



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



2022-1356

Officer Involved Critical Incident - 1659 S. Main Street, Akron, Ohio
 44301

Investigative Activity: Interview with Officer
 Involves: Officer ██████████ (S)
 Activity Date: 7/12/2022
 Activity Location: Law Offices of Malarcik, Pierce, Munyer, & Will –
 121 South Main Street, Akron, Ohio 44308
 Authoring Agent: SA Charles Moran #67

Narrative:

On July 12, 2022, at 1434 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Cory Momchilov (SA Momchilov) and SA Chuck Moran (SA Moran) interviewed Akron Police Department (APD) Officer ██████████ (Officer ██████████, who was accompanied by his attorney, Jordan Knabb, from the Fraternal Order of Police. The interview took place at the law offices of Malarcik, Pierce, Munyer, & Will. Fraternal Order of Police Akron Lodge #7 President Clay Cozart was also present during the interview. The interview was audio and video recorded.

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

This report only summarizes the information deemed by the author to be of the most relevance to the investigation and does not purport to contain all questions and answers from the interview. Further, this report was placed in a chronology to aid the reader's overall understanding of the information elicited during the interview and may not be reflective of the actual sequencing of questions. It is suggested that the full recording be reviewed to clarify any content or contextual questions regarding the information from the interview.

Preliminary and Demographic Information:

Name: ██████████	Rank: Officer (Ofc.)
Badge Number: ██████	Cruiser/Vehicle Number: █
Radio Call Sign: Car █	Immediate Supervisor: Sgt. Pasternak
Radio Channel Utilized: Two channels, but merged during incident	Mobile Data Terminal: Present; Not Used
Cruiser Description: Ford Explorer with APD markings	Occupants of Cruiser and Seating Positions: Officer ██████████ – driver (solo officer)
Assignment: Patrol, midnight shift	Normal Shift: 2300-0700 hours
In-Car Camera: Not Present	Spotlight: Present; Not utilized

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Emergency Lights: Present & Utilized	Siren: Present & Utilized
Shift Day of Incident: 3rd night of 4-day work week	Duty Status: On-Duty
Days Off: Rotating days off	Prior Overtime or Extra Details within Preceding 48 Hours: None
Hours of Sleep Prior to Incident: Uncertain how many hours of sleep	Consider Self Well Rested?: Yes
Total Length as Officer: 2 ½ years	Length at Current Agency: 2 ½ years at APD
Physical Disabilities (to include hearing aid): None	Corrective Lenses: No Corrective Lenses
Uniform Worn: Blue uniform shirt with APD patches, uniform pants, external vest with police markings	Equipment and Less-Lethal Options Carried on Person/Belt/Vest: External vest – tourniquet, radio, body-worn camera (center line, mid-chest). Belt – handcuffs, pistol in holster on right side, Mace, Taser on left side, baton, handcuffs, three extra pistol magazines in pouches.
Ballistic Vest: External Armor	Body Worn Camera: Present & Used (Worn center line, mid-chest)
Other Recording Devices: None	Partner: None
Injuries: None	Equipment Damage: None
Training or Areas of Specialty: None	OPOTC Certification: Current, APD academy 2019-2020
Military Experience/Training: None	Use-of-Force Training: In academy, in-service with policy review
Prior Shooting Incidents: Witness officer to a prior officer-involved shooting	Prior Discipline or Use-of-Force Complaints: None
Medications, Prescriptions, or Drugs that might Impair Your Duties at Time of Incident: None	Medications, Prescriptions, or Drugs that might Impair You Now for Interview: None
	Last Consumed Alcohol Prior to Incident: Possibly on days off three days prior

Officer's Firearm(s):

