



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



2024-1474

Officer Involved Critical Incident - 16100 Van Aken Blvd.,
Shaker Heights, OH

Investigative Activity: Prosecutor Ruling
Involves: Special Prosecutor Steven Dever (O)
Activity Date: 11/20/2024
Activity Location: 4055 Highlander Parkway, Richfield, Ohio 44286
Authoring Agent: SA Andrew J. Harasimchuk #170

Narrative:

On November 20, 2024, at approximately 1341 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Andrew Harasimchuk (Harasimchuk) received an email from Special Prosecutor Steven Dever (Attorney Dever). This email contained the following attachment: Prosecutor Ruling Officer Involved Use of Force 16100 Van Aken Road_ Shaker Heights.

SA Harasimchuk reviewed this attachment and noted the following about Attorney Dever's ruling:

Although the policy and procedures defined in the SWAT policy manual provide for specific events that may necessitate a DELTA order, they cannot replace or excuse any individual officer's obligation to comply with the Fourth Amendment and Ohio and Federal law regarding the use of deadly force. In my investigation of this matter, I did not assess the appropriateness of the DELTA order, leaving such considerations to the Chiefs of Police of the EDGE member departments and their legal advisors.

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Shaker Heights, OH

Based on a review of the evidence and the application of the law, it does not appear that the officer's use of deadly force was unreasonable or that a crime was committed. As Special Prosecutor, I decline to present this matter to the Grand Jury as there is insufficient evidence to establish probable cause that excessive police force was used during this incident or that the police caused the death of DeShawn Vaughan.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "A. Steven Dever".

A. Steven Dever, Special Prosecutor

References:

None

Attachments:

1. Prosecutor Ruling Officer Involved Use of Force 16100 Van Aken Road_ Shaker Heights

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*A. Steven Dever, Appointed Special Prosecutor
A. Steven Dever Co., L.P.A.
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To: Mr. Michael O'Malley, Cuyahoga County Prosecutor
From: A. Steven Dever, Appointed Special Prosecutor
Date: November 19, 2024

Subject: Officer Involved Use of Force: 16100 Van Aken Boulevard, Shaker Heights, Ohio

On August 27, 2024, Prosecutor Michael O'Malley filed a motion to appoint a special prosecutor in the Cuyahoga County Common Pleas Court under Ohio Revised Code 309.10 and 2941.63. The request was to allow a Special Prosecutor to investigate an incident involving the use of deadly force by law enforcement and the circumstances surrounding De'Shawn Vaughn's death. I was appointed by Judge Brendan Sheehan, Presiding Judge of the Cuyahoga County Court of Common Pleas.

De'Shawn Vaughn died on May 12, 2024, from a self-inflicted gunshot wound during a standoff with law enforcement in Shaker Heights, Ohio. The deceased, referred to here as Mr. Vaughn was a suspect in the shooting death of Euclid Police Officer Jacob Derbin that occurred on May 11, 2024. Mr. Vaughn was also a suspect in a felonious assault shooting that took place on May 6, 2024. The standoff incident that resulted in Vaughn taking his own life involved police officers from multiple law enforcement agencies in Northeast Ohio.

I have received and reviewed investigative evidence from the Ohio Bureau of Criminal Investigation (BCI). Special Agent Andrew J. Harasimchuk was assigned as the primary investigator for the officer-involved critical incident investigation team. A large volume of information, including the autopsy protocol for De'Shawn Vaughn, BCI laboratory reports, trace evidence reports, body-worn camera footage from the involved officers to the extent it is available, as well as the interviews of [REDACTED] were reviewed. Additional drone footage, the BCI investigative case file, toxicology reports, photographs, officer written statements, and department reports were also reviewed. I was also provided with personal records, including training and disciplinary records (if any) of the four officers who discharged their weapons. It should be noted that Euclid Police [REDACTED] who fired their guns, declined to be interviewed by BCI investigators through their legal counsel.

The review included an evaluation of the conduct of officers assigned to the Eastside Department Group Enforcement SWAT unit, known as EDGE. This assessment considered the policies outlined in the EDGE SWAT Policy Manual, revised in May 2020, including those related to the use of force and policies and procedures for deploying special weapons and tactical (SWAT) units during hostage and suspect standoff situations.

LEGAL STANDARDS FOR THE USE OF DEADLY FORCE

The standards for law enforcement using lethal force are mandated by Ohio and federal laws and the United States Constitution. Several cases were considered in my review of the use of deadly force by the police officers involved in this incident.

