my partner and I were being shot and that we were going to be killed. At which point I drew my weapon and I shot through the windshield at the suspects.” Brelo was asked how many rounds he fired through the windshield to which he replied, “I thought it was probably five or six. I looked down at my weapon and thought I had a jam. So I reloaded.” Brelo conducted a magazine exchange in the front seat of his car before exiting.

Brelo stated that he still believed he was being shot at and the subject vehicle was going to ram him. He reportedly knew his partner was shooting from inside the vehicle as well. Brelo said he exited the zone car because he was terrified of it getting hit by the subject vehicle. Brelo stated he knew his partner exited the car, but he lost sight of her. He exited and moved towards the rear of zone car 238.

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As he moved, he fired at the subject vehicle saying, "...what feels like five or six rounds into the suspects' vehicle, 'cause there are still rounds going all over the place. I feel like I'm being shot by the suspects, and I can see the suspects kept on moving and threatening by shooting us. At which point I looked down at my magazine and see I'm empty. I drop well behind zone car 238. I'm crouching behind 238. I reload into my third magazine. I look to my left and I remember seeing officers firing; I don't remember who though. I remember there was a hill behind them. I didn't want to go left in fear that I would be shot by one of these officers; and I didn't want to stay behind the zone car cause the Chevy or Buick, I thought would hit me and I was terrified I would be pinned underneath the zone car 238. At which point I made the decision it was safer on the trunk of zone car 238 where I had the hood and the compartment between me and the vehicle."

Brelo continued: "At this point, I still don't know if anyone is in zone car 238 and I was terrified that ah, with crossfire, I didn't...I knew that the suspect vehicle was coming. I didn't know who was behind us. I remember through my training that engine blocks could stop 9 MM rounds, and I was terrified that I would be shooting behind the vehicle and hitting anyone behind the trunk of the suspect vehicle. So, I didn't know if anyone was in 238, if they were shot or killed, and I just felt that if I had some elevation I could shoot into the suspects' vehicle and try to stop the threat. I keep hearing rounds go off. I see the suspects moving, and I couldn't understand why they are still moving, shooting at us. Even through Iraq I never fired my weapon. I never have been so afraid in my life and I just couldn't understand why the suspects were still moving and shooting at us. Next I was crouching over the light bar of 238 shooting into the suspects' car. I must've had tunnel vision. The next thing I remember, I'm next to the suspects' vehicle. I was by the driver's door. I remember having my weapon in my holster. I remember going up to the car, and putting the car from drive to park; and I took the keys out of the vehicle and put them on the front of the hood."

Brelo said that he had no idea how he got to the driver's side door. He does not remember if he shot from the driver's door, and said he only recalled that his gun was in his holster at this point. He heard people yelling, "ceasefire!"

Brelo stated that it only felt as though he fired maybe 15 rounds at the time. However, he now believed that he may have fired about 50. Brelo was told that upon an inventory of his gun, he was told that there were only 2-3 rounds left in it. However, he was uncertain as to how many rounds were left in his first magazine, which he exchanged due to believing he had a weapon malfunction. As the spare magazines were returned to the officers by CPD, Brelo not having been told an exact number after the inventory and the investigative team not being able to ask CPD for the individual inventory counts (due to Garrity issues), it is unknown exactly how many shots Brelo fired. However, 49 casings from the scene matched Brelo's weapon.

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Brian Sabolik

Brian Sabolik has been with Cleveland Police Department for 5 months, being assigned to 2nd District Patrol Division on the night of November 29, 2012. He was partnered with his Field Training Officer, Michael Farley. The two were working in car 232 with Sabolik driving.

Sabolik and Farley became involved in the pursuit late, responding from the 2nd District station. The first street where Sabolik identified the pursuit was Wymore, in East Cleveland. Sabolik stated that as they arrived, the gunfire had already started.

Sabolik stated that CPD 217 and CPD 238 were in front of him and he knew that there was a zone car to the right of him, but he could not recall who or what the car was. Sabolik advised that ahead of him he just saw a cloud of smoke and kept hearing gun shots. Sabolik stated that his FTO got out of the car and he remembered what they had taught him in the academy - to get out of the car because "the car is a coffin." Sabolik stated that he got out of the car, believing that he was directly in the line of fire from the suspect. He stated he shot two rounds and began running back behind his police car for cover. Sabolik advised he was aiming for the driver. Sabolik then stated that he retreated to the driver's side of his patrol car for cover, firing two additional rounds from that location. It was at this side of the patrol car that he then rejoined his partner, who was also taking cover on the driver's side. Sabolik stated he stopped firing because he observed a police officer jump on the hood of the suspects' car. Sabolik observed this officer firing inside the subject vehicle from the hood of the subject vehicle. However, he stated that he did not know who the officer was at the time.

Sabolik stated that upon his weapon being inventoried after the incident, it was determined that he had fired four rounds.

Michael Farley

Michael Farley is a 16-year veteran of the Cleveland Police Department, being assigned to the 2nd District Patrol Division. He was working as a Field Training Officer on the night of November 29, 2012. He was partnered with Officer Brian Sabolik in car 232 (although he stated 234).

Farley stated that they entered the pursuit as it was exiting I-90 onto E. 72nd St. Farley stated that as he pulled into the Heritage Middle School, he estimated that there were around 20 zone cars ahead of him. Farley indicated that his cruiser was somewhat behind CPD238. Upon pulling up to the scene, Farley described it as being the "scariest thing that I've seen in my whole life" and that "people were shooting." As he got out of his car, he realized that he had not put his bullet-proof vest on because he had been working out - that he had just left it on the front seat.

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Farley described that as he exited his unit, he thought he was going to die right there; he had no vest and shots were coming from all directions. He said that he ran up to a CPD zone car, ducked down and fired a couple of shots at the driver's side of the suspects' automobile. He thought that he had fired two shots but found out later that he had fired four times. He said that once he got back around the car he saw Officer Sisteck diving down. He did not know at the time if Sisteck was shot or if he was just diving to get out of the way.

Farley stated that he remembered a female undercover officer shooting from around the hill towards the suspects' car. Farley said that the only other person he recalled shooting was Officer Brelo. He recalled that Officer Brelo was on the back of the trunk of a zone car and was shooting down into the suspects' automobile. Investigators asked Farley to describe what was happening in the parking lot and he stated that he was in fear for his life and in fear for his partner's life. Investigators asked him to clarify that and he stated that he felt that it was a "full blown out" firefight with the police.

Randy Patrick

Randy Patrick is a 16 year veteran at the Cleveland Police Department, assigned to 2nd District Patrol Division on the evening of November 29, 2012. Patrick was partnered with Paul Box in car 243, with Patrick driving.

Patrick and Box became involved in the pursuit while on Euclid Ave. Patrick said they were about 10-15 cars back. Patrick stated that as soon as he started to go up the road into the Heritage Middle School parking lot, he heard an officer broadcast, "Shot fired, shots fired." Patrick stated that he just went into the parking lot a "little way" and that was the first time that he had seen the subject vehicle - coming directly at them. Patrick stated that he observed the subject vehicle strike CPD238 (marked police car). He stated that CPD238 was on the left and CPD217 was on the right. Patrick stated that he was not certain if the subject vehicle struck CPD217 or not, but could tell that the driver of the subject vehicle was trying to get through both of the vehicles.

Patrick stated that as soon as the subject vehicle struck CPD238, shots just started ringing out. Patrick stated that he put his car in park. Patrick stated that he believed that the subjects were firing at them. Patrick stated that he went down to the floor for cover. His partner had already taken the shotgun out and exited the passenger side. Patrick stated that he then got out of the driver's side of the car. He was crawling on the ground because he thought he was being shot at.

Patrick stated that he made it to the passenger's door of CPD217 and recalled that the passenger's door was open. Patrick stated that his partner was to the right of him. Patrick looked inside the vehicle (CPD217) and saw that it was just riddled with bullets. Patrick stated that the shots continued to be fired. Patrick stated that he was trying to look over the vehicle to get a clear line of sight of the subject vehicle but, he could not because he was taking fire. Patrick stated that he then went to the right of his partner and to the front right of CPD217.

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Patrick stated that shots were still coming at him. He got up and let some rounds off and went back on the ground. He stated that he was about to come back up to fire more, but then everything stopped.

At one point during the shooting, Patrick advised he was requested by Officer Moore to grab the shotgun from inside her vehicle. Patrick advised that he looked inside the car and saw bullets flying; therefore, he told her "hell no."

At the time, Patrick was unaware how many times he had fired. However, after his weapon was inventoried, he learned that he fired nine rounds.

After the shooting ceased, Patrick discovered that he was bleeding slightly from his forehead. His partner believed that he had possibly been shot. Patrick wiped off some of the blood with his hand, possibly transferring some of the blood to his weapon (blood was found on his weapon by the BCI laboratory). Patrick was checked by EMS and determined to be fine. He reportedly does not know for certain what caused the injury.

Paul Box

Paul Box has been with the Cleveland Police Department for 16 years, with prior service of 16 months at Munroe Falls Police and 3 years at CMHA Police. Box and Randy Patrick were partners on the evening of November 29, 2012, working in the 2nd District Patrol Division. Box believed they were in car 245 (although Patrick thought 243). Patrick was driving.

While attempting to get into the pursuit, Box stated that they were "way far back." Box told his partner, "This could get bad quick" and decided to get the shotgun out. He felt that with the suspects brandishing weapons at officers, if they were to wreck and exit the car, there may be a gun battle.

As they rounded the corner into the Heritage Middle School parking lot, Box advised they saw headlights coming at them. Box thought that someone was on the radio yelling to "Block it off!" This was the first time they observed the subject vehicle. Box saw the subject vehicle collide with car 238, and then he heard shots begin to ring out. Box reportedly was thinking "it is a major shootout" with two suspects shooting at "however many policemen were there."

Officer Box exited the car with the shotgun and ran up to car 217. Box said he saw the bullet holes in the windshield of the car (CPD217). "That's when reality really hit," with Box thinking, "This is really it." Box said his fear level "just skyrocketed" because he is in this shootout. Box said he was scared for himself and his colleagues. Box stated he thinks his hands were shaking holding the shotgun.

Box reportedly moved up the side of car 217 and could "...feel a bullet go past me." Something hit Box in the vest. He felt it, but thought it might be a ricochet because it was not enough to knock him down. This impact increased his anxiety. Shots were still going off around him.

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Box stated he was down by the right front door of the zone car, in front of the door by the hood, when Patrick came up on his right side. Box was having difficulty manipulating the shotgun and chambering a round. Box said he thought he was in a “panic mode,” struggling with the shotgun when Patrick started shooting right next to him. Box explained that when Patrick started to shoot, “It was right by my head.” Box could feel the muzzle blast from his partner’s pistol. Box thought that Patrick’s pistol was 12”-18” from his head, and felt especially close since Patrick is left handed. Box also said that he thought he was hit in the head with at least two empty casings. Box moved to the other side of Patrick, moving towards the front of 217.

Box then stated that “This is where things get foggy for me.” After moving, Box said he remembers trying to work the shotgun and the next thing he knows, he was standing in front of car 217 with no cover, next to the subject vehicle. Box said he knows he fired one round, maybe two at the subjects. It was later determined that he had only fired once, with the shotgun.

Afterwards, Box looked at the cut on Patrick’s forehead and told him it looked minor. Further, Box took his vest off to inspect it for any damage, finding none.

Michael Rinkus

Michael Rinkus is a 21-year veteran of the Cleveland Police Department. Rinkus is assigned as a plain clothes officer to the 2nd District vice unit. He was partnered with William Salupo in an unmarked Dodge Charger on the night of November 29, 2012, with Rinkus driving.

Rinkus and his partner were at the 2nd District Station listening to the pursuit, anticipating it ending. When they heard radio traffic that the subjects were shooting at officers, they decided to get involved. While on W. 61st St., Rinkus saw the subject vehicle coming at them. Rinkus described that he jostled for position a couple of times and then just moved out of the way and let the pursuit go by. He waited for all cars to pass then did a U-Turn and fell in behind the pursuit.

Rinkus stated that radio traffic claimed it was a Water Treatment Plant, but Rinkus had no idea where he was at (as they were entering the area of the Heritage Middle School). He stated that he went up a “dirt” road and he remembered that as they were entering, someone said it was a dead end. He said it looked like other officers were chasing the suspect around in circles and then someone yelled “shots fired.” The subject vehicle reportedly started coming back towards Rinkus and his partner. Rinkus stated that he went over an island and came back around through a playground median and back onto the street, eventually coming to a stop. Rinkus stated that the cars were stopped; it looked like they had the subject vehicle blocked in.

Rinkus said that he then got out of his car and that there were bullets flying all around him. Rinkus stated that he “returned fire” and ran for cover. Rinkus stated that he did not know any of the other officers and that he saw an officer fall, believing that the officer was shot. By the time he got to the sidewalk, Rinkus stated he was out of rounds. He continued, stating that the “volley of gunfire stopped,” so he then ran back to his car. He said that by the time he got back to his car, he heard more shots.

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Rinkus recalled tugging at a patrolman's belt telling him to give him a magazine and he "locked and loaded." Rinkus stated that was when the shots stopped he started to approach the car. He stated that "uniform" officers were approaching ahead of him so he just stayed at a low-ready. Rinkus advised he did not fire any of the rounds from the unknown patrolman's magazine, and that he returned the magazine after the incident.

Upon his weapon being inventoried, it was learned that Rinkus had fired 13 rounds.

Michael Demchak

Michael Demchak is a 30-year veteran of the Cleveland Police Department, assigned as a plain clothes officer to the 3rd District vice unit on the night of November 29, 2012. Demchak was partnered with Detective Erin O'Donnell and was in an unmarked Ford Taurus, driven by Demchak.

Demchak and O'Donnell were at the 3rd District Station when they first heard about the pursuit. They responded and caught up to the pursuit at 72nd and St. Clair. Demchak thought that he was on Lee Road when he heard a radio broadcast that they were at a dead end, and if they came back out, it was unknown which way they were going to go. As they were on Lee Road, they "heard a distinctive 'Pop, pop'." Demchak did not know if O'Donnell heard it or not. Demchak said, "Fuck. They're shooting!" Demchak stated he cut across the grass onto the school property, then, while staying on the grass, he drove parallel to the access driveway. Demchak said he was hearing, "Pop, pop, pop. Pop." Demchak said he was hearing shots being fired as they pulled up, and he heard a radio broadcast of "Shots fired! Shots fired! They're shooting at us!"

Demchak said he was thinking that, "These were some bad mother fuckers." He explained that from watching videos of police shootings, "They don't last like this. It's usually over pretty quick." In his mind, Demchak was reportedly thinking that the subjects were wearing bullet proof vests. He compared this to the L.A. bank robbery shootout where the subjects there were wearing body armor.

As he was exiting the car, Demchak said that he was thinking that, "These were some bad people who need stopped." Demchak stated he came down from his car to the rear of a zone car [238]. He did not think that he was immediately behind the car, but may have had some standoff. Demchak moved to the car and saw two officers on the driver's side of the subject vehicle, firing into the driver's side. Demchak observed that the windshield was shattered and that glass was coming off of it. Demchak, seeing the officers dealing with the driver side threat, reportedly fired four times at the driver's area. In his mind, Demchak said he was thinking that, "This has got to stop." He was afraid for officers getting hurt or shot. Demchak repeated that the situation had to stop, the threat be neutralized.

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As Demchak was approaching the car, he saw an officer “scrambling” around, leading him to believe that shots were coming down the passenger side of the zone car (238). The officer was ducked down as low as the trunk lid as he circled around the car right in front of Demchak. This reportedly gave Demchak the impression that the officer was taking fire. As Demchak got to the car, “The battle was on. These guys were shooting it out. And this had to come to an end.”

Initially, Demchak thought he had fired 2-3 rounds. However, after the incident had ended, he learned from CPD investigator who inventoried his weapon it was four rounds.

