



Ohio Attorney General's Office
Bureau of Criminal Investigation
Prosecutor Summary



Officer Involved Critical Incident I-75 Southbound at MM 110

To: Ed Pierce, Auglaize County Prosecutor
Cc: Scott Stranahan, Special Agent Supervisor, Ohio BCI
From: Chris Hamberg, Special Agent, Ohio BCI
Date: October 26, 2023
Involves: Danny Berry
Case Title: Officer Involved Critical Incident I-75 near MM 110
BCI Case Numbers: Special Investigations (SIU): 2023-2307
Crime Scene (CSU): 2023-2307
Cyber Crime (CCU): 2023-2307

Investigative Request

On Sunday, September 03, 2023, Staff Lieutenant Matt Crow of the Ohio State Highway Patrol requested the assistance of the Ohio Bureau of Criminal Investigation's (BCI) Special Investigations Unit (SIU) and Crime Scene Unit (CSU) in conducting an independent investigation into the facts and circumstances surrounding an officer-involved shooting incident. The incident reportedly occurred on 9/3/2023 in the area of Mile Maker 110 on Interstate 75 (I-75) and resulted in the death of Danny Berry (Berry), hereinafter referred to as subject (subject).

Preface:

This report serves as a synopsis of the investigation into the 9/3/2023 officer-involved shooting in Auglaize County, Ohio. 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 are 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 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.



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Investigative Team

BCI Special Agent Chris Hamberg (SA Hamberg) was assigned as the lead SIU case agent. SA Hamberg received assistance in the investigation from SA Tiffany Najmulski (SA Najmulski), SA Jason Snyder (SA Snyder), SA Josh Rammel (SA Rammel), and Special Agent Supervisor Scott Stranahan (SAS Stranahan). BCI Special Agent Dave Hammond (SA Hammond) of the Crime Scene Unit processed the scene of the incident, documenting, preserving, and collecting possible evidence. The investigation was supervised by Special Agent Supervisor Scott Stranahan. Additionally, various personnel from the BCI crime laboratory performed scientific analyses on submitted items of potential physical evidence.

Summary of Process

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

- Recorded interview of the one (1) officer who discharged their weapons
- Recorded interviews of the fourteen (14) officers who were involved in the incident, at the scene, or otherwise deemed to potentially have relevant information
- Recorded interview(s) of the involved subject and others subjects directly involved in the incident
- Interviews of the first responders or medical personnel
- Interviews of family members or associates of the decedent
- Obtained and reviewed police report of prior law enforcement contacts with the subject
- Obtained and reviewed open and closed-source biographical information on the involved subjects, to include criminal history reports, OHLEG, driving records, etc.
- FBI National Crime Information Center (NCIC) checks on any non-law enforcement weapons involved in the incident (to determine if reported stolen)
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) trace on any non-law enforcement weapons involved in the incident (to determine ownership history)
- Review of all available dash cameras involved in the incident
- Review of all available body cameras involved in the incident
- Review of all available surveillance video which captured any portion of the incident
- Review of Automated Vehicle Locator (AVL) data for all equipped police vehicles
- Processing of the scene for potential evidence (photographing, searching, measuring, documenting, and collecting)
- Processing of involved vehicle(s) for potential evidence
- Reviewed audio communications on the radio frequencies utilized during the incident



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- Review of 911/phone communications related to the incident
- Review of dispatch/CAD records pertaining to the incident
- Review of Mobile Data Terminal (MDT) communications relative to the incident
- Reviewed phone/text records obtained via search warrant from wireless service provider
- Review of the department's reports, photographs, and investigative materials pertaining to the incident, excluding any Garrity statements or information derived from any compelled statement
- Conducted forensic laboratory examinations
- Reviewed data obtained from aforementioned items of electronic evidence
- Collected and reviewed the departmental personnel files of the officers involved in the shooting, to include training and disciplinary records (if any)
- Reviewed firearm qualification and training records for involved officers
- Verified the Ohio Peace Officer Training Commission (OPOTC) certification status of the officer(s) who discharged their weapons
- Obtained the department's policies and procedures regarding use of force for prosecutorial review
- Obtained subpoenas for cell phone records
- Reviewed medical records of those injured, obtained through subpoena
- Reviewed EMS records pertaining to their response and the treatment administered
- Performed records checks, including LEADS and NCIC off-line search, for the vehicle(s) involved in the incident

Incident Summary/Overview

On September 3, 2023, the Chicago Police Department (CPD) was "pinging" (precise cellular location data) the cell phone of Danny Berry (Berry), hereinafter subject (subject), wanted in a shooting incident and possible homicide in their city. CPD was conveying that information along with a description of the subject vehicle (SV) to the Ohio State Highway Patrol (OSP) intelligence/dispatch center at 1241 hours. CPD also stated that the OSP would need to have their own probable cause (PC) to stop the vehicle; the subject may have a weapon and may be suicidal.