The Fourth Amendment of the United States Constitution states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

In *Graham v. Connor*, 490 U.S. 386 (1989), the U.S. Supreme Court established that any use of force by law enforcement to effect an arrest or seizure is evaluated under an objectively reasonable standard according to the Fourth Amendment. In *Tennessee v. Garner*, 471 U.S. 1 (1985) the Supreme Court held that deadly force may be used only when the officer has probable cause to believe such force is necessary to protect themselves or others from serious bodily harm. Ohio and federal case law, including *Graham v. Connor*, *Tennessee v. Garner*, and the Ohio Supreme Court case of *State v. White*, 142 Ohio St. 3d 277 (2015), as well as other cases, were considered in evaluating this incident and the use of force.

The purpose of reviewing the evidence was to determine the reasonableness of the force used by law enforcement during the standoff and to determine if a crime had been committed. This evaluation was not commissioned to evaluate any potential violations of departmental policy; it only evaluated possible criminal charges, and the author will not opine on any potential presence or absence of policy violations.

The reasonableness of a particular use of force must be judged from the perspective of a reasonable police officer on the scene rather than the 20/20 vision of hindsight. The calculus of reasonableness must embody allowances for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force necessary in a particular situation.

FACTS

On May 12, 2024, a police standoff occurred at 25200 Van Aken Boulevard, Apartment 301, in Shaker Heights, Ohio. The deceased, Mr. Vaughn, was a suspect believed to be responsible for a shooting that occurred on May 6, 2024, in the city of Cleveland. It was alleged that Vaughan shot his girlfriend's brother and was wanted by police for the crime of felonious assault.

On May 11, 2024, in the evening hours, Euclid Police Officer Jacob Derbin was fatally

shot by Mr. Vaughn while responding to a call for assistance related to domestic violence. Following the incident, Mr. Vaughn was immediately identified as the shooter by a witness on the scene, leading to a police manhunt. Vaughn also later admitted to the killing in a text message. The U.S. Marshals obtained an arrest warrant at 10:30 a.m. on May 12, 2024, and located Mr. Vaughn hiding in a friend's apartment on Van Aken Boulevard in Shaker Heights. The U.S. Marshals located Mr. Vaughn at 11:15 a.m., and members of the EDGE SWAT team, the Ohio State Patrol, and officers from other jurisdictions responded to the area.

At 12:47 p.m., members of the U.S. Marshal Service knocked on the door of apartment 301 and encountered Ashley Crenshaw, who was inside apartment 301 with Mr. Vaughn. Ms. Crenshaw exited the apartment visibly and verbally, fearful, and she informed law enforcement that Mr. Vaughn was inside. Officers issued multiple commands and verbal announcements for Mr. Vaughn to come out and surrender. Vaughan did not comply during the standoff with law enforcement. The police deployed surveillance robots and drones equipped with cameras into the apartment, where Mr. Vaughn was observed hiding in the apartment, holding a firearm in a defensive position. In addition, one of the drone officers indicated a belief that a MAC 10 machine gun was also present in the apartment.

At 1:00 p.m., Euclid Police Officer and EDGE SWAT Commander Captain Mike Janson and Deputy United States Marshal Josh Lowe discussed the situation. Captain Janson requested that the EDGE SWAT team assume operation control, and Deputy Marshal Lowe agreed. Captain Janson became the overall scene commander, assisted by Euclid Police Detective/EDGE SWAT Assistant Commander Dave Carpenter and EDGE SWAT Senior Team Leader Euclid Police Officer Joshua Schultz (Officer Schultz).

During the standoff, it was reported that Mr. Vaughn fired multiple gunshots from the apartment in the general direction of police officers. Cleveland Heights Police Department (CHPD) EDGE SWAT/ Sniper [REDACTED] along with Euclid Police [REDACTED] were deployed to the rooftop of 16300 Van Aken Boulevard, Shaker Heights. [REDACTED] was to serve as the spotter/observer for [REDACTED]. These officers reported having a good view of the east windows of apartment 301. [REDACTED] was also deployed on the roof, and [REDACTED] was in the parking lot aboard the Bearcat armored vehicle.

As the standoff progressed, the police tried to pursue negotiations and to encourage a dialogue with Vaughan to surrender. Multiple attempts were made to persuade Vaughan to exit the apartment peacefully, but they were unsuccessful. Vaughan could be heard and sometimes seen via the drone and robot video shooting his weapon and having his gun pointed at the apartment door.

Police were assisted by Emmanuel Jackson, who arrived on the scene and spoke to Mr. Vaughan, who was his friend. Mr. Jackson encouraged him to surrender. The last call was at 4:17 pm, and Vaughan told Jackson the following: "I killed a cop, bro; you know what they are going to do to me? I know what they are going to do to me." Vaughan declined to surrender and advised

Jackson to give the money that was offered to pay for a good attorney to Vaughan's children instead.