During the pursuit, Demchak had heard radio traffic regarding the passenger having a pop can. He stated that this made him wonder what the subjects’ agenda was, in that they were taking the time to drink a pop during a pursuit. He reportedly questioned in his mind if it was really a pop can. It later reportedly made him feel that the subjects were even more hardened and dangerous, as they had shot at the police, were running from the police, were casually drinking a pop and then battling it out with the police.

Erin O’Donnell

Erin O’Donnell is a 15-year veteran of the Cleveland Police Department, assigned as a plain clothes officer to the 3rd District vice unit on the evening of November 29, 2012. She was partnered with Michael Demchak, with Demchak driving their unmarked police vehicle.

O’Donnell advised that she and Demchak were pulling into the parking lot of the 3rd District when they saw Detective Ereg and Sergeant Putnam running to a car, Putnam carrying a case containing an assault rifle. She was told to turn her radio to channel 2, at which time they learned what was occurring and became involved in the chase. O’Donnell advised that the driver of the subject vehicle had no regard for human life, as he was running lights and driving in incorrect lanes of traffic.

O’Donnell advised that she could see several police cars following the suspects down Wymore and that all of a sudden, one of the officers said that there was no way out. As they approached, she stated that she told her partner to hold up and not to go any further south on Lee, believing they would be in a better position if a foot pursuit ensued. O’Donnell then stated that she told her partner to hop the curb and to head over that way, at which time she heard a couple of shots and heard at least one person, possibly two different people, state ‘they’re shooting at us.’”

O’Donnell stated that as they pulled the car further westbound, the suspects’ car was still coming towards the police cars. She stated that they drove their police unit over the curb onto the grass. She stated that she and her partner ducked down because they did not know which way the shots were going to go. She stated that she knew that the suspect vehicle was coming back towards them. O’Donnell described that her partner pulled the police unit further forward and they exited their unit. While they were exiting, they heard more gunshots. She reportedly went to the driver’s side front door of CPD238 and stated that she had a clear shot to the passenger side of the subject vehicle. She stated that she took cover by CPD238 because someone was alerting to crossfire.

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O'Donnell advised that she looked to the subject vehicle as she began hearing numerous shots, observing that the driver and passenger were moving. She stated that she thought the driver was shooting, and it looked like the passenger was reloading. She stated that she drew her weapon, and checked her target and beyond, firing several rounds into the passenger's window. She stated that she was uncertain if the window had already been broken or if the window was down. O'Donnell advised that when the passenger stopped moving was when she stopped firing.

O'Donnell advised that she and others yelled "cease fire" and that after the shooting stopped, she went to check the occupants for a pulse, but did not reach in due to the amount of glass and blood inside the car.

O'Donnell advised that she originally thought she only fired 5-7 times, but later learned that she had shot 12 times (based upon an inventory of her weapon).

Christopher Ereg

Christopher Ereg is a 13-year veteran of Cleveland Police Department. He was assigned as a plain clothes officer to the 3rd District vice unit on the evening of November 29, 2012. He was operating an unmarked police vehicle, unit 382, as a single officer unit that day. However, upon leaving the district station to assist in the pursuit, Sergeant Putnam rode with him in the passenger's seat.

Ereg was at the 3rd District Station monitoring the pursuit on the radio. After hearing numerous times that the subjects of the pursuit had fired on officers, and were pointing guns at officers, Ereg stated that they decided to get in the car and see if they could assist in any way. Putnam grabbed his patrol rifle as they left.

While on Euclid, the subject vehicle reportedly turned right onto a side street. Ereg said that he could not make the turn and therefore, he continued and turned onto Lee Road. Ereg stated that while on Lee Road, they jumped the curb and headed into the school parking lot. Ereg advised that he could see zone cars parked in the driveway. Ereg then observed the subject vehicle coming back down the driveway towards the zone cars. When Ereg was driving on the access road, he heard the subject vehicle strike the zone car. While he was pulling in, Ereg thought he heard someone on the radio saying, "Block them in." While still moving, Ereg said he heard rounds being fired. Ereg reportedly exited his car, fearing crossfire. Someone was on the radio saying, "They're shooting at us or shooting at officers." Ereg stated he heard someone yell "They're shooting!" as well.

As Ereg was moving down the hill from his car, he reportedly saw two officers down and believed that they were shot. As he approached the subject vehicle, rounds were still being fired. Ereg believed that they [officers] were taking fire. Ereg stated he saw "glass from the suspect vehicle exploding. I thought they were shooting through the window. And I saw bullet holes in the police car, over here. I thought these officers were taking fire [occupants of CPD217]."

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Ereg advised that he observed the passenger in the subject vehicle moving forward. Ereg thought the action was the subject "...loading his gun." Ereg said that he could not believe that he was "in the middle of a shootout right now. And that's when I took aim at the passenger and discharged my firearm."

Ereg thought he had fired four times, but later learned he had fired six shots based upon an inventory of his weapon.

Other Officers:

Alan Almeida

Alan Almeida is an 18-year veteran of the Cleveland Police Department, having worked the last seven years in the Mobile Support Unit. On the evening of November 29, 2012, Almeida was working in that capacity as a uniformed, single-officer car (car #7707).

At approximately 10:30 that evening, Almeida advised that he was meeting with Officer "Vic" Nan in order for Almeida to work on Nan's personal desktop computer. Almeida's office is on the 3rd floor of 205 W. St. Clair, across the street from the Justice Center. Almeida advised that Nan parked on the south side of W. St. Clair. As the two were standing near Nan's vehicle, Almeida reported that he heard an engine rev and a vehicle pass by them at a high rate of speed (he estimated the speed of the vehicle to be 60 miles per hour). As the vehicle passed by them, Almeida reported that he heard a "round go off" and that he could briefly smell the powder from the shot. The vehicle reportedly turned south on West 3rd Street. Almeida stated that he believed the sound originated from the passenger's side of the vehicle.

Nan reportedly ran to the driver's side of his vehicle, did a U-Turn and went after the suspects. As Almeida was not wearing the necessary equipment to get involved, he ran inside the building to get his vest and duty belt. As Almeida later ran to the Justice Center garage to get his vehicle, the female guard from the parking deck guard shack reportedly stated "they are shooting at us."

Almeida heard radio traffic during the pursuit, but never caught up to the subject vehicle. Almeida didn't arrive at the shooting scene until after all shooting had ceased.

Vasile "Vic" Nan

Vasile Nan is a 12 year veteran of the Cleveland Police Department. He was working as a single-officer car as part of the 2nd District's Community Services Unit on the night of November 29, 2012. About half way through his shift, Nan parked in front of 205 W. St. Clair in order to meet with Mobile Services Unit Officer Alan Almeida for a computer repair.

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While Nan and Almeida were standing outside of Nan's patrol car, Nan reported hearing "squealing and peeling" of tires. According to Nan, a car was traveling at a high rate of speed on St. Clair, traveling westbound. As the vehicle drew almost parallel to Nan, Nan reported a gunshot rang out. Nan stated that both he and Almeida ducked when they heard the sound, with Almeida saying it was a gunshot. Nan said that he recognized the make of car because he had one similar. Nan said the car, "was moving" as it turned to travel south (left) onto W. 3rd Street, then west on Superior. Nan initiated a pursuit and broadcast a description of the car. He stated that there were two black male occupants and that they were armed with a shot fired. Nan stated that there was traffic on Superior and he slowed to operate safely. He was about 100 yards behind the subject vehicle when he saw it turn onto Prospect, losing sight of it.

Nan stated that within 10-15 seconds of him losing sight of the vehicle, another CPD unit spotted the car on the Superior Bridge and initiated a pursuit. Nan joined in the pursuit, but remained well behind the subject vehicle (estimating he was 250 yards behind). Nan advised that he heard radio traffic regarding the alleged actions of the occupants of the vehicle.

As the pursuit entered the parking lot of Heritage Middle School, Nan ended up on Lee Road. As he was exiting his cruiser, he heard the radio traffic of "shots fired" and also heard the last few gunshots. Nan said that he was ducking down to avoid getting hit. He stated that he did not fire his gun, nor did he witness the shooting.

Dymphna O'Neill

Dymphna O'Neill is a 15-year veteran of the Cleveland Police Department. She was assigned to the 2nd District Patrol and was partnered with Wilfredo Diaz in car 215 on the evening of November 29, 2012. O'Neill was in her second week in this assignment, recently transferring into it. The vehicle was being driven by Officer Diaz.

While out on a traffic stop, O'Neill advised she heard Officer Nan "screaming" shots had been fired and to let channel 3 know. O'Neill stated that she and Diaz immediately responded to the area where the suspect was reported and was able to get into the chase. O'Neill believed that they were 6 or 7 vehicles back in the pursuit somewhere in the area of 85th and Lorain. They reportedly remained in that position for most of the pursuit.

When the pursued vehicle made a move to cut through the parking lot of Happy's Pizza, O'Neill and Diaz became the lead in the pursuit. O'Neill stated it was dark and she could not observe anything that the occupants were doing. She did not see anything thrown from the vehicle. O'Neill stated that she was unfamiliar with the area, advising that a fellow officer broadcasted they were at the water treatment plant. "I was very frustrated, because I didn't know where I was at." Another broadcast stated "Be careful it's a dead-end, it's a dead-end." As the pursued vehicle got to the island in the school parking lot, O'Neill advised that it flipped around. Diaz hit the subject vehicle and both O'Neill and Diaz exit their patrol vehicle. "I thought we had them, because he clipped them pretty good."

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For an unknown reason, O'Neill stated that their patrol vehicle began to roll backwards. O'Neill jumped back into the vehicle to put it in park. As she put the vehicle in park, she reportedly heard shots fired. O'Neill reported that she thought it was the suspect shooting, although she was not entirely sure due to not being able to see. O'Neill thought she heard three or four shots fired.

Both O'Neill and Diaz got back into their vehicle to follow the subject vehicle as it began to take off again, back towards the way the vehicle entered the lot. As Diaz was turning the patrol vehicle around, O'Neill reported that the shooting began down the driveway. O'Neill remembered Diaz yelling at her to get down. Once the shooting began, O'Neill jumped back into her patrol vehicle and stayed there until the shooting stopped. She never discharged her weapon.

Sergeant Patricia Coleman

Patricia Coleman is a 24-year veteran of the Cleveland Police Department. On the night of November 29, 2012, she was a Sergeant in the 2nd District vice unit. Coleman is a plain clothes officer. She is not normally assigned a partner, but on November 29th, she was working with Detective William Miranda. They utilized an unmarked car with Miranda driving during the incident.

Coleman and members of her unit were at the district station when the pursuit was initiated. Coleman told her officers that an officer had been shot at and to grab their gear. Coleman and Miranda departed the 2nd District Police Station in an unmarked Dodge Charger and went to the area of West 65th Street and Clark Avenue in order to assist with the pursuit. Coleman was able to receive a description of the suspects' vehicle over channel 2. The vehicle pursuit was westbound on Clark Avenue approaching Coleman and Miranda. Miranda and Coleman were on Clark Avenue in their designated lane. As the subject vehicle approached Coleman and Miranda, they had to pull to the side of the street to avoid a head-on collision with the subject vehicle.

After Coleman and Miranda pulled to the side of Clark Avenue, they were able to get in the number three position of the pursuit. Coleman and Miranda were the fourth car in the pursuit when they entered the freeway. While in the area of "Dead Man's Curve" (I-90 and State Route 2) Coleman observed car #243A pull next to the subject vehicle as if to conduct a Pursuit Intervention Tactic Maneuver (PIT Maneuver). The PIT is commonly used during a vehicle pursuit to take out a suspect's vehicle. Based on officer's safety reasons, Coleman adamantly did not want any of the officers to conduct a PIT Maneuver on the suspects' vehicle at any time. Coleman was in fear that the suspects would shoot at the officers if the officers got too close to the suspects. Coleman broadcasted to the other officers to stay back and keep a safe distance from the suspect vehicle due to the earlier shots fired broadcast. Coleman and Miranda dropped back to a safe controlled distance from the subject vehicle.

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Coleman observed the front passenger turn toward the rear of the vehicle and point what appeared to be a gun out the rear window. The female passenger leaned toward the left and reached with the right hand over the left shoulder as if to fire out the rear window at the officers. Coleman observed this movement by the front passenger two to three separate times during the pursuit. Coleman also observed the front passenger lean down in her seat toward her right side waistband, as if she was reloading a gun with a magazine. Based on these actions by the passenger, Coleman was fearful the suspects would shoot at the pursuing officers if they were too close. Coleman broadcasted to the other pursuing officers the actions of the front passenger.

Coleman advised Miranda several more times to stay at a safe distance from the suspects' vehicle. Coleman requested additional assistance including air support however, the aviation unit was unavailable.

The subject vehicle exited I-90 at East 72nd Street and continued southbound. Coleman ran the plate through dispatch to determine what the situation was with the vehicle. Again, Coleman observed the front passenger turn toward the rear of the vehicle and point what appeared to be a gun out the rear window. The female passenger leaned toward the left and reached with the right hand over the left shoulder as if going to fire out the rear window at the officers. Coleman was in fear for her safety and the safety of the other officers involved. Further, Coleman radioed that the subject vehicle was attempting to take out police vehicles, as she had observed the subjects nearly miss striking cruisers several times. Coleman also observed the front passenger pull or hold the front, passenger's side door closed.

Coleman advised that she was dumbfounded to observe that the driver of the subject vehicle was casually smoking a cigarette during the pursuit. She also observed a near collision between the subject vehicle and Detective Fairchild's vehicle, with Fairchild quickly maneuvering to avoid being struck. Coleman advised that the subject vehicle was traveling without regard for anyone's safety, operating at a high rate of speed and going through several red lights.

As they entered the driveway of the school, Coleman heard shots being fired. She was not sure who was shooting or where the shots were coming from. Coleman broadcasted, "Shots Fired." Coleman observed the subject vehicle travel around and over a parking island and pass several marked police vehicles. Coleman thought the subjects were firing at the police officers as they were driving by them. At this time, the subjects were driving head-on right toward Coleman and Miranda. Miranda had nowhere to go; therefore, he stopped the vehicle along the right curb line of the school driveway. Both Miranda and Coleman ducked down on the front floorboard of their vehicle. Neither Coleman nor Miranda fired their weapons.

Reportedly, both Coleman and Miranda thought they were going to be killed by the subjects. They decided that on the count of three, both would simultaneously exit the cruiser and gain cover. Upon doing so, Coleman observed CPD unit 217 "all shot up." Coleman stated she believed the officers in 217 were dead. He yelled for officer to watch their crossfire just before the gunfire stopped. Coleman advised that if she would have had the opportunity, she too would have fired her weapon at the subject vehicle.

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Sergeant Matthew Putnam

Matthew Putnam is a 15-year veteran and a Sergeant in the Cleveland Police Department. He was assigned to the 3rd District vice unit on the night of November 29, 2012. Putnam also stated he is assigned a Cleveland Police Department issued Colt AR-15 patrol rifle. According to Putnam, he does not normally carry his patrol rifle while he is on duty. Putnam stated his patrol rifle is kept in a locker at the Cleveland Police Department 3rd District Station.

Putnam reportedly heard over channel 3 of a pursuit on channel 2. He switched over to monitor the pursuit. When he heard radio transmissions concerning the subjects pointing a gun, Putnam obtained his patrol rifle from the locker. Putnam and Ereg left the station and joined the pursuit in the area of 71st St. and Donald Road. According to Putnam, he heard a radio transmission indicating that a Cleveland Police zone car had been “rammed” by the suspect vehicle in the area of Wade Park.