At 1336 hours, Lieutenant Slates (Lt. Slates) located the SV on Interstate 75 (I-75) near mile marker (MM)-161 and observed some traffic violations and notified other troopers that the SV was southbound on I-75. Lt. Slates attempted to stop the SV, which failed to comply, and a pursuit ensued. Lt. Slates, Staff Lieutenant Crow (SLT Crow), and Trooper Roose were pursuing the SV southbound on I-75. (STL Crow) was the incident commander in regard to the pursuit and subsequent actions and decisions.



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Stop Sticks were deployed near MM-147 at 1346, with the SV striking the stop sticks. At 1415 hours, STL Crow authorized initial contact (pit maneuver) to be made on the SV, which was successful by Trooper Roose.

Around 1422 hours, the SV became fully engulfed in flames, and the subject exited the vehicle with a revolver in his left hand. The subject walked down I-75 with the gun going back and forth from the subject's left hand to right hand. Troopers were issuing verbal commands for the subject to drop the gun and get on the ground. The subject continued walking southbound and would turn around and face the Troopers with the revolver to his right temple.

Around 1430 hours, SLT Crow authorized to stop the subject and take the shot, as the subject was getting closer to the civilian motorists in the northbound lane of I-75. Around 1431 hours, a shot was fired by Sgt. [REDACTED]

Troopers secured the revolver and rendered medical aid and lifesaving measures to the subject. Fire and EMS arrived and took over rendering medical aid. The subject was transported to Lima Memorial Hospital.

Decedent

The subject was in Lima Memorial Hospital from September 3, 2023, and was not responding to treatment that was given. On September 20, 2023, the subject was taken off life support by family members and died from the gun shot wound he received.

Autopsy Report

There was no autopsy report.

The cause of death for Danny Berry was determined to be a gunshot wound. The manner of death was ruled homicide.

Physical Evidence

The BCI Crime Scene Unit was requested to respond to the scene of the shooting in order to document and preserve any items of potential evidence. Special 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.

Recovered from the scene was an EAA -Cocoa FL, 38 special /357 Magnum having the serial number 1719990. The revolver was missing the handle and was found to have one (1) lead round



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nose. The Ohio State Highway Patrol (OSHP) packaged the gun and made it safe. The revolver was in the possession of the subject.

Also recovered at the scene was an AERO Precision Rifle, with an AR platform that was a .223 caliber. The rifle contained a magazine that had a thirty (30) round capacity, with one (1) round being in the chamber and the magazine containing twenty-six (26) Hornady .223 rounds. One (1) single fired cartridge casing (Hornady .223 round) was recovered from the scene. The rifle was assigned to Sgt. [REDACTED] ([REDACTED]).

For further, please refer to the crime scene investigative report.

Officer Interviews

The following paragraphs are extremely abbreviated versions of each officers' account of his or her actions pertaining to this incident and/or discharging their weapon. More detailed accounts can be found by reading the separate reports written by the interviewers and by reviewing the recordings of each interview.

Lieutenant Evan Slates (Slates) stated he, and other Troopers, were notified by the Chicago Police Department (CPD), who were pinging the cell phone of Danny Berry (hereinafter, subject) regarding a shooting incident and potential homicide in Chicago. Slates was told that they would need their own probable cause (PC) to stop the subject vehicle (SV).

Slates located the SV near mile marker (MM)-156. Slates observed some traffic violations and attempted to stop the SV. The SV failed to comply and a pursuit ensued. Slates and other Troopers pursued and stop sticks were placed near ST RT 235. The SV struck the stop sticks and continued southbound on I-75.

Slates stated Trooper Roose conducted the pit maneuver on I-75, south of MM-110. The "pit" was successful and the SV came to rest in the median adjacent to the cable fence. The SV caught on fire, and the subject exited the vehicle with a gun in his right hand, dangling the gun around the trigger guard.

Slates used his Sport Utility cruiser as a moving barricade to provide cover for the Troopers along with Lima Police Officers and a K-9 unit that were walking on both sides of his cruiser, following the subject who was walking southbound on I-75. As the Troopers were yelling orders and giving the commands for the subject to drop the gun, the subject continued walking southbound with the gun to his head. The subject yelled back if the Troopers got closer to him, he would kill himself. The subject continued to ignore the orders and commands that were given



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to him and proceeded southbound. Slates stated that Staff Lieutenant Crow (Crow), who was incident commander of the incident, gave the order to take the shot and end the situation, as the subject was getting closer to the civilian motorists that were stopped in the northbound lane of I-75. Slates stated that Sgt. [REDACTED] took the shot at the subject which struck the subject in the right pectoral/collar bone area and after the subject fell to the roadway, the gun was secured and life saving measures were administered to the subject.

Staff Lieutenant Matt Crow (Crow) stated he received a phone call from Slates advising him of the subject that was involved in a shooting in Chicago and CPD was pinging the subject's cell phone. Crow was on the east side of Findlay and was working his way over to the I-75 area.

Crow stated that he heard radio traffic that Slates located the subject vehicle (SV) and Slates had probable cause to stop the vehicle. Slates attempted to pull the SV over and the SV failed to stop and a pursuit ensued. Crow stated that stop sticks were successfully deployed near ST RT 235, near Findlay and took out the front two (2) tires of the SV. The SV continued southbound on I-75.