Weapon #1

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Make: Glock	Model: 19
Caliber/Gauge: 9 mm	Serial: [REDACTED] (from BCI CSU report)
Type: Semi-Auto Handgun	Method of Carry: 1 round in chamber
Magazine Capacity: 15	Total Rounds as Carried (including chamber): 61
Extra Magazines: 3	Number of Rounds in Extra Magazines: 15 rounds each in 3 extra magazines = 45
Discharged During Incident? Yes	Primary or Backup Weapon: Primary
Rounds Remaining After Incident: CU performed round count of extra magazines	Number of Rounds Fired: Believed fired a magazine (16?)
Right/Left-Handed Carry: Right-Handed	Ownership: Department Owned
Last Qualification Date: Annually, within last 12 months	Type of Holster, if any: Unknown brand, believed to be Level III holster

Narrative:

SA Moran asked Officer [REDACTED] if he watched his body-worn camera (BWC) video and if so, how many times. Officer [REDACTED] said he watched his BWC video two times.

SA Momchilov asked Officer [REDACTED] to provide details about the incident that occurred on June 27, 2022.

Officer [REDACTED] said he was on-duty and working midnight shift when he heard a radio call after the radio channels were patched for a "Signal 21" from Car [REDACTED]. Officer [REDACTED] was near Martin Luther King Boulevard and North Broadway Street. Officer [REDACTED] explained that when he heard this radio traffic he "immediately became fearful" for the officers' lives because he believed "they were getting shot at."

Officer [REDACTED] activated his lights and sirens and drove toward State Route 8 near Perkins Street and Goodkirk Street. Officer [REDACTED] entered the highway and radioed that he was the secondary cruiser in the pursuit behind Car [REDACTED]. The pursuit ended on Wilbeth Road.

Officer [REDACTED] stated, "Once it ended on Wilbeth, I got out of my vehicle, I ran up to the car with my gun drawn. Um, I then started giving commands to the suspect to put his hands up and, and not to move. Um, I then saw the suspect jump out of the passenger side of the vehicle. He was wearing a ski mask. Um, at that point I could see his hands and I uh, attempted to pull my

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Taser and I believe, I thought I had lethal coverage which per our training uh, we are taught to, if we have lethal coverage we can use a Taser. And I attempted to taze the subject and uh, my Taser failed.”

Officer [REDACTED] continued, “I want to go back a little bit. The suspect was running away whenever I attempted to taze him. Um, I was trying to, I was attempting to safely subdue the suspect at that time. Um, I then, once my Taser failed and we ran into the parking lot uh, I was attempting to put my Taser away and when I looked up the suspect was turned around. He had both of his uh, he had his, I saw his hands in his pockets. Um, it looked like his right arm was positioned in a way that he was going to pull a firearm and he was getting into a firing position and that’s when I discharged my firearm until the threat was neutralized.”

SA Momchilov asked Officer [REDACTED] about other police cruisers joining the pursuit. Officer [REDACTED] said he heard radio traffic from Car [REDACTED] requesting permission to join the pursuit and was granted permission. There were other police cruisers in the area involved in the pursuit too.

SA Momchilov asked Officer [REDACTED] about the end of the vehicle pursuit. Officer [REDACTED] stated, “I was on the passenger side of the vehicle and the vehicle was still rolling. Uh, we were attempting to give commands to the suspect. I was outside of my cruiser. I ran, I had ran up to the car and I was on the passenger side.” Officer [REDACTED] said he stopped his cruiser behind Car [REDACTED] and ran about “40 to 50 yards to get up to where the vehicle was.”

SA Momchilov asked Officer [REDACTED] what verbal commands he provided. Officer [REDACTED] said the subject was still in the vehicle as he approached it on the passenger side. Officer [REDACTED] said he provided verbal commands such as, “Show me your hands! Do not move!”

SA Momchilov asked Officer [REDACTED] about the moments when the subject exited the vehicle. Officer [REDACTED] said the subject exited the front passenger side door and was wearing a ski mask and black clothing. SA Momchilov asked Officer [REDACTED] if it was “typical” for a person to exit a vehicle wearing a ski mask. Officer [REDACTED] answered, “No, not at all. Especially with the conditions outside and uh, just in general. People usually don’t jump out of vehicles with ski masks on.” Officer [REDACTED] said the weather was warm and that is what he meant about the “conditions.”