Putnam indicated that a short time later, the pursuit entered the parking lot of Heritage Middle School in East Cleveland. According to Putnam, Ereg parked unit 388 on a side street which runs parallel to the parking lot of the school. Putnam stated he heard gun shots upon arriving in the area and he recalled telling Ereg to “get low” upon hearing the gun shots. At this time Putnam also recalled hearing an additional radio broadcast which stated “shots fired...officers shot at.” Putnam was unable to recall the exact wording of the radio transmission or the identity of the officer who made the broadcast.

Putnam stated he exited their car and walked approximately fifty (50) to seventy-five (75) feet down a hill and into the parking lot of Heritage Middle School. He indicated he then made his way to the rear of Cleveland Police unit 238 which he used as cover. While using unit 238 as cover, Putnam looked around the vehicle several times in an attempt to determine what was taking place. Putnam recalled that the parking lot was dimly lit and he saw multiple officers firing their weapons in the direction of the subject vehicle. Putnam advised that the officers were in front of him, although he was unable to recall the names of the individual officers. Putnam recalled yelling to the other officers “watch your cross fire.” According to Putnam, the shooting stopped a short time after he warned officers about their cross fire. Putnam indicated he remained at the rear of unit 238 during the incident and that he did not discharge either of his weapons (pistol or patrol rifle).

Once the shooting stopped, Putnam used his portable radio and requested Emergency Medical Services (EMS) to respond to the scene.

Robert Radosevic

Robert Radosevic has been with the Cleveland Police Department for 7 months. Radosevic is assigned to the 2nd District Patrol Division and was partnered with Officer Scott Sisteck in car 238, with Radosevic driving. On the night of November 29, 2012, Radosevic and Sisteck were considered an extra car so they were not confined to any specific location in the district.

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After hearing that shots had been fired at an officer, Radosevic responded to the area of the pursuit. Radosevic and Sistek were reportedly stopped at West 44th and Clark as the subject vehicle passed in front of them. Radosevic turned east on Clark and was approximately four or five cars back from the lead vehicle. Radosevic advised that he witnessed the passenger in the pursued vehicle “full faced, knit hat, and pointing a gun behind them.” As his partner was calling information out, Radosevic stated he weaved to miss what he believed was the passenger getting ready to shoot at them. As they approached the roundabout at West 14th and Clark, the passenger was still facing backwards towards the pursuing officers. Radosevic advised that he never saw a weapon and only the passenger’s movements lead him to believe they had a weapon. He also stated that he never witnessed anything being thrown from the pursued vehicle.

The lead vehicle broadcast that the pursuit was entering the wastewater plant and wanted someone to block off the entrance. The terrain sloped towards the school and Radosevic thought the suspects in the pursued vehicle would “bail” and start running. Radosevic pulled his vehicle over to the left close to the curb and Sistek got out of the vehicle. They began to hear radio transmissions of “shots fired.” To Radosevic’s surprise, the subject vehicle rounded a parked police vehicle and within a couple of seconds struck the passenger’s side of his vehicle.

As Radosevic exited his vehicle, he was drawing his weapon. As his vehicle door was shutting, he began to hear shots “ring out.” He dropped down behind the vehicle trying to keep the window and hood support in line between him and the subject in the subject vehicle. At one point he could see someone scrambling off to his right. He tried to get up to see what was happening when another officer approached from behind and told Radosevic to keep his head down. Once Radosevic was able to get up, he observed officers closing in to check on the vehicle’s passengers. Other officers were checking to make sure which officers were injured.

David Siefer

Officer David Siefer was working 2nd District Patrol Division on the night of November 29, 2012, partnered with Officer James Hummel. The two were in CPD marked zone car 243A with Hummel driving. Upon hearing the radio broadcast from Office Nan regarding the shot fired at officers, Hummel and Siefer were the first unit to locate the subject vehicle, while traveling on the Detroit / Superior Bridge. Siefer and Hummel were the lead pursuit vehicle at the time.

Siefer stated he observed the passenger of the vehicle hitting the dashboard of the vehicle with aggressive movements, appearing angry. Siefer reportedly broadcasted this observation over the radio. Additionally, while in the area of Clark and Quigley, Siefer reportedly observed the passenger turn around in her seat and get onto her knees, facing the rear of the vehicle. The passenger then extended both of her arms towards the rear window and cupped her hands together as if she was holding a gun and attempting to acquire a target. Hummel also reportedly observed the same motion and verbalized to Siefer that they were pointing a gun at them. Despite not actually seeing a gun, Siefer broadcast on the radio that the passenger just pointed a gun out the rear window. When Hummel shined a spotlight into the car, the passenger quickly turned around and huddled down.

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Siefer reported that he again observed the passenger make the same threatening motion, which he believed to be her pointing a gun at them. She turned back around and crouched upon the spotlight being shone at her again. He stated that she was definitely holding something in her hand, and that he observed a glimmer off of the object. However, there was not enough lighting to conclusively tell what the object was. Siefer reported that the driver was driving aggressively.

While negotiating “Dead Man’s Curve” along I-90, Siefer heard a pop sound and observed a bunch of pieces come from underneath the subject vehicle. At the time, he thought the subject vehicle had blown a tire and he incorrectly broadcast such. While on an unfamiliar side street in East Cleveland, Siefer advised that he witnessed the subject vehicle ram an unmarked Ford Crown Victoria police vehicle, an action which he stated Sgt. Coleman broadcasted over the radio. While eastbound on Euclid Avenue, Siefer heard Sgt. Coleman radio that the passenger appeared to be loading a gun. Siefer stated that he too witnessed this action, an action that he believed was the reloading of a gun magazine as well.

Upon the pursuit entering the Heritage Middle School parking lot, Siefer observed the collision between the subject vehicle and the vehicle operated by Officer Diaz. Further, he observed Diaz almost being struck by the subject vehicle once outside of his car while hearing shots being fired. Siefer transmitted “shots fired” upon hearing this. The subject vehicle then drove towards Siefer’s vehicle, but went around it. As Hummel turned to follow, he ended up head-to-head with another cruiser, prohibiting them from getting closer by vehicle. He and Hummel exited their vehicle and took cover behind another vehicle until the shooting ceased, never being in position to fire.

Like most other officers, Siefer was unaware that the passenger was a female until after the incident, broadcasting that it was a male at the time.

Tony Gonzalez

Officer Tony Gonzalez is an 11 year veteran of the Cleveland Police Department. On the night of November 29, 2012, Gonzalez advised he was working 2nd District Patrol Division in a marked cruiser with Jaime Cruz as his partner.

Gonzalez heard the shot fired call over the radio and he and Cruz responded to assist, eventually catching up with the pursuit in the area of W. 14th. Gonzalez stated that the subject vehicle nearly struck their car. In the process, Gonzalez got a look into the car and observed the passenger turning around in the front seat, pointing a gun out the back window of the car. He radioed over channel 2 that the passenger still had a gun.

Once in the parking lot of the Heritage Middle School, Gonzalez advised he exited the cruiser with the shotgun as the subject vehicle was passing him (after “shots fired” were radioed and while the vehicle was attempting to leave the lot). Gonzalez advised he was intending to fire upon the driver; however, Cruz exited the cruiser and was within Gonzalez’s line of fire. Therefore, Gonzalez was never able to discharge his weapon. Gonzalez advised that he was attempting to “curl up” inside his vest while gunfire was being heard.

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After the gunfire ceased, Gonzalez reportedly put away his shotgun and called his wife. Despite being a paramedic, Gonzalez stated there was nothing he would have been able to do for the subject without the proper equipment. He had heard EMS being summoned over the radio.

Kevin Fairchild

Detective Kevin Fairchild has been employed by the Cleveland Police Department for the past 15 years. On the night on November 29, 2012, he was assigned to the 2nd District vice unit, operating an unmarked, black Ford Crown Victoria (unit 288). Fairchild was alone in the vehicle during this incident.

Fairchild advised he learned of the chase from Sgt. Coleman, while still in the office. He responded to assist, catching up with the vehicle around 45th and Clark. During the pursuit, Fairchild advised that he was alternating the lead position with a marked unit. At one point, on 79th Street, Fairchild advised that the subject vehicle made a hard right turn onto a side street. Unable to stop in time, the front, driver's side portion of Fairchild's vehicle struck the rear, passenger's side quarter panel of the subject vehicle.

Fairchild reported that the top speed of the pursuit, while on the highway, was in excess of 100 miles per hour. While on "Dead Man's Curve," Fairchild heard a loud bang coming from the subject vehicle and saw a flash near the rear tire. Fairchild believed that a tire was blown. Fairchild advised that Siefer radioed this observation first, but that he reiterated the point. Fairchild advised that he later transmitted that he guessed it was not a blown tire.

Fairchild stated that during the pursuit, the passenger was "all over the place." He stated the passenger was going towards the driver, reaching back towards the back window and pulling on the door (which he believed may have popped open at one point). While on 68th towards Bliss, Fairchild reported that he observed a pop can. He stated that it was in the right hand of the passenger and that the passenger was completely turned around in the seat. He could also see that the passenger was wearing black gloves. He reported both of these observations over the radio. Fairchild stated that although he did not see a gun, the passenger was motioning as though they had one. Further, he stated other officers reported seeing a weapon. Fairchild stated that by him seeing a pop can did not exclude the possibility that there still was a gun in the vehicle.

Once in the parking lot of the Heritage Middle School, Fairchild advised that he was never in a position to fire without the chance of striking another officer. Therefore, he never discharged his weapon.

James Hummel

Officer James Hummel is a 12 year veteran of the Cleveland Police Department, working 2nd District Patrol Division on the evening of November 29, 2012. Hummel was partnered with David Siefer, with the two operating marked police cruiser 243A. Hummel was driving.

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Hummel provided the same basic information as Siefer regarding the pursuit and shooting incident. Hummel did not discharge his firearm. However, after the shooting ceased, Hummel took pictures of the scene with his cellular phone. Hummel provided investigators written consent to image (copy) and examine the contents of his phone and to retrieve those images.

During the following days while in the process of reviewing the data recovered from Hummel's phone, investigators came across several text messages related to the incident that required further explanation. The messages were apparently between Hummel and one of the dispatchers from that evening. Hummel was brought back in for a second interview where he provided satisfactory explanations for the texts.

In general, Hummel was displeased with several things regarding the incident. First, he reported to investigators that he heard the vehicle backfire several times during the pursuit, leading him to believe that it was possibly a backfire, and not a gunshot, that initiated the events leading up to the shooting. Further, Hummel was angered that some of the unmarked police units remained in the pursuit, particularly in lead positions, when ample marked units were available. He stated that this created a dangerous situation which could have resulted in someone getting hurt. Finally, Hummel believed that a number of officers may have participated in the pursuit but did not remain on the scene after the shooting or indicate their participation on their duty logs (describing this as lying in the text). Hummel stated that he had no direct knowledge of this occurring, nor did he have any names, but stated he heard rumors regarding it.

Additional involved personnel of the Cleveland Police Department were interviewed, to include other officers, supervisors and dispatchers. Further, personnel were interviewed from the East Cleveland Police Department, Cuyahoga County Sheriff's Office, Ohio State Highway Patrol, Bratenahl Police Department and the RTA Police Department. Information pertaining to these numerous interviews can be obtained from reports that were generated detailing each.

Witnesses:

The offices of the Cleveland Police Department Homicide Unit and Sex Crimes Unit are located on the south side of the Justice Center, 6th floor. These offices overlook the St. Clair Avenue area where the second pursuit was initiated. Statements were obtained from Crime Scene Detective Frank Costanzo, Sex Crimes Detective Thomas Ross, Sex Crimes Detective Andrew Harasimchuk and Homicide Detective James, all of whom reported hearing what sounded to be a gunshot in the area of St. Clair and Ontario on the date and time that the subject vehicle passed the Justice Center.

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Stephanie Daniel, a Security Guard for R-Cap Security, was working at the medical mart construction site on the evening of November 29, 2012 (across from the Justice Center). While making a patrol round on foot, sometime around 10:15 PM (or possibly later), Daniel heard a shot-like sound in the area, followed by a pause and two additional shot-like sounds. Daniel was unable to ascertain the origin of the sounds and did not observe any vehicles on Lakeside Avenue. An additional interview at the construction site revealed that no construction was taking place on the date and time of this incident, excluding construction noise as a possible origin of the shot-like sound heard by multiple individuals.

A neighborhood canvass of the area surrounding the Heritage Middle School was conducted. Although various individuals reported hearing the gunfire, none of the interviewees visually observed the incident or were able to provide anything of probative value to the investigation.

Cheryl Kelly, a City of Cleveland Institutional Guard, was working security at a booth leading into the Justice Center parking deck on St. Clair Avenue on the evening of November 29, 2012. Kelly provided a statement in which she observed a baby blue “old school” car drive down St. Clair, catching her attention due to the car being old. Kelly stated that as the vehicle passed two police officers who were standing outside a police vehicle, she heard a gunshot come from the “old school” car. According to Kelly, she ducked upon hearing the sound, as did the two officers.

A number of individuals from around both the Lutheran Metropolitan Ministries homeless shelter, as well as the Cosgrove Center, were interviewed regarding their knowledge of Malissa Williams, Timothy Russell, and of the events in the evening hours of November 29, 2012. Little was known by most regarding Russell, but Williams was well known. Williams was reported to be mentally unstable, as well as being a drug addict (crack cocaine and marijuana). She was oftentimes angry and threatening towards others. She was known to sometimes perform sexual favors in exchange for drugs or money. On the night in question, she was observed to enter Russell’s vehicle, through the rear, driver’s side door, with the purpose of the two obtaining drugs. Several individuals subsequently witnessed Officer Jordan pull behind the vehicle and follow it from the area. One witness reported hearing Jordan chirp his siren as the vehicles turned left onto 18th Street. Further details of these interviews can be obtained from the individual reports.

Trina Williams, a cousin of Malissa Williams, stated that Malissa was like a sister to her. Trina advised that Malissa was “mental” due to once abusing illegal drugs that were laced with embalming chemicals. She stated that Malissa was addicted to “crack and weed.” Trina advised that Malissa would often speak of killing Natash, stating that Natash was Satan. Further, Trina stated that Malissa did not know how to express herself; therefore, Malissa would threaten violence and “to kill” people, despite reportedly being a very kind person. Trina advised that Malissa met Timothy Russell while eating at the Cosgrove Center.

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Radio Transmissions:

The Cleveland Police Department utilizes a central dispatch center with each district's patrol unit having a separate radio channel (and other, specialized channels within each district). Further, each patrol district has a separate dispatcher assigned to monitor and communicate on that district's channel. The dispatchers for each of the districts are physically located in the same room, utilizing separate work stations. The dispatchers are able to speak to one another around/over the cubicles in order to pass along information without using the radio system to do so.

Although the ability to link various channels together during an incident spanning across multiple districts theoretically exists, issues with doing so have led to a policy prohibiting such. Therefore, it is the understanding of the investigators that when a cross-district event occurs, such as a pursuit that travels from one district into the next, it is the procedure for involved officers to switch to the radio channel of the district where the incident originated. The originating district's dispatcher then handles the communications for the incident as the primary radio channel.

In this incident, channel 2 (District 2) was utilized as the primary communications channel. However, information regarding the incident physically relayed from dispatcher to dispatcher in the dispatch center was also rebroadcast over other districts' channels, keeping other officers informed who did not change their radios to channel 2. During the course of interviewing multiple officers, investigators learned that some confusion existed as to which channel was being used as the primary method of communications. This led to some information regarding the incident being heard by some officers but not by others. Further, the time delay between the information being relayed from one channel to another resulted in some officers not receiving information in real-time, finding themselves acting on information that was no longer current (by a matter of seconds to minutes).

Radio transmissions regarding this incident were learned to have occurred on channels 1, 2, 3 and 5. The audio of those transmissions were received and reviewed, as were transcripts of those communications (provided by the Cleveland Police Department). Only select transmissions believed to have relevance to the shooting in East Cleveland will be discussed in this section. It is recommended that the full audio and transcripts be reviewed to gain a broader understanding of the incident and the context of the presented transmissions.