The overall scene Commander Euclid Police Captain Mike Jansen, who was managing the standoff, issued a Delta order to his SWAT sharpshooters, [REDACTED]. The Delta order directed officers to shoot Vaughan if an opportunity presented itself. The DELTA order was a directive to use lethal force. Swat Commander Jackson stated that the reason for the order was based upon the totality of the circumstances that he was aware of at the time: that Vaughan had murdered a policeman, shot a civilian, posted to social media his intentions to fight and cause others serious physical harm, was currently armed and taking an ambush position, had fired his weapon multiple times placing individuals in danger, and refused to acknowledge multiple commands to surrender to police.

Although the policy and procedures defined in the SWAT policy manual provide for specific events that may necessitate a DELTA order, they cannot replace or excuse any individual officer's obligation to comply with the Fourth Amendment and Ohio and Federal law regarding the use of deadly force. In my investigation of this matter, I did not assess the appropriateness of the DELTA order, leaving such considerations to the Chiefs of Police of the EDGE member departments and their legal advisors.

During the standoff, police established communication with Mr. Vaughn, who was armed with a handgun (later identified as the weapon used to kill Officer Durbin). The timeline of events indicates that the police advised Mr. Vaughn to surrender. Mr. Vaughn responded by initiating gunfire at officers from the third-floor bedroom window toward officers on the roof and the parking lot. [REDACTED] on the roof, returned fire by shooting four rounds with his rifle.

After more than three hours of stalemate, multiple shots fired, and the destruction of drone surveillance equipment, officers chose to deploy a robotic device to breach the apartment doorway and confront Mr. Vaughn. The plan was for The SWAT snipers to fire slow, deliberate shots into the apartment to keep Vaughan pinned down. This would prevent him from returning fire or getting control of a robotic device holding explosives that was being deployed to the barricaded bedroom doorway by Ohio State Patrol Officers.

The plan was followed, and SWAT sharpshooters [REDACTED] fired a combined twenty shots from the adjoining building into the apartment window. The gunfire resulted in Vaughan being pin-downed while officers were able to move the mobile device into the doorway and detonate the explosive. The objective of breaching the doorway was accomplished.

The officers then entered the apartment and found Mr. Vaughn dead in the bathroom from a self-inflicted gunshot wound to the head. A 9mm handgun was recovered next to the body. It had been reported that Vaughan was also armed with a MAC 10 machine gun, although no such weapon was recovered from the crime scene.

Once the scene was secured, Shaker Heights Police Detective Kevin Ishler requested that Ohio BCI detectives and forensic scientists conduct an independent review of all the facts and circumstances surrounding the officer-involved shooting.

The Cuyahoga County Medical Examiner secured the body, and an autopsy determined the cause of death as a self-inflicted contact gunshot to the head. Ballistics testing confirmed that the handgun found next to the suspect was the same weapon used by Mr. Vaughn to take his own life and kill Officer Jacob Derbin the night before.

In this case, Mr. Vaughn sustained several injuries, including gunshot wounds to his legs and lower extremities that were inflicted by law enforcement. None of these wounds were lethal, and these injuries did not contribute to his death.

Other than the three SWAT sharpshooters who fired their rifles, it was learned that [REDACTED] a member of the US Marshal Service task force, and an Elyria police officer, had also fired into the apartment window [REDACTED] told investigators that he was unaware of the Delta order and that he fired two shots from the parking lot with his AR-15 rifle at the defendant, whom he observed in the 3rd-floor window. [REDACTED] stated that one of his shots may have struck Vaughan with a bullet to his lower extremities. The officer said that he believed that Vaughan was shooting from the window, trying to kill police officers. He also believed that other officers had stated that Vaughan was armed with a MAC 10 machine gun.

Analyzing the reasonableness of the police use of deadly force requires careful attention to the facts and circumstances of each case as the officers observed it, including the severity of the crime at issue and the immediate threat the suspect may pose to the safety of the officers or others. We must also evaluate whether Vaughan is actively resisting or attempting to evade arrest. In considering the totality of the circumstances, the evidence reveals that Vaughan continued to fire at police officers and to avoid arrest through violent and deadly means. Regrettably, Vaughan took his own life rather than surrender to the police, who made multiple efforts to conclude this standoff through a peaceful resolution.

Based on a review of the evidence and the application of the law, it does not appear that the officer's use of deadly force was unreasonable or that a crime was committed. As Special Prosecutor, I decline to present this matter to the Grand Jury as there is insufficient evidence to establish probable cause that excessive police force was used during this incident or that the police caused the death of DeShawn Vaughan.

Respectfully Submitted,



A. Steven Dever, Special Prosecutor