Crow said he was in charge of the entire incident and given authorization for the pit maneuver to be utilized south of MM-110, just south of Wapakoneta, as he did not want the subject to get into the Piqua area which was more populated. Crow indicated that Trooper Roose (Roose) conducted the pit maneuver which was successful and the SV came to rest in the median adjacent to the cable fence barrier.

The SV became engulfed in flames, and the subject exited his vehicle with a gun in his hand. The subject walked southbound on I-75 with the gun to his head and would occasionally turn back and look at the Troopers. The Troopers gave verbal commands for the subject to drop the gun, and the subject failed to comply with the orders. Slates was driving his cruiser, with several Troopers walking on both side of Slates' cruiser, while Crow was driving his cruiser behind Slates' cruiser.

Crow indicated that the subject was getting closer to the civilian motorists that were stopped on the northbound side of I-75 and he did not want the subject getting any closer to the civilians. Crow stated there was some discussion of Lima Police sending their K-9 unit toward the subject, but the K9 Officer felt the situation was not conducive for that. Crow stated he had no other option and they needed to end the incident, so he gave the command on the radio, if someone had a clear shot, to take the shot. Crow stated that Sgt. [REDACTED] fired one round at the subject, and the subject fell to the roadway.

Trooper Damian Roose (Roose) was listening to the radio traffic in regard to Slates attempting to conduct a traffic stop on the SV. The SV failed to comply and a pursuit ensued. Roose stated



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that Slates was the primary unit for most of the pursuit and he was the secondary unit, advising dispatch of their location, speeds, and traffic conditions.

Roose conducted the pit maneuver on the SV after Crow authorized the contact to be made to end the pursuit before the SV made it into a metropolitan area. Roose stated the pit maneuver was successful and the SV ended up in the median adjacent to the cable fence barrier. Roose continued southbound and went over to the northbound lane of I-75 and assisted with the closing of the interstate and keeping civilian motorists back.

Trooper Sgt. [REDACTED] ([REDACTED] assisted by responding to the location on I-75 while some of the Troopers needed to leave the pursuit to refuel, and others had vehicle issues. [REDACTED] arrived on the scene after the pit maneuver had been initiated. [REDACTED] parked his cruiser in the median on the left side of the roadway and was facing the subject's vehicle. Additional Troopers arrived and parked around the subject's vehicle.

[REDACTED] retrieved his external vest carrier along with his AR-15 rifle from his truck. [REDACTED] walked along the left side/driver side of Lieutenant Slates' cruiser and followed the subject walking southbound on the roadway. The subject had a handgun in his hand and refused to comply with the verbal commands being given by [REDACTED] and fellow Troopers. The subject made the statement that he had one (1) bullet for himself as he was not going back to prison. As the subject continued walking southbound, he became more agitated and was getting closer to the stopped civilian traffic on the northbound side of I-75.

Lieutenant Crow gave the command for Troopers to take the shot if they had it, as they needed to end this situation. [REDACTED] took the one (1) shot, when it was safe for him to do so. After the one (1) shot was fired, the threat was over and [REDACTED] rendered medical aid to the subject, until the paramedics arrived.

Video Recordings

The recordings showed the subject refused to stop when Lt. Slates activated his emergency lights and siren and a pursuit ensued on Interstate 75 (I-75) around mile marker (MM) -159. The pursuit continued southbound on I-75 and the stop sticks were deployed around MM-147. The SV continued southbound after striking the stop sticks and the pursuit continued southbound.

The pit maneuver was executed on the SV just south of MM-110. The SV spun around and came to rest against the fence cable median barrier. The SV became engulfed in flames, and the subject exited the vehicle with a revolver in his hand. The subject walked southbound on I-75 moving the revolver from his left hand to his right hand and placing the revolver up to his temple. Troopers gave numerous verbal commands for the subject to drop the gun. The subject refused to comply with the orders and was shot by Sgt. [REDACTED]



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Conclusion

The Troopers gave numerous verbal commands for the subject to drop the gun and get on the ground, to which the subject refused to comply with those commands. The subject continued walking down the roadway and told the Troopers that he was not going to back to jail and he was going to kill himself.

The subject became more agitated as he was walking down the roadway and stopped communicating with the Troopers. The Troopers were trying to get closer to the subject, so they could deploy the Lima Police Department K-9 unit; however, each time they tried, the subject turned around and faced them, with the gun to the right side of his head. Lt. Crow gave the command for a Trooper to take the shot, if it was safe to do so, as they were getting closer to the civilian traffic that was stopped on the northbound side of I-75. [REDACTED] had the opportunity and fired one (1) shot at the subject and the subject dropped the gun and went to the roadway. [REDACTED] performed medical aid on the subject until the paramedics arrived.

Contact Information

The preceding information comprises only a portion of facts and circumstances collected during the investigation of the officer-involved shooting incident. For further review of specific information or documentation collected during the investigation, please refer to the individual reports and documents from which this summary was derived. Any questions regarding the content or context of the information contained in this document can be directed to the attention of Special Agent Chris Hamberg. SA Hamberg can be reached via email at Christopher.hamberg@OhioAGO.gov or by telephone, at 419-967-5243.