The first known relevant radio transmission pertaining to this incident occurred when Officer John Jordan ran the license plate of FSA3495, on channel 3, at a time stamp of 10:27 PM on November 29, 2012. Jordan advised the vehicle was parked at East 22nd and Lakeside. He was provided the registration information from dispatch.

At approximately 10:33 PM, on channel 2, Officer Vasile Nan broadcast that a passing vehicle had just "popped a round" while traveling past Mobile Support – Justice Center. Nan provided a description of the vehicle, direction of travel and that it was occupied by two black males.

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Less than a minute later, Officer Nan transmitted: "There were shots fired out of a vehicle. I was conferring with Mobile Support on uh St. Clair. Just notified the 3rd. Popped a round right as he drove by us." The vehicle is located shortly thereafter by Officers Hummel and Siefer who initiate the pursuit, along with providing the license plate number of the vehicle. Nan advises, "Use caution, Occupants are armed." Turn-by-turn directions of the pursuit are provided, with Officer Siefer later advising, "...Still two occupants. Eastbound Clark. Passenger's uh very angry..."

Once the pursuit reached the area of Steelyard, Siefer radioed, "He's pointing the gun. He's pointing the gun out the back window. Heads up. Heads up. Passenger is pointing a firearm out the back window. Everybody be careful." A request for spike strips is made, followed by Officer Nan reiterating, "He will fire so be careful." Additional radio traffic advised "He had the gun when he went around the roundabout." Siefer then states, "Passenger is turning back around again pointing a firearm." A request is then made for the helicopter, but dispatch advised that there was "No chopper."

Radio traffic in the area of Dead Man's Curve indicated the incorrect belief that the subject vehicle had lost a tire. Shortly thereafter, Officer Fairchild transmitted "Passenger just put his hands out asking us to stop. He does not have a gun. He had black gloves on. He does not have a gun in his hand." After a few other broadcasts, Fairchild states, "There's a pop can in his hand. There's a red pop can in his hand. Just be advised."

In the area of East 79th and Star, radio traffic on channel 2 indicated, "He just rammed into a police car."

A later broadcast stated, "Passenger is reaching for something underneath the glove box area." As the pursuit passed 108th on Wade Park, Siefer transmitted, "They're, they're fumbling with something up in that front seat." As they continued on Wade Park past 111th, Siefer broadcast, "Looks like the passenger got, possibly loading a weapon."

As the pursuit entered the staff parking lot of the Heritage Middle School, mistakenly identified as being a water treatment plant, it was noted that the area was a dead end and a request was made for the area to be blocked off. A transmission stated, "Alright, be advised he looked like he was loading a weapon." The next transmission indicated "Shots fired. Shots fired."

At approximately 10:55 PM, "watch the crossfire" is transmitted, followed by an additional indication to dispatch that shots had been fired. A request for EMS is made less than a minute later.

The radio traffic on channel 1 was minimal, with channel 2 advising channel 1 of the pursuit at approximately 10:36 PM. The channel 1 dispatcher then relayed information learned from channel 2. District 1 units were advised to call off the pursuit by their supervisor at approximately 10:39 PM. Later in the chase, a District 1 officer makes an announcement over channel 1 that a subject involved in the pursuit is "...waving a gun out the window, pointing at officers. Just in case he comes back into the 1st [District], everyone's aware of it."

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District 5's radio traffic was also minimal in comparison to the primary channel, channel 2. At 10:42 PM, a request is made by dispatch to see if anyone in the district has stop sticks. At 10:43, dispatch advises the District 5 officers, "Okay. Attention 5th District cars. Be advised 2nd District is chasing a vehicle that was pointing a firearm at the officers..." Dispatch then proceeds to provide a vehicle description, plate number, location and direction of travel. An additional transmission, made shortly thereafter, informed officers of the 5th District that, "Channel 5 be advised, if he comes into your district, the passenger's pointing a gun out the back window of his vehicle. Passenger is pointing a gun out the back of the vehicle."

5th District dispatch continued to relay information learned from channel 2 regarding the chase, including the belief that the subject vehicle lost a tire around Dead Man's Curve. The address of the registered owner of the subject vehicle is also relayed to the 5th District officers upon request.

At approximately 10:46 PM, dispatch advised of the current location of the pursuit and reiterated, "Again, approach with caution. The passenger is sticking a gun out the window." Shortly thereafter, it was apparently believed by dispatch that a subject had exited from the subject vehicle. Dispatch advised, "...Male bailing East 72nd. And be advised, gun involved..."

Several minutes later, at approximately 10:49 PM, dispatch advised that, "it is not a gun. It's a pop can in his hand. Eastbound on Star from 71." Less than a minute later, dispatch further advised, "Alright. Be advised. He just hit a zone car..." "...Passenger's reaching for something. Still eastbound Wade Park."

At approximately 10:51 PM, District 5 units were advised to terminate the pursuit by a sergeant. This order appeared to be countermanded by Lt. Brown at 10:53 PM when she advised that it was in her district and she intended to catch up to see what is going on. A final warning from dispatch occurred at approximately 10:55 PM, with dispatch advising, "Now Sam 34 just be advised, may have shots fired in connection with this chase. Now they're by the water treatment plant in Cleveland Heights. Sam 32, you copy also?"

Radio traffic from the 3rd District regarding this incident, subsequent to Officer Jordan's earlier request to run the license plate, began at approximately 10:33 PM. Dispatch advised District 3 officers, on channel 3, "Channel 3, you have a 2nd District officer following somebody who shot off a round." Directions are radioed from dispatch as information from channel 2 was being relayed. An unidentified speaker transmitted, "Just transfer over to channel 2 if you can. It was the Mobile Support van. They were out there getting something done and the shots were fired..." Dispatch advised shortly thereafter, "...Be advised he did shout, shoot off a round, he did shoot off a round at police. Frank-Sam-Adam 3495. He's passing 38th..."

After additional relayed information, Officer Almeida broadcast, "3Sam23 I am not the one driving. Zone car 217 was out in front of my building. That car went by us, fired off a round and he is now behind them."

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At approximately 10:41 PM, on channel 3, dispatch advised, "Approaching Quigley. They're heading down the hill approaching Quigley. Male's pointing a gun out the back window. D3 Heading into the steelyard. Again, the male pulled a gun again." This was followed with a request for anyone with strips [stop sticks].

At approximately 10:45 PM, dispatch advised that the subject vehicle was losing tires at Dead Man's Curve. At approximately 10:47 PM, dispatch advised, "...Now stating he has a pop can in his hand." The next two transmissions from dispatch indicated, "Eastbound on Star. Alright approaching 79. Alright. Police car just hit" and "Okay they're on Addison. A police car was rammed. Okay. We're coming back westbound. Decker westbound, on Decker. Westbound Addison. Alright eastbound on Wade Park. Passenger is reaching for something. Heading eastbound on Wade Park." At approximately 10:51 PM, dispatch radioed, "Passenger is possibly loading a weapon..."

At approximately 10:55 PM, dispatch advised, "Alright. He's in a water treatment plant. They're trying to block it off. Got shots fired. 35 are you okay?" Additional transmissions in the seconds that followed included dispatch relaying that there was crossfire and a lot of shots fired. At approximately 10:56 PM, an officer requests EMS be sent to the scene.

Decedents:

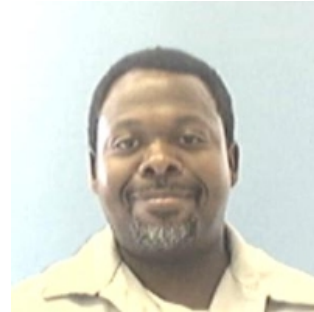
The information available to investigators regarding the decedents was highly fragmented due to the refusal of most family members to consent to interviews, citing attorney involvement and/or requiring additional time to mourn. Many friends and associates were also hesitant to provide complete statements.

At the time of this incident, both Timothy Russell and Malissa Williams lacked permanent housing of their own – both staying in homeless shelters. Despite his financial situation, Russell had recently acquired a vehicle (October, 2012), possibly coming from a relative. Russell and Williams were believed to have met at the Bishop Cosgrove Center, 1736 Superior Avenue, Cleveland, OH 44114, where both received free meals. On November 29, 2012, Williams was observed having both breakfast and lunch at this location, although Russell was not witnessed. Both Russell and Williams were reported to have some mental issues, as well as reportedly being illegal drug addicts (primarily crack cocaine). Witnesses stated that the purpose of Russell and Williams being together on the evening of this incident was to obtain drugs. Williams was observed entering Russell's vehicle, via the rear driver's side door, near the Lutheran Metropolitan Ministry shelter located at 2100 Lakeside Avenue East, Cleveland, Ohio. Russell had been staying at this shelter up until two days prior, after which he was placed in transitional housing. Williams was stated to sometimes provide sexual favors in exchange for drugs or money.

Both Russell and Williams had cellular phones. Search warrants for these phones were obtained subsequent to their deaths. An analysis of these phones revealed no probative information relative to this incident.

(Continued)

Name: Timothy R. Russell (Deceased)
Address: North Point Transitional Housing, 1550 Superior Avenue East, Cleveland, OH 44114
Telephone: (216) 319-6210
DOB: 12/9/1968
SSN: [REDACTED]
Sex: Male
Race: Black
Height: 5'05"
Weight: 220lbs
Hair: Black
Eyes: Brown
S/V/W: Subject
CCH: FBI # [REDACTED]; BCI # [REDACTED]



A check of Timothy Russell's criminal history showed prior arrests for criminal trespassing, domestic violence, endangering children, petty theft, probation violation, theft, receiving stolen property, possession of drug abuse instruments, aggravated robbery, robbery, driving under the influence, fleeing and eluding, reckless operation, open container, failure to comply with police, parole violation, abusing harmful intoxicants and resisting arrest. Russell appeared to have multiple arrests for some of these offenses, including having fled from police on multiple prior occasions (most recently arrested for fleeing in a motor vehicle, and crashing, from Willowick, Willoughby and Mentor Police Departments on December 3, 2011). On the date of this incident, Timothy Russell's driver's license was under suspension.

The Cleveland Police Department's Record Management System (RMS) was checked for prior CPD involvement with Timothy Russell. Two incidents involving Russell were found, both having occurred in 2007. In June, 2007, a report was filed regarding Russell potentially having a heart attack. In December of 2007, after leading police on a foot pursuit, Russell was arrested for grand theft of an automobile. Neither incident appeared to have involved any of the same officers that fired at Russell during the present incident under investigation.

A search warrant was obtained for Russell's mental health records from the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County. [REDACTED]

(Continued)

Name: Malissa A. Williams (Deceased)
Address: Homeless
Telephone: (216) 256-5033
DOB: 6/20/1982
SSN: [REDACTED]
Sex: Female
Race: Black
Height: 5'05"
Weight: 150lbs
Hair: Black
Eyes: Brown
S/V/W: Subject
CCH: FBI # [REDACTED]; BCI # [REDACTED]



A check of Malissa Williams' criminal history revealed multiple prior arrests for felony drug possession, as well as arrests for kidnapping, attempted abduction, rape, probation violation, receiving stolen property, assault and criminal trespassing.

The Cleveland Police Department's Record Management System (RMS) was checked for prior CPD involvement with Malissa Williams. Approximately 33 prior contacts were located, dating back to 2001. The majority of the contacts were in regard to Malissa being arrested for drug-related offenses or for mental health / crisis interventions. Other incidents of note include allegations of sexual misconduct, being the subject of missing person reports, disorderly conduct, trespassing, soliciting prostitution, being in a stolen motor vehicle, theft and assault, as well as being the reported victim of assaults and a robbery. Michael Rinkus, an officer that was involved in the shooting incident under investigation, appeared to have had prior contact with Williams in June of 2009 when she was arrested during a prostitution sting (and found to be in possession of a crack pipe).

Williams was cited by the RTA Police Department the day prior to this incident for evading bus fare. According to the involved officer, the contact went without any major incident.

Investigators were also provided with a cell phone video of a previous Cleveland police contact with Malissa Williams by Officers Wilson and Cunningham. Williams had been taken into custody and was uncooperative and belligerent, threatening to kill the officers and using strings of profanity.

A search warrant was obtained for Williams' mental health records from the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County. [REDACTED]

[REDACTED]

(Continued)

Physical Evidence:

The BCI Crime Scene Unit was requested to respond to the scene of the shooting (Heritage Middle School) by Sergeant Scott Gardner of the East Cleveland Police Department. Multiple agents responded and processed the scene, to include photographing and mapping the area, as well as the search for, documentation and collection of items of possible evidence. Detailed crime scene reports were completed with the below information only summarizing some of the more significant findings.

Upon the arrival of BCI's Crime Scene Unit, only nine (9) Cleveland Police Department vehicles remained at the scene (five (5) marked cruisers and four (4) unmarked police vehicles). Located approximately 35' southwest from the entry to the driveway were two CPD cruisers and the subject vehicle (Chevy Malibu). Located on the northwest side of the driveway and facing southwest was CPD #217. Located on the southeast side of the driveway and facing south was CPD #238. On the west side and adjacent to CPD #238 was the Malibu. See Figures 1 and 2 for an overall depiction of these vehicles.



Figure 1 (looking west)



Figure 2 (looking north)

(Continued)

The subject vehicle was determined to be a light blue 1979 Chevy Malibu bearing Ohio license plates of FSA-3495 and a VIN of 1W19J91485352. It was facing northeast and had impacted the passenger's side of CPD #238 (see figure 3). Body damage was also noted on both rear fenders and the driver's side front tire was flat. A large c-clamp was attached to the passenger's side B-pillar and it was holding the door shut.



Figure 3 (looking southwest: CPD #238 & Malibu)

The bodies of Williams and Russell were situated in the front seat compartment of the subject vehicle. Russell was seated in the driver's seat and was slumped over toward the passenger's side with his head resting on Williams' back. Williams was seated in the front passenger's seat with her back against Russell's right side and facing out towards the passenger's side. Located in the rear seat were some clothes, a suitcase, and a tire. No firearm was ever located in the vehicle, nor were any casings (other than those linked to officers' weapons).

CPD #217 was a marked Dodge Charger. It was running and the passenger's side door was ajar. There were approximately nineteen bullet holes in the windshield and preliminary analysis revealed that these shots had been fired from inside the vehicle outward. Several other bullet holes and impacts were noted on the passenger's side A and B pillars and these indicated that the door was open at the time the shots were fired.

CPD #238 was a marked Ford Crown Victoria. Body damage was noted on the passenger's side. There were three bullet holes in the windshield. Preliminary analysis revealed that these shots had been fired from outside the vehicle inward and that the directions of travel were from the driver's side to the passenger's side.

(Continued)

Skid marks and tire impressions were found on a traffic island southwest of the vehicles (*see figure 4*). This was the reported location where the Malibu went up onto the traffic island and where the first shots were fired. Three Speer 9mm cartridge cases, one bullet and one bullet fragment were found in this area. Two of the cartridge cases were found on the island near the tire impressions and the third was found on the ground just southwest of the island. The bullet and bullet fragment were found on the island near the tire impressions.



Figure 4 (looking north: skid marks and tire impressions on island)

Upon concluding the processing of the scene, as well as the subsequent processing of the subject vehicle and CPD cruisers #217 and #238, a total of 121 cartridge casings (9mm) were located, along with one shotgun shell.

The subject vehicle was later examined under controlled conditions after being brought to the BCI Richfield Laboratory (subsequent to preliminary processing by the Cuyahoga County Medical Examiner's Office). A minimum of ninety-two bullet holes were found on the exterior of the vehicle (*see figure 5*). An additional five bullet holes were found within the interior of the vehicle that could be classified as entry holes and these were bullets that most likely traveled through open windows and struck a surface within the interior. Not every bullet hole had two impact points therefore the trajectory could not be accurately determined for every bullet hole using trajectory rods. The trajectory was determined for thirty of the bullet holes (*see figure 6*). All the holes that were examined except one (BH78E) were fired from outside the vehicle inward. BH78E which was located on the rear window was most likely a shot exiting the interior from a bullet that entered through the windshield.

(Continued)

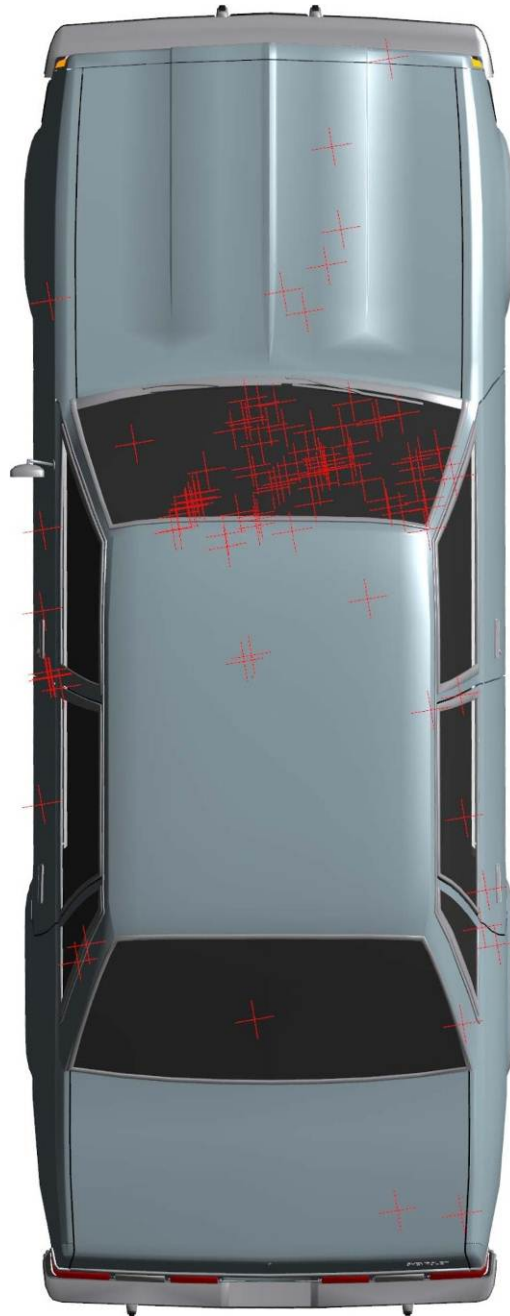


Figure 5 (bullet holes mapped with total station)

(Continued)

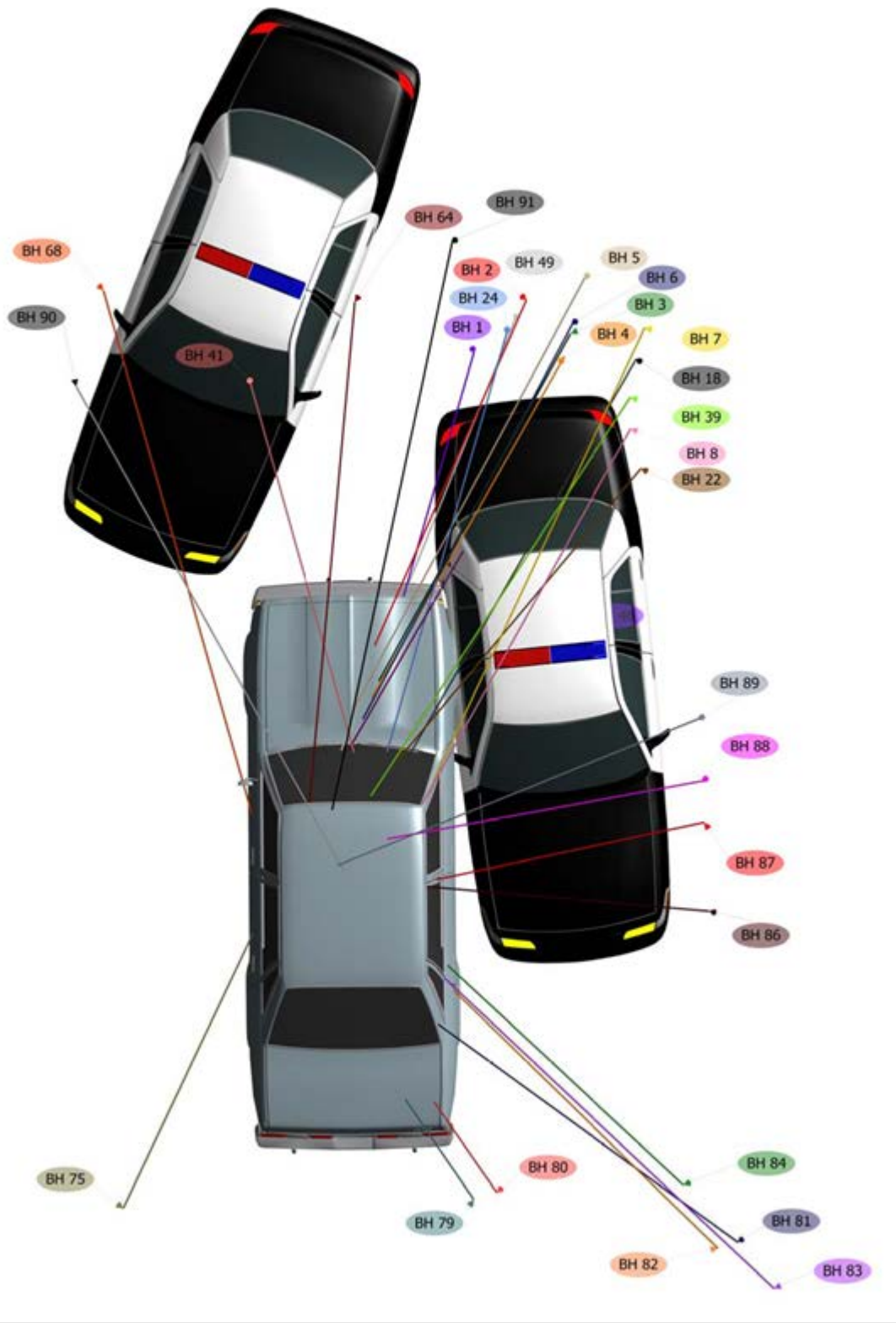


Figure 6 (trajectories with all three vehicles in place)

(Continued)

The contents of the subject vehicle were searched with an empty red-colored Coca-Cola can being found on the passenger's side front floorboard. Also collected from the front seat were two lighters and a charred glass pipe believed to be a crack pipe (laboratory testing confirmed the presence of cocaine). Collected from the glove box was one Chore Boy scouring pad.

A private consulting firm was employed for the services of a forensic mechanic in regard to an examination of the subject vehicle (H. Lyn Smith of Smith and Company). It was requested that the forensic mechanic assess the vehicle's propensity to backfire, as well as to determine the window positioning (as much of the glass was broken and/or missing). In part, Mr. Smith concluded that the front, driver's side window was down 10 ½ inches while the front, passenger's side window was down 4 inches (from the top). Further, he concluded that within a reasonable degree of mechanical certainty, the subject vehicle had the necessary and multiple conditions to expect backfiring and that the vehicle exhibited expected signs showing that backfiring has occurred [in the past].

Physical searches were conducted along portions of the pursuit route in an attempt to locate any discarded evidence, to include the search for any possible weapon. Additionally, the Cuyahoga County Sheriff's Office Dive Team was utilized to search some of the waterways along the route, also where evidence could have been potentially been located. These searches did not result in the discovery of any probative evidence.

The Cleveland Police Department provided a report in which Detective Diaz #1001 advised that on November 30, 2012, at approximately 5:00 AM, he located a 9mm, Winchester Luger (+P) cartridge casing on the P1 level of the Justice Center parking deck. Although the brand differs from the ammunition that CPD officers are issued, it was reported that the casing was a commonly used law enforcement round. The casing was submitted to the BCI Laboratory as item #159. It was reported by the laboratory that the firing pin impression was not consistent with any of the Glock pistols submitted, and that a NIBIN database search revealed no identifications. Therefore, it cannot be determined with any degree of certainty whether or not this casing was related to this incident.

Officer Justen Davis of the Cleveland Police Department advised that after the pursuit had ceased on the night of November 29, 2012, he became involved in the search for any potential evidence on St. Clair in the area where Officers Almeida and Nan reported a shot being fired. Davis stated that he located what he believed to be a "wad cutter" bullet in the street, but was told by a Cleveland crime scene officer that the object was just a piece of road trash, throwing it back on the ground. Davis advised that despite the crime scene officer's opinion, he felt the object was possible evidence and therefore, he placed in the center console of his assigned vehicle, but was later unable to locate the object.

The Cleveland Police Department also reported locating of .410 shotgun shell casing along I-90 at some point after the incident. The casing appeared to have rust on the metal portions. Further, there were no statements by officers indicating a belief that they were fired upon during this portion of the chase. The shell was submitted to the Medical Examiner's Office Laboratory, but no testing was completed.

(Continued)

Various items of potential evidence were submitted to the BCI Laboratory for analysis. The actual reports should be consulted as the following synopsis does not include many of the details from the full reports.

The handgun submitted as having been assigned to and used by Officer Randy Patrick was found to have a stain upon it that tested presumptively positive for blood. As the investigation revealed that Patrick sustained a cut to his forehead during the incident, which reportedly bled, no further testing of this stain was requested.

The Chemistry Section conducted an analysis of the glass smoking device discovered within the subject vehicle. It was concluded that the pipe was positive for trace amounts of cocaine.

DNA analysis was conducted on the aforementioned smoking device, identifying DNA consistent with being Timothy Russell's, as well as that of at least two other unknown individuals.

Gunshot residue test kits were collected from the hands of both of the decedents, as well as from the interior of the subject vehicle above the side-front and side-rear windows (headliners). Particles highly indicative of gunshot primer residue were located on all of the collected samples. However, it must be noted that this condition would be expected due to the large amount of gunfire occurring within close proximity of the subject vehicle (being directed into the vehicle). No scientific conclusion can therefore be made from these results as to whether or not either of the subjects had recently possessed or fired a weapon.

The Coca-Cola can recovered from the front, passenger's side floorboard of the subject vehicle was submitted for analysis. No latent print ridge detail was identified on the can. However, DNA analysis identified DNA consistent with Malissa Williams' on the mouth of the can.

The BCI Firearms Section performed an analysis of the officers' firearms, as well as the firearm-related evidence collected from the scene, vehicles and autopsies (casings and bullets). By comparing evidentiary cartridge casings to known standards from each weapon, identifications were able to be made as to which casings were fired from each firearm. Of the casings recovered, the following identifications were made:

- Patrol Officer Wilfredo Diaz (4 casings)
- Patrol Officer Michael Brelo (49 casings)
- Patrol Officer Cynthia Moore (19 casings)
- Patrol Officer Michael Farley (4 casings)
- Patrol Officer Brian Sabolik (4 casings)
- Patrol Officer Paul Box (1 shotgun shell casing)
- Patrol Officer Randy Patrick (9 casings)
- Patrol Officer Scott Sistek (12 casings)
- Detective Michael Demchak (4 casings)
- Detective Erin O'Donnell (12 casings)
- Detective Christopher Ereg (6 casings)

(Continued)

- Detective Michael Rinkus (13 casings)
- Detective William Salupo (2 casings)

With this information, and having recorded the location from which each casing was collected, diagrams were able to be generated, color-coded by the casings belonging to each officer. (*see attachments A & B*).

The analysis of the various bullets and fragments was unable to identify which firearm they had originated from.

Both of the involved Bratenahl Police Department cruisers were equipped with dashboard cameras. Copies of those recordings were obtained. Only one of the two videos contained audio, which appeared to have captured the sound of the shooting incident (with the exception of the first shots fired by Officer Wilfredo Diaz, presumably occurring before the Bratenahl cruiser was within discernable audio range). The recording of this camera was sent to the Ohio Organized Crime Investigations Commission for audio enhancement and analysis.

By conducting a waveform analysis on the audio, it was determined that the first discernable round of gunfire lasted approximately 8.5 seconds, followed by a 1.3 second pause. One additional shot is fired, followed by a 2.4 second pause. The final round of gunfire had a duration of 5.1 seconds. The total duration of audible gunfire from first shot to last was 17.8 seconds (again, excluding the shots from Diaz). The audio analysis was able to detect a minimum of 79 distinct shots. There was no way of determining an actual or maximum number due to some shots possibly occurring near simultaneously.

Autopsy Reports:

The autopsy reports for the decedents were obtained from the Cuyahoga County Medical Examiner's Office. A review of those documents revealed the following information:

The cause of death for Timothy R. Russell was determined to be multiple (23) gunshot wounds of the head and neck, torso, and extremities with skeletal, vascular and visceral injuries. The manner of death was ruled homicide. The toxicology report indicated that Russell was positive for Ethanol (0.131 g/dL), as well for cocaine and nicotine.

The cause of death for Melissa [Malissa] A. Williams was determined to be multiple (24) gunshot wounds of the head, neck, trunk, and left arm with multiple visceral, vascular, and skeletal injuries. The manner of death was ruled homicide. The toxicology report indicated that Williams was positive for cocaine, Cannabinoids (marijuana) and nicotine.

(Continued)

Chronology:

The details of the following event were primarily derived from non-custodial interviews of involved officers, dispatchers, supervisors and other non-law enforcement witnesses. The Richfield BCI facility was utilized for the majority of the interviews, with most interviews being video or audio recorded. All of the interviews of the officers who discharged their weapons were video recorded with Miranda warnings being issued (and voluntarily waived by all officer interviewees). Legal counsel and police union representation was also present in the interviews with the officers who discharged their weapons (and in the majority of the remaining officer interviews). When probative, other sources of information may be referenced, to include surveillance videos, dash cam videos, radio traffic recordings and physical evidence. It should be noted, however, that time-stamps on recordings are not synched to one another, with time settings on some privately-owned surveillance systems being drastically off of the actual time.

In the evening hours of November 29, 2012 (sometime after 9:00 PM), Malissa Williams was observed riding with Timothy Russell in Russell's 1979 Chevy Malibu (subject vehicle). Due to a latching problem with the front, passenger's side door, Williams entered the vehicle from the rear, driver's side door and had to climb into the front seat. The front, passenger's side door had a C-clamp attached to it, holding the door shut (prohibiting the door from being easily opened or closed).

Williams and Russell were observed coming and going from an area known as "the wall," reportedly a location where a large volume of drug trafficking and use takes place. "The wall" is across the street and slightly down the block from the Lutheran Metropolitan Ministry, 2100 Lakeside Avenue, Cleveland. The Lutheran Metropolitan Ministry is a men's homeless shelter where Russell had been recently staying (although he was moved to transitional housing two days prior). Williams was also homeless, having recently been staying at a women's shelter at a different location. Williams and Russell reportedly knew one another from eating free meals together at the Bishop Cosgrove Center on Superior Avenue. Both Russell and Williams were reported to have mental health problems, as well as drug dependency problems.

That same evening, Cleveland Police Department Officer John Jordan was working alone, in plain-clothes and in an unmarked police vehicle, as part of the Downtown Service Unit. Jordan's usual partner, Officer Christopher Wilson, reportedly called-off sick that evening. As part of Jordan's normal patrol routine, he would frequent "the wall" area near the 2100 block of Lakeside Avenue due to the known drug use and trafficking problems there. At approximately 10:26 PM, Jordan radioed his dispatch center requesting the Ohio license plate "FSA3495" (Timothy Russell's vehicle) be run only for "info," stating the vehicle was parked at East 22nd and Lakeside. Dispatch advised Jordan that it checked "clean," providing the year, make and color of the vehicle, along with name and city of the registered owner and expiration date of the registration.

(Continued)

When questioned about this contact, which occurred mere minutes prior to the pursuit of this vehicle, Officer Jordan provided investigators with a story that was later proven as partially incorrect. Once evidence contrary to Jordan's statement was obtained, Jordan was re-interviewed. During this second interview, after Jordan claimed to have refreshed his recollection, he provided the following statement which was corroborated by surveillance video. A still image taken from the surveillance video at the men's shelter shows Jordan following the subject vehicle away from "the wall," after the subject vehicle having been parked there for about one minute (*see figure 7*).



Figure 7

Officer Jordan's unmarked vehicle

Subject vehicle pulling away from "the wall"

Officer Jordan claimed to have initiated a traffic stop on the subject vehicle on East 18th Street, between Rockwell and Superior, after observing a turn signal violation (*see figure 8*). He stated his intention was to investigate the occupants of the vehicle, believing they were involved in illegal drug activity. The vehicle stopped for several seconds, during which Jordan claimed the passenger was screaming and acting unstable. Shortly after Jordan exited his vehicle, but prior to approaching the subject vehicle to make contact with the occupants, the vehicle accelerated away, turning right onto Superior Avenue (*see figure 9*). Jordan pursued but eventually lost sight of the vehicle several blocks later. He never radioed dispatch regarding the traffic stop or pursuit, did not document the incident on his duty log and never came forward with this information; investigators first learned of his actions through witnesses at the shelter and by running an off-line NCIC check on the subject vehicle's license plate number. Jordan reportedly returned to the shelter where he demanded to know who the occupants of the vehicle were, threatening arrests if he was not told (his presence back in the area is confirmed by surveillance video). Jordan stated that he did not have his portable radio on while outside of his vehicle, so he did not learn of the pursuit until reentering his vehicle after confronting those outside of the shelter. He further stated that upon learning of a pursuit, he was unaware that it involved the same vehicle that just ran from him until the following day, when he saw a picture of the vehicle in news reports. Jordan reportedly did not become involved in the further pursuit or shooting incident which followed. There is no evidence that any officer involved in the subsequent pursuit or shooting was aware of Officer Jordan's prior contact with the subject vehicle.

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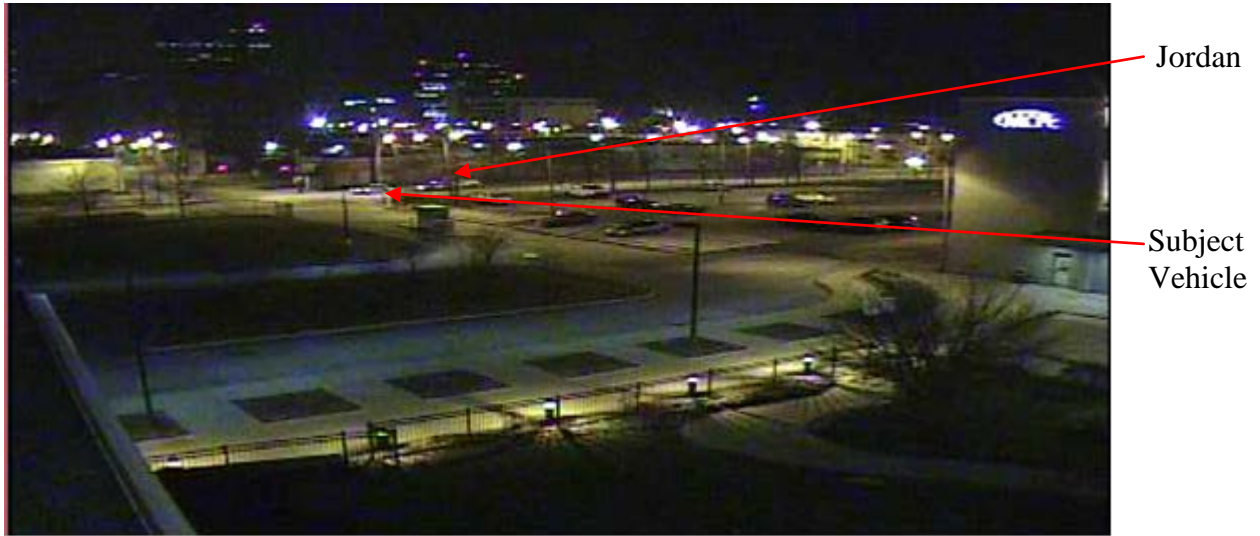


Figure 8 (traffic stop as captured on The Plain Dealer camera 13)

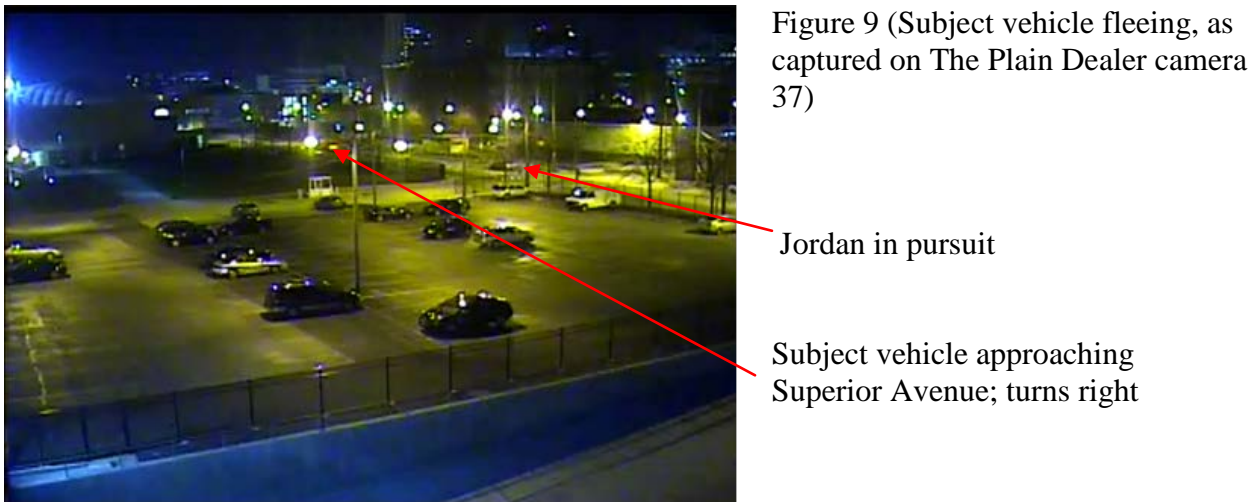


Figure 9 (Subject vehicle fleeing, as captured on The Plain Dealer camera 37)

Within minutes of Jordan's brief pursuit with the subject vehicle, at approximately 10:34 PM according to the timestamp on exterior CPD surveillance video footage, the subject vehicle drove past the Justice Center, in the 200 block of St. Clair Avenue (see figure 10). The vehicle was traveling at a speed calculated to be approximately 66 miles per hour based upon a speed determination conducted by the Ohio State Highway Patrol (measuring the distance between two fixed points in the surveillance video and calculating the vehicle's speed based upon the time differential for the vehicle passing between those two points).

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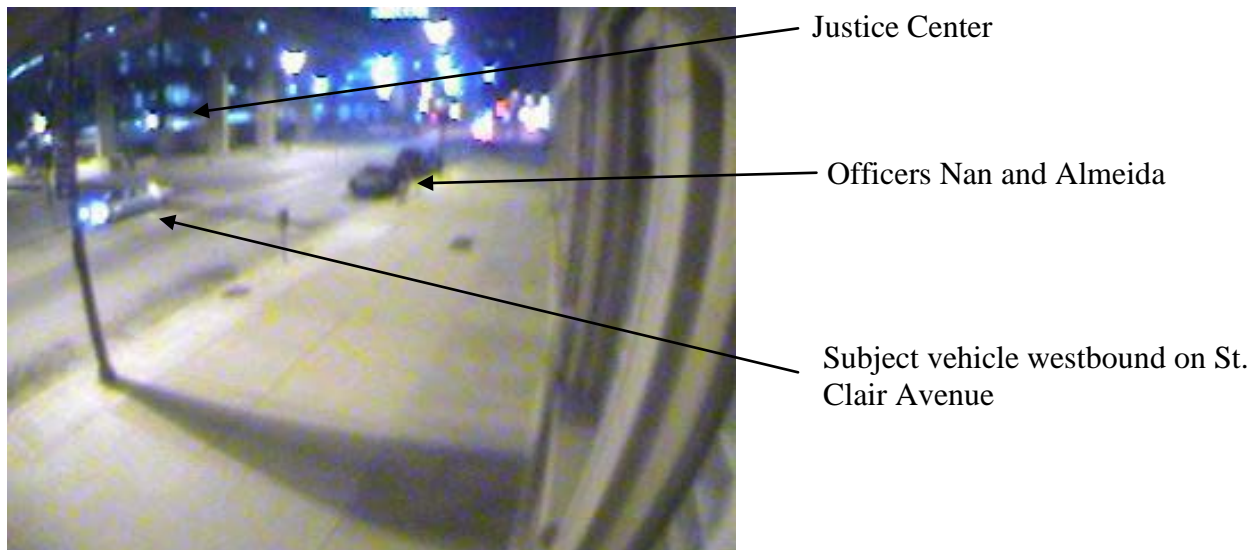


Figure 10 – Surveillance video from 205 W. St. Clair

Outside of the municipal building at 205 W. St. Clair Avenue, Officer Vasile Nan was retrieving a computer from his marked police cruiser to give to Mobile Services Unit Officer Alan Almeida to be repaired. Both officers were standing outside when the subject vehicle passed by. Reportedly, just as the subject vehicle passed the officers, a loud bang emanated from the vehicle, believed by both to be a gunshot directed towards them. Upon hearing this sound, both officers ducked. Multiple other individuals in the area also heard this noise and reported their belief that it was a gunshot. Officer Nan ran to his cruiser and attempted to locate the subject vehicle, radioing a description to dispatch, along with the assertion that he was shot at from a vehicle occupied by two, black male occupants (incorrectly believing both subjects to be male). Officer Almeida ran into the building to retrieve his duty belt and later joined the tail-end of the pursuit.

Based upon the opinion of a forensic mechanic subsequent to examining the subject vehicle, the subject vehicle is prone to loud backfiring. Further, the vehicle exhibited evidence of backfiring having occurred in the past. However, it can only be speculated as to whether or not the vehicle backfired as it passed the officers. A cartridge casing was later located on the P1 deck of the Justice Center parking garage; but again, it cannot be definitively stated that this casing was related to this incident. Regardless of what the sound actually was, multiple individuals, including both officers, stated that they believed the noise to be a gunshot and radioed such to other officers.

Other individuals to hear the noise and stated their belief that it was a gunshot included a security officer at the medical mart construction site, an institutional guard at the Justice Center parking deck and detectives from the CPD Sex Crimes and Homicide Units (whose offices overlook St. Clair).

(Continued)

At approximately 10:33 PM, on channel 2, Officer Nan broadcast that a passing vehicle had just “popped a round” while traveling past Mobile Support – Justice Center. Nan provided a description of the vehicle, direction of travel and that it was occupied by two black males. *It should again be noted that the time on the surveillance video is not synched with the times on the dispatch radio traffic recording.*

Less than a minute later, Officer Nan transmitted: “There were shots fired out of a vehicle. I was conferring with Mobile Support on uh St. Clair. Just notified the 3rd. Popped a round right as he drove by us.” Channel 2 was used as the primary radio frequency for the pursuit.

Another marked unit in the area, manned by Officers David Siefer and James Hummel, heard the radio transmission and observed a vehicle matching the description on the Detroit/Superior Bridge (approximately 10:35 PM). Nan advised, “Use caution, Occupants are armed.” An attempt to traffic stop the vehicle was made; however, the subject vehicle reportedly fled, failing to obey the order to stop (emergency lights and sirens). A pursuit of this vehicle lasted approximately 22 minutes, reportedly reaching speeds in excess of 100 miles per hour at points. A map of the pursuit route was created, along with indications of some of the various locations along the route where surveillance videos were obtained (*see figure 11*). The various colors near the initiation of the pursuit reflect possible routes the subject vehicle traveled after Officer Jordan lost sight of the vehicle, but prior to Officers Nan and Almeida observing it.

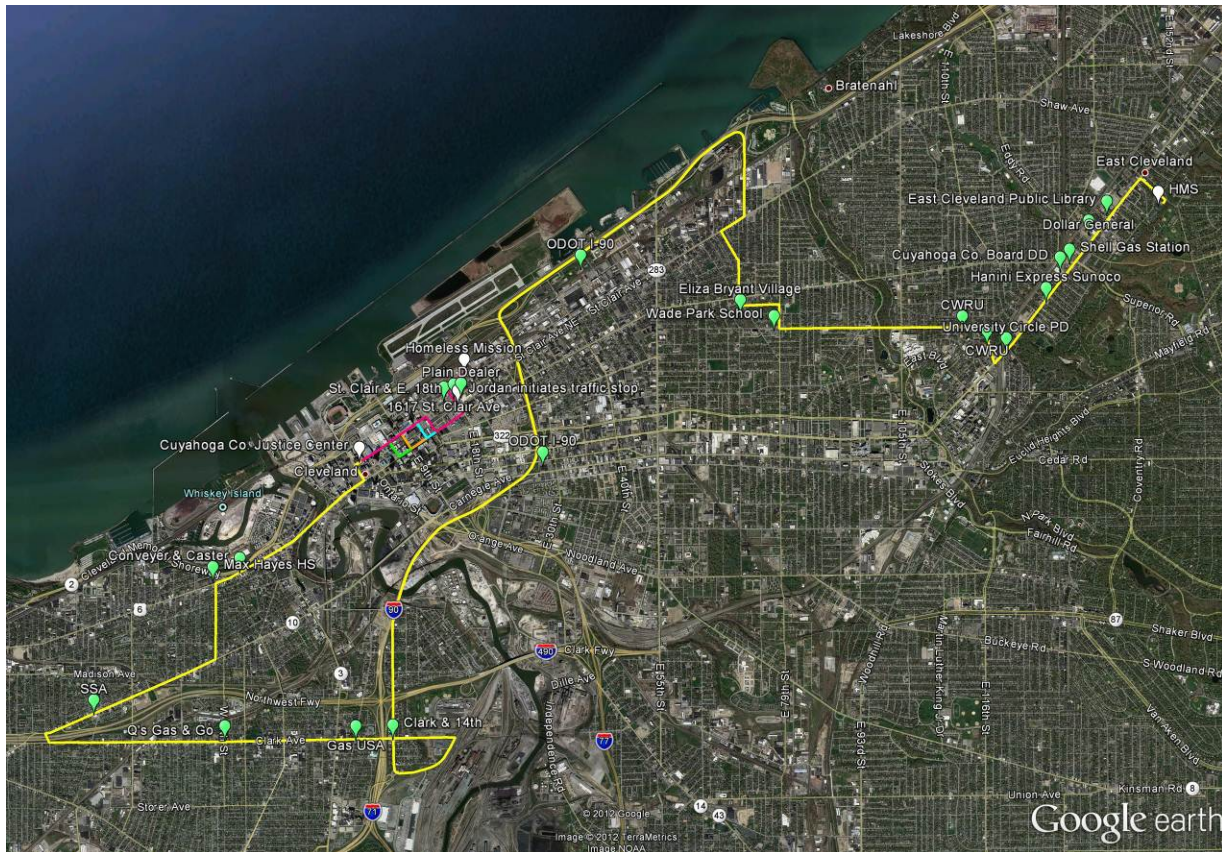


Figure 11

(Continued)

Once the pursuit reached the area of Steelyard, at approximately 10:41 PM, Siefer radioed, “He’s pointing the gun. He’s pointing the gun out the back window. Heads up. Heads up. Passenger is pointing a firearm out the back window. Everybody be careful.” A request for spike strips is made, followed by Officer Nan reiterating, “He will fire so be careful” (at approximately 10:42 PM). Additional radio traffic advised “He had the gun when he went around the roundabout.” Siefer then states, “Passenger is turning back around again pointing a firearm.” A request is then made for the helicopter, but dispatch advised that there was “No chopper.” The pursuit entered the highway (I-90 East) at approximately 10:43 PM. At approximately 10:45 PM, the subject vehicle was incorrectly reported as having lost a tire while negotiating Dead Man’s Curve. It is now believed by the officers that what they mistook as a tire blowing was actually a backfire (with a portion of the muffler likely being blown off).

At approximately 10:46 PM, the subject vehicle exited the highway, south onto East 72nd Street. Less than a minute later, at approximately 10:47 PM, Officer Fairchild broadcast that the “Passenger just put his hands out asking us to stop. He does not have a gun. He has black gloves on. He does not have a gun in his hand.” At 10:48 PM, while eastbound on Star approaching 79th, Officer Fairchild reported that, “There’s a pop can in his hand. There’s a red pop can in his hand. Just be advised.” It was less than a minute later, at approximately 10:49 PM, when Officer Fairchild inadvertently struck the subject vehicle as the subject vehicle made a quick right turn onto 79th. This collision was broadcast as “He just rammed into a police car.”

Over the next several minutes, additional radio transmissions discuss the belief that the passenger is reaching for something (10:50 PM), fumbling with something (10:51 PM) and possibly loading a weapon (10:51 PM). The pursuit entered into East Cleveland on city streets, reaching the Heritage Middle School at approximately 10:54 PM (with radio traffic regarding it being a dead end and to block it off). The first transmission regarding shots being fired occurred at approximately 10:55 PM, with a warning of “watch the crossfire” about 30 seconds later. At 10:56 PM, a request for EMS is made.

Surveillance videos obtained along the pursuit route depict that at one point, a minimum of 62 police vehicles were in pursuit or following along the pursuit route. These vehicles included marked and unmarked Cleveland Police Department vehicles, with Ohio State Highway Patrol troopers, Cuyahoga County Sheriff deputies, Bratenahl Police Department officers and officers of the RTA Police Department peripherally involved.

Of the surveillance videos obtained and reviewed, none had sufficient positioning and clarity to observe the occupants of the vehicle. In East Cleveland, at the intersection of Euclid Avenue and Lakeview Road, the subject vehicle disregarded the red traffic signal and triggered a photograph from the traffic camera (*see figure 12*). This violation occurred at 10:51 PM and provides the best view of the interior of the subject vehicle from all videos received (likely due to the camera flash illuminating the interior). Statements of officers involved in the pursuit advised that the driver of the subject vehicle had blatant disregard for the safety of others due to excessive speeds, ignoring traffic control devices, attempting to strike pursuing vehicles and driving in incorrect lanes of travel.

(Continued)



Figure 12

Red Lights

Subject vehicle

In summary of the pursuit, significant radio traffic from pursuing officers, and relayed by dispatchers, pertained to the belief that the passenger of the vehicle was armed with a gun, had already fired at officers, was pointing the gun at pursuers and was believed to be reloading a gun. Officer Kevin Fairchild indicated at one point during the pursuit that the passenger was not armed, but instead was wearing black gloves and holding a red pop can (not precluding that a gun may have been otherwise involved). At least two officers reported hearing the subject vehicle backfire during the pursuit, although this information was not radioed to others. One officer reportedly heard a bang from the vehicle and observed debris in the roadway, incorrectly believing that the vehicle had blown a tire (he radioed his incorrect belief at the time that the vehicle had blown a tire). An additional radio transmission during the pursuit informed officers that the subject vehicle had rammed a zone car (but was later learned to be apparent accidental contact during a quick turn during the pursuit, with Officer Fairchild's cruiser striking the rear of the subject vehicle). Spike strips and the aviation unit were requested, but neither was available. The license plate of the vehicle was known, and dispatch relayed information pertaining to his name and address to the pursuing officers, but nothing regarding his prior history.

The pursuit eventually entered the City of East Cleveland where the subject vehicle entered a dead-end, staff parking lot at the Heritage Middle School, 14410 Terrace Road, East Cleveland, Ohio (incorrectly believed to be a water treatment plant by some of the Cleveland officers who were unfamiliar with the area). A number of Cleveland police vehicles followed the vehicle into the lot, by way of the only access drive. Other police vehicles eventually blocked this drive, essentially trapping the vehicle (and some police vehicles) in the lot – ultimately contributing to a situation where police personnel were located on both sides of the subject vehicle (after the subject vehicle doubled-back on the access drive while apparently attempting to exit the lot).

(Continued)

The following statements are extremely abbreviated versions of each officer's account of his or her actions pertaining to discharging their weapon. More detailed accounts can be found earlier in this document, under the heading "Officers who Discharged Their Weapons," as well as by reading the separate reports written by the interviewers and by reviewing the video recordings of each interview.

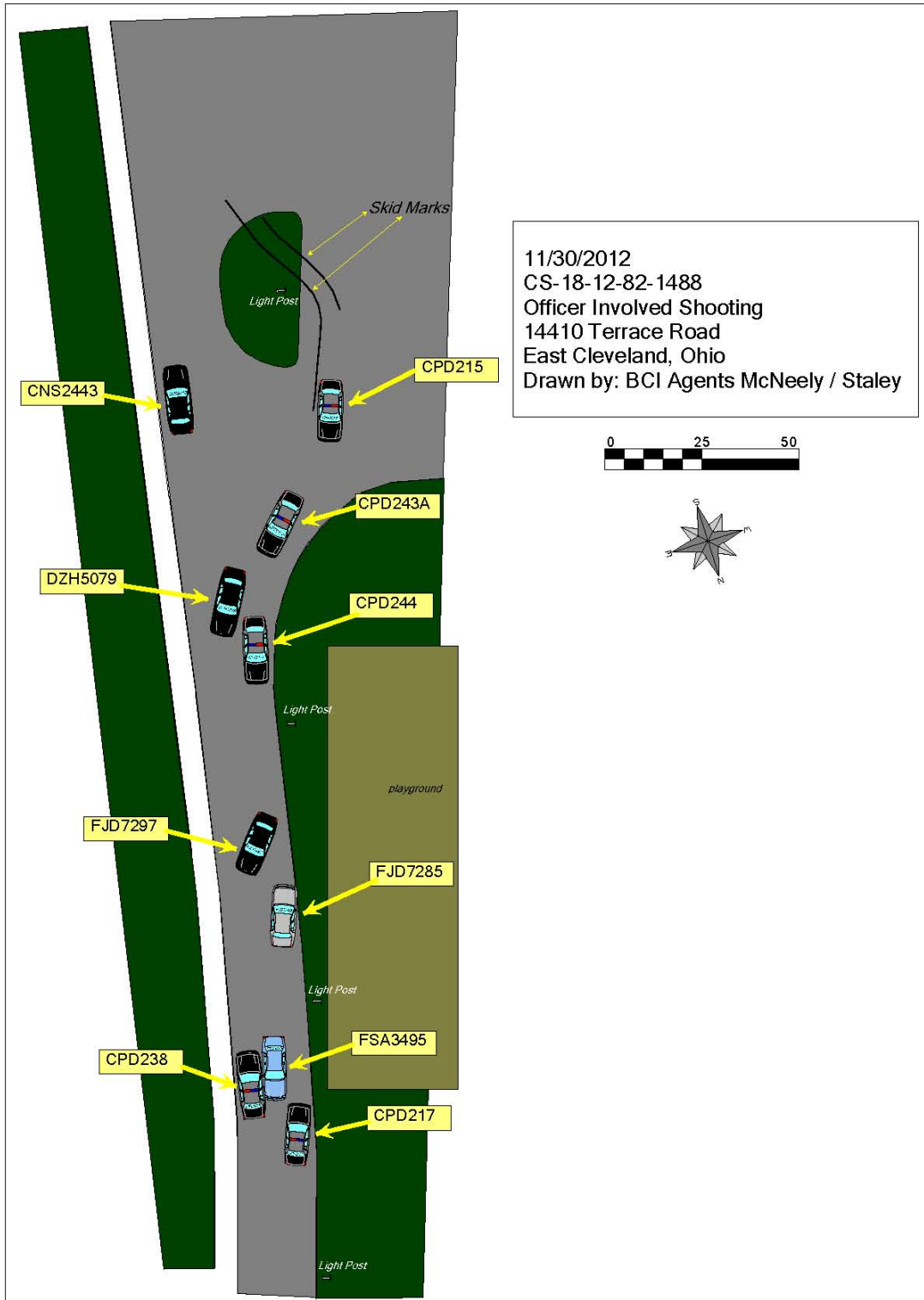
In the parking lot, but prior to doubling-back, the zone car driven by Officer Wilfredo Diaz made inadvertent contact with the rear corner of the subject vehicle after the subject vehicle made a quick left turn in front of Diaz. The subject vehicle turned directions, facing back towards Diaz, jumping a curb onto a grass island. Being left-handed and believing the occupants to be armed, Diaz felt vulnerable in his current position behind the steering wheel (being unable to quickly draw and fire if necessary). Therefore, Diaz reported that he quickly exited his vehicle, failing to place the vehicle in park first (later placed in park by his partner as his vehicle began rolling away from him). After exiting and yelling "stop," Diaz reportedly observed the passenger, whom he believed to be a male at the time, reached towards something and produced a black object which he perceived as being a gun.

Reportedly fearing for his life, based upon the belief that the passenger was armed and had already fired at officers, Diaz fired his handgun, one to three times, with his point of aim being at the passenger. The vehicle's engine revved and the car began accelerating across the grass island, turning and coming directly towards Diaz. Diaz stated he felt as though the subject vehicle was going to ram him, pinning him between the subject vehicle and his cruiser (not realizing his cruiser had rolled away). Therefore, he fired his handgun one to three times with the point of aim being at the driver. As the vehicle came off of the island, it straightened and missed striking Diaz. The vehicle then began traveling back out the same driveway in which it had entered the parking lot. Diaz, who was the first officer to discharge a weapon, stated his belief that he fired a total of four shots (although he was uncertain exactly how many he directed toward the passenger and driver - but thinks perhaps two rounds each). Radio traffic after Diaz fired his weapon indicated that shots had been fired, but did not specify who had fired, reportedly leading other officers to incorrectly believe that the subjects had fired upon police officers.

The subject vehicle reportedly continued to accelerate towards the exit, narrowly missing striking other police vehicles and officers in the process. A marked, Cleveland Police Department zone car, occupied by Officer Robert Radosevic (driver) and Officer Scott Sistik (passenger), parked their vehicle in the access drive, partially blocking the subject vehicle's exit route. As Sistik exited the passenger door, he looked up to find the subject vehicle traveling directly towards him, being only what he estimated to be 15 feet away. Reportedly fearing that he was about to be struck, Sistik began firing his weapon at the driver, through the windshield of the subject vehicle, while running backwards. The subject vehicle did in fact strike Sistik's open passenger's door, slamming it shut and collapsing a portion of the passenger's side of the cruiser. Upon reaching the rear of his zone car, Sistik stated he went to the ground for cover, remaining in this position until all following shots ceased. Sistik later learned that he had fired 12 times. Sistik is believed to be the second officer to discharge his sidearm. Figure 13 depicts the final resting positions of the involved vehicles as they were found upon BCI Crime Scene Unit arrival at the scene.

(Continued)

Figure 13



(Continued)

Detective William Salupo, who by now was on foot to the rear of the subject vehicle, observed the subject vehicle strike the parked zone car (with the subject vehicle's engine continuing to rev), heard gunfire and saw Sistek go to the ground, incorrectly believing that Sistek had been run over by the subject vehicle and that Sistek was trapped beneath. Therefore, Salupo reported that he fired two rounds through the back window of the subject vehicle, towards the driver. Salupo advise that he then sensed bullets were coming towards him, bullets that he believed were coming from the subject vehicle (but, in reality, were likely bullets being fired from officers positioned on the opposite side of the subject vehicle). Salupo reportedly took cover having only fired two rounds.

In the following seconds, multiple officers began firing, stating they believed a shootout was taking place between officers and the occupants of the subject vehicle. Zone cars were damaged by friendly fire, as well as by officers utilizing "ambush" training they recently received. This training reportedly taught officers to fire through their windshields towards the threat while retreating from their vehicle and taking cover behind. Reportedly, officers mistakenly perceived the damage to the police vehicles as evidence that the officers were being fired upon by the subjects, contributing to their decision to also discharge their weapons. In the end, the subject vehicle had been fired upon from all sides, indicating crossfire had taken place.

Officer Cynthia Moore saw the subject vehicle ram the zone car that was next to them (CPD unit 238, assigned to Sistek and Radosevic). Moore said she could see two subjects in the vehicle and what she thought were guns pointed at her. This observation was immediately followed by Moore hearing shots fired, believing the subjects were firing at her. Moore stated she returned fire through the windshield of the zone car. She then exited the zone car and was standing next to it, still firing. She said shots were still being fired and a lot of people were yelling. Moore stated the shooting was going on, "for forever." Moore said she felt she was being shot at, as glass was flying at her also. Moore was later told that she had fired 19 rounds. Moore stated that during the incident she was scared and "trying not to get killed."

Officer Michael Brelo advised he drove to the right of zone car 238 and stopped his car (along the access drive to the staff parking lot). Brelo stated that he saw the subject vehicle's headlights coming at them, with the subject vehicle striking car 238 on the passenger's side. The subject vehicle then began to veer off of 238 and came towards Brelo, causing him to think they were about to get rammed. Brelo could see both occupants in the subject vehicle, with both occupants pointing dark objects at them in a manner consistent with the way one normally holds a gun. Brelo stated he then heard shots being fired from the area of subject vehicle, at which point he drew his weapon and shot through the windshield at the suspects. Brelo reloaded in his vehicle after believing his weapon jammed.

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After reloading, Brelo stated that he still believed he was being shot at and the subject vehicle was going to ram him. Brelo reportedly exited the zone car because he was terrified of it getting hit by the subject vehicle. As he moved, he fired additional rounds at the subject vehicle until his magazine was empty, reloading a second time. For various reasons, including to avoid crossfire and to gain elevation, Brelo climbed on top of car 238 and fired downward into the vehicle through the windshield. After the shooting ceased, Brelo put the subject vehicle in park and removed the keys. Forty-nine casings from the scene matched Brelo's weapon (representing a minimum number of rounds he would have fired).

Officer Brian Sabolik stated that as he and his partner, Michael Farley, arrived, the gunfire had already started. Sabolik advised that ahead of him he just saw a cloud of smoke and kept hearing gun shots. Sabolik stated that as his Field Training Officer [Farley] got out of the car, he remembered what they had taught him in the academy - to get out of the car because "the car is a coffin." Sabolik stated that he got out of the car, believing that he was directly in the line of fire from the suspect. He stated he shot two rounds and began running back behind his police car for cover. Sabolik then stated that he retreated to the driver's side of his patrol car for cover, firing two additional rounds from that location. Sabolik stated that upon his weapon being inventoried after the incident, it was determined that he had fired four rounds.

Upon pulling up to the scene, Officer Michael Farley described it as being the "scariest thing that I've seen in my whole life" and that "people were shooting." As he got out of his car, he realized that he had not put his bullet-proof vest on because he had been working out - that he had just left it on the front seat. Farley described that as he exited his unit, he thought he was going to die right there; he had no vest and shots were coming from all directions. He said that he ran up to a CPD zone car, ducked down and fired a couple of shots at the driver's side of the suspects' automobile. He thought that he had fired two shots but found out later that he had fired four times. He said that once he got back around the car he saw Officer Sisteck diving down. He did not know at the time if Sisteck was shot or if he was just diving to get out of the way.

Officer Randy Patrick stated that he observed the subject vehicle strike CPD238 (marked police car). Patrick stated that as soon as the subject vehicle struck CPD238, shots just started ringing out. Patrick stated that he put his car in park, believing that the subjects were firing at them (he and his partner, Paul Box). Patrick stated that he went down to the floor for cover. His partner had already taken the shotgun out and exited the passenger side. Patrick stated that he then got out of the driver's side of the car. He was crawling on the ground because he thought he was being shot at. Patrick looked inside CPD217 and saw that it was just riddled with bullets. Patrick stated that the shots continued to be fired and he had difficulty looking over the vehicle to see what was occurring because he was taking fire. He got up and let some rounds off and went back on the ground. He stated that he was about to come back up to fire more, but then everything stopped. After his weapon being inventoried, he learned that he fired nine rounds.

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Officer Paul Box advised he saw the subject vehicle collide with car 238, and then he heard shots begin to ring out. Box reportedly was thinking “it is a major shootout” with two suspects shooting at “however many policemen were there.” Box exited the car with the shotgun and ran up to car 217. Box said he saw the bullet holes in the windshield of the car (CPD217). Box reportedly moved up the side of car 217 and could “...feel a bullet go past me.” Something hit Box in the vest. He felt it, but thought it might be a ricochet because it was not enough to knock him down. This impact increased his anxiety. Shots were reportedly still going off around him. After moving towards the front of CPD217, Box said he remembers trying to work the shotgun and the next thing he knows, he was standing in front of car 217 with no cover, next to the subject vehicle. Box said he knows he fired one round, maybe two at the subjects. It was later determined that he had only fired once, with the shotgun.

As Detective Michael Rinkus entered the parking lot of the Heritage Middle School, he said it looked like other officers were chasing the suspect around in circles and then someone yelled “shots fired.” The subject vehicle reportedly started coming back towards Rinkus and his partner. Rinkus stated that he went over an island and came back around through a playground median and back onto the street, eventually coming to a stop. Rinkus stated that the cars were stopped; it looked like they had them blocked in. Rinkus said that he then got out of his car and that there were bullets flying all around him. Rinkus stated that he “returned fire” and ran for cover. Rinkus stated that he saw an officer fall, believing that the officer was shot. By the time he got to the sidewalk, Rinkus stated he was out of rounds. Upon his weapon being inventoried, it was reportedly learned that Rinkus had fired 13 rounds.

Detective Michael Demchak and his partner, Detective Erin O’Donnell, stated they heard shots being fired as they pull up, and Demchak heard a radio broadcast of “Shots fired! Shots fired! They’re shooting at us!” In his mind, Demchak was reportedly thinking that the subjects were wearing bullet proof vests due to the apparent gunfight taking so long. As he was exiting the car, Demchak said that he was thinking that, “These were some bad people who need stopped.” Demchak stated he came down from his car to the rear of a zone car [238]. Demchak moved to the car and saw two officers on the driver’s side of the subject vehicle, firing into the driver’s side. Demchak, seeing the officers dealing with the driver side threat, reportedly fired four times at the driver’s area. As Demchak was approaching the car, he saw an officer “scrambling” around, leading him to believe that shots were coming down the passenger side of the zone car (238). The officer was ducked down as low as the trunk lid as he circled around the car right in front of Demchak. This reportedly gave Demchak the impression that the officer was taking fire. As Demchak got to the car, “The battle was on. These guys were shooting it out. And this had to come to an end.”

As Detective Erin O’Donnell and her partner, Michael Demchak, entered the school lot, she stated she heard a couple of shots and heard at least one person, possibly two different people, state ‘they’re shooting at us.’ While they were exiting their car, O’Donnell advised they heard more gunshots. She reportedly went to the driver’s side front door of CPD238 and stated that she had a clear shot to the passenger side of the subject vehicle. She stated that she took cover by CPD238 because someone was alerting to crossfire.

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O'Donnell advised that she looked to the subject vehicle as she began hearing numerous shots, observing that the driver and passenger were moving. She stated that she thought the driver was shooting, and it looked like the passenger was reloading. She stated that she drew her weapon, and checked her target and beyond, firing several rounds into the passenger's window. O'Donnell advised that she originally thought she only fired 5-7 times, but later learned that she had shot 12 times (based upon an inventory of her weapon).

Detective Christopher Ereg stated that while he was driving on the access road behind the school lot, he heard the subject vehicle strike the zone car. Ereg thought he heard someone on the radio saying, "Block them in." While still moving, Ereg said he heard rounds being fired. Ereg reportedly exited his car, fearing crossfire. Someone was on the radio saying, "They're shooting at us or shooting at officers." Ereg stated he heard someone yell "They're shooting!" as well. As Ereg was moving down the hill from his car, he reportedly saw two officers down and believed that they were shot. As he approached the subject vehicle, rounds were still being fired. Ereg believed that they [officers] were taking fire. Ereg stated he saw "glass from the suspect vehicle exploding. I thought they were shooting through the window. And I saw bullet holes in the police car, over here. I thought these officers were taking fire [occupants of CPD217]." Ereg advised that he observed the passenger in the subject vehicle moving forward. Ereg thought the action was the subject "...loading his gun." Ereg stated that that was when he took aim at the passenger and discharged his firearm. Ereg thought he had fired four times, but later learned he had fired six shots based upon an inventory of his weapon.

All 13 of these officers stated that they felt as though they had no other choice other than to discharge their firearms in order to eliminate what they believed to be an imminent threat to their safety and the safety of other officers. Additionally, all other officers from the scene (non-shooters) stated that they too felt deadly force was justified, despite not firing their own weapons. There were varying reasons for not firing, such as not being in a position to fire or recognizing the crossfire situation.

The East Cleveland EMS was summoned to the scene in a timely manner after the incident, with one paramedic entering the scene and assessing the subjects. The paramedic determined that both decedents were pulseless with injuries that were incompatible with life. The paramedic contacted Dr. Susan Schardt who reportedly declared the time of death for both subjects to be 11:24 PM.

It was reported that the temperament of the officers on scene after the shooting was quiet and somber, with most officers appearing to be in a state of shock. Officers were reportedly checking themselves and others for injuries, as well as examining their vests for any potential bullet impacts.

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Sergeant Randolph Dailey, the 2nd District Community Services Supervisor, was responsible for Officer Vasile Nan on the evening of November 29, 2012. As such, he was ultimately responsible for directing the pursuit (as the pursuit originated with his subordinate). Sgt. Dailey indicated he monitored all radio broadcasts throughout the entire pursuit. He further advised that due to the gravity of the situation and the updates he heard concerning observations of the pursuing officers, who reported the suspects were pointing a gun, he felt it was necessary to continue the pursuit. Sgt. Dailey did not become directly involved in the pursuit as he was unable to catch up with the pursuit locations. He was not at the scene of the shooting while shooting was occurring, but arrived shortly thereafter.

Excluding the initial shots from Officer Diaz near the grass island, the remaining shots, the audio of which was analyzed from a dash cam recording, lasted approximately 17.8 seconds. After the shooting ceased, CPD supervisors and homicide detectives separated the shooters from the non-shooters, inventorying the weapons of only those officers who advised that they fired. The inventory was reportedly conducted by counting the remaining rounds in the gun and magazines, subtracting that number from the maximum capacity. CPD then returned the spare magazines to the officers, seizing only the gun and the magazine within it (for laboratory submission). This made it impossible for the investigative team to independently corroborate the number of shots fired by each officer. Further, this method assumes that all weapons were completely full upon the initiation of the event. It is from this number that CPD reported to the media that 137 shots had been fired. The investigative team was unable to obtain the individual round counts of the officers from CPD due to "Garrity" issues. Therefore, slight, unresolvable discrepancies in the round counts exist, as investigators could only rely upon the verbal statements of each officer and from the casings recovered – with the possibility that not all casings were located.

It was ultimately determined that no weapon was present in the subject vehicle at the conclusion of the incident. This does not preclude the possibility that a weapon was present and/or discharged at one point during the pursuit, and discarded prior to the final scene. However, no physical evidence has been located to confirm that a gun was ever present in the subject vehicle.

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Conclusion:

On the night of November 29, 2012, the first known police contact with Timothy Russell and Malissa Williams was the attempted traffic stop by Officer John Jordan and the subsequent flight and successful elusion by Russell. While this preceding event may partially explain the later actions and mental state of the driver, Timothy Russell, they are of little consequence in the analysis of the remainder of this incident, as there is no evidence that any of the pursuing or shooting officers were aware of this prior contact. However, these actions may also give rise as to why Russell passed the Justice Center at an excessive rate of speed. Because the second pursuit that culminated in the officer-involved shooting incident is the focus of this investigation, this final analysis will begin with the events taking place near the Justice Center.

As Russell's vehicle passed Officers Nan and Almeida in front of 205 W. St. Clair Avenue, multiple individuals reported hearing a sound that was consistent with being a gunshot. No definitive evidence has been located, one way or the other, as to whether or not a firearm was discharged or if the noise was the result of some other source, such as a backfire from the subject vehicle. Regardless of the actual origin of the sound, both Nan and Almeida stated that it was their belief that it was a gun being fired and that they felt endangered. This belief was broadcast to the other officers, who stated they had no reason to disbelieve what they were hearing.

As the pursuit unfolded, officers stated that various factors were taken into consideration, adding to their belief that the occupants were dangerous. Speeds well in excess of the posted speed limits were being violated by the subject vehicle, including approximately 66 MPH in a 25 MPH zone in front of the Justice Center. It was stated by officers that speeds reached in excess of 100 MPH while on I-90, with the lead vehicle stating speeds were closer to 120 MPH. Additionally, the subject vehicle was disregarding traffic control devices, such as red lights, and was driving in incorrect lanes of travel, showing no concern for the safety of the public. Further, multiple officers stated that the subject vehicle nearly struck various pursuing vehicles, leading them to believe the driver's intention was to harm officers. Finally, the length of time that the pursuit lasted, approximately 22 minutes, led to heightened emotions of the pursuing officers and gave time for additional officers to become involved.

Radio traffic during the pursuit reportedly added to the stress and fear level of the officers involved in this situation. Lead officers in the pursuit made subjective observations of the subjects' actions, and, erring on the side of caution and brevity, transmitted their beliefs without qualifying their statements. For instance, the subjects made movements that were subjectively interpreted by some officers as a gun being brandished. However, the radio broadcast was more definitive – "He's pointing the gun. He's pointing the gun out the back window. Heads up. Heads up. Passenger is pointing a firearm out the back window" (Channel 2, time index 10:41:37). Another example is when Officer Fairchild's vehicle inadvertently struck the subject vehicle, when the subject vehicle made a quick turn in front of him. This accident was characterized over the radio as, "He just rammed into a police car," giving monitoring officers the impression that the subject vehicle had intentionally struck an officer's vehicle in an act of vehicular assault (Channel 2, time index 10:49:38).

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By information being relayed from one channel to the next, some information was lost in translation, as well as time lags between an event occurring - being reported on one channel and then being rebroadcast on another. An example of a translation problem occurred when the dispatcher on Channel 1 advised her officers that "...I believe we have an officer down." Although the dispatcher immediately corrected themselves, such a statement could certainly bear some influence upon the actions of any officer that heard the transmission. An illustration of the time delay problem, when radio traffic from one channel is being repeated onto another channel, occurred with a deputy from the Cuyahoga County Sheriff's Department. The deputy was monitoring Channel 3, believing it to be the primary channel due to the large volume of radio traffic pertaining to the pursuit (traffic that was actually being relayed after being heard on Channel 2, with an inherent time lag). The deputy consistently found himself behind the chase as the locations were not being updated (retransmitted) as quickly as the pursuit was moving.

While the majority of the radio traffic pertained to pursuit locations or the alleged threatening actions of the vehicle occupants, only one officer broadcast information that would seemingly deescalate the situation (but may have actually had the opposite effect). Officer Fairchild reported that the "passenger put his hands out asking us to stop," and that the passenger was not holding a gun but instead, was wearing black gloves and holding a red pop can. At the conclusion of this incident, the passenger was in fact found to be wearing black gloves and had a red Coca-Cola can in her immediate area. Further, some of the passenger's actions may have been attributable to her trying to exit the vehicle, but being unable to do so based upon her door being clamped shut. The statement that the passenger was not holding a gun did not preclude the possibility that a gun had previously been in her possession, or that it was not still ready at hand. Therefore, it was reported by officers that little weight was given to the statement regarding the passenger holding a pop can. Further, radio traffic occurred afterwards, reiterating again that the passenger was potentially armed with a gun and reloading. At least one officer reported that the transmission regarding the pop can actually made him more fearful of the passenger. He reportedly could not comprehend how someone could be casually drinking a pop while engaged in a high-speed pursuit, and after having fired on officers. In his mind, this observation made the passenger more dangerous and unstable, not less so.

It should be noted that the statement by Officer Fairchild pertaining to the passenger putting his hands out asking them to stop was barely discernable on the radio traffic recording, as were many of the other transmissions throughout the pursuit. Heightened emotions led to pitch and volume changes from the way one would normally speak, adding to the difficulty of understanding the broadcasts. Background noise on both ends of the communications, such as sirens and the monitoring of other frequencies on portable radios, may have further added to the difficulty in hearing and understanding all radio traffic. The volume of transmissions and problems inherent with radio communication in general also were likely factors. The transcripts of the transmissions were able to be made in a controlled environment with the ability to play the same transmission repeatedly in order to determine what was said, with some broadcasts still being indiscernible. Therefore, the mere fact that something was transmitted does not necessarily mean that all officers heard or understood what was said.

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Once the pursuit entered the dead-end parking lot at the Heritage Middle School, the scene was described as mass confusion. Headlights and police strobe lights from a large number of police vehicles were disorienting officers and hampering their view of what was occurring (blinding and backlighting). Multiple sirens were sounding, adding to the chaos and making communications difficult (both over the radio and in person). Another inadvertent collision occurred between the subject vehicle and cruiser occurred near the island, followed by the vehicle revving and Officer Diaz firing rounds. "Shots fired, shots fired!" was transmitted across the radio with no indication as to who was firing (police or subjects). This was followed shortly thereafter with the first "true" ramming of a police vehicle by the subject – the collision with parked zone car #238.

The number of vehicles entering the dead-end parking lot following the subject vehicle, doubling back as the subject presumably was attempting to exit the way he entered, led to a situation where officers were positioned on multiple sides of the subject vehicle. Once the first shots were fired at this location, a dangerous crossfire condition existed where officers believed they were being shot at. In fact, there most likely were bullets traveling in their direction, passing through or over the subject vehicle. However, apparently unbeknownst to the officers at the time, these bullets were originating from other officers on the opposite side of the vehicle, not from the vehicle itself.

Additionally, several officers reported hearing it yelled, "they're shooting at us," further leading to their belief of being fired upon by the subjects. Officers arriving at the shooting scene moments after the first shots being fired reported seeing officers on the ground (believing they were shot) and seeing cruisers with multiple bullet holes (interpreted as the cruisers were being fired upon by the subjects).

Ultimately, 13 officers with varying levels of experience all came to the same conclusion – that deadly force was necessary to resolve what they believed to be a violent encounter with armed, shooting suspects. Although in hindsight this was not necessarily the case, the investigation yielded no evidence that any officer felt otherwise at the time (shooter or non-shooter). In fact, non-shooters indicated that they too would have discharged their weapons had they been in a better position to do so, sharing the belief that officers were being attacked by the subjects.

Due to the driver being deceased, one can only speculate as to his motivation for fleeing from law enforcement. It is known that Timothy Russell had a suspended driver's license, had a crack pipe in the vehicle, was positive for alcohol and cocaine, had just successfully eluded Officer Jordan and had a previous history of fleeing from the police. Further, it is possible that a weapon may have been present in the vehicle at one point in time and that a weapon may have been discharged at officers. Regardless of the reason, this investigation clearly found that the ensuing chain of events began with Russell's failure to stop his vehicle upon being signaled to do so.

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Respectfully submitted,

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