SA Momchilov asked Officer [REDACTED] about his distance from the subject when the foot pursuit began. Officer [REDACTED] estimated that he was “10 feet” away from the subject. He did not remember seeing any officers running in front of him at that time.

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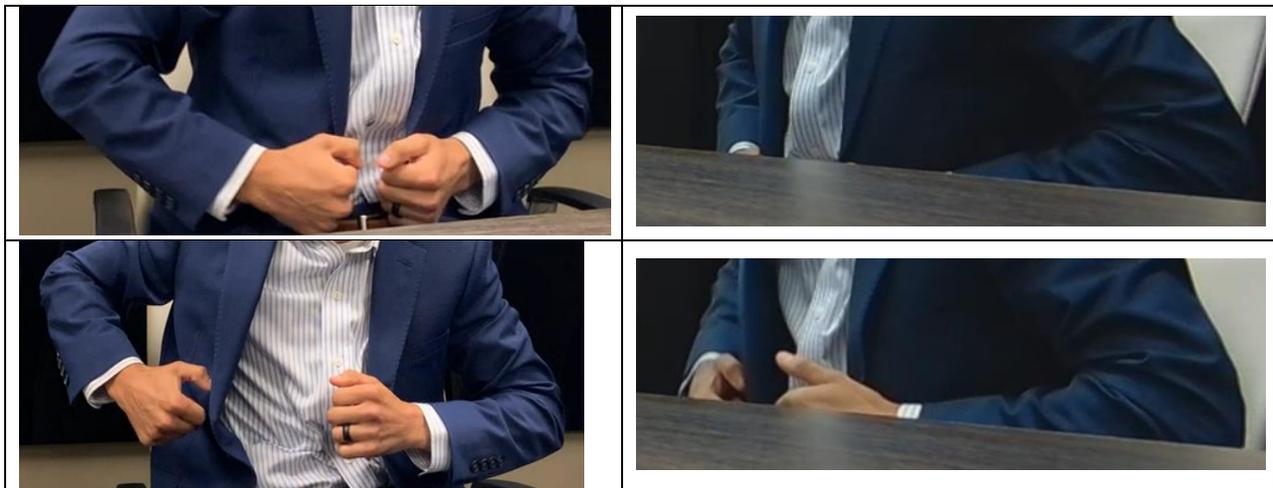
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SA Momchilov asked Officer [REDACTED] what he meant when he said that his Taser “failed.” Officer [REDACTED] explained that he drew his Taser, armed it, deployed it, and recalled the “blast doors on the Taser cartridge open.” Officer [REDACTED] believed that the Taser probes did not make a sufficient connection on the subject and that is why it did not work or it possibly missed.

SA Momchilov asked Officer [REDACTED] about the moments when the subject moved his hands near his waist. Officer [REDACTED] explained, “He turned around. He was facing us. I saw his right arm in his pocket and his arm was positioned in a way that I believed he was pulling a firearm and with him already shooting at officers I believed he was going to try to shoot at officers again.”

SA Momchilov asked Officer [REDACTED] to demonstrate the movements he saw the subject make. Officer [REDACTED] demonstrated and explained, “He was, he had his arms in his pockets here and he was pulling out as if he was going to pull a firearm out.” Still images of the movements described and demonstrated are below:



SA Momchilov asked Officer [REDACTED] “Did he present that?” Officer [REDACTED] responded, “I couldn’t tell at that time ‘cause this was a highly intense, highly rapidly evolving situation.” SA Momchilov asked, “And you said it was at that point you fired?” Officer [REDACTED] replied, “Uh, I stepped off the attack line, then I discharged my firearm.” SA Momchilov followed, “Could you tell if any other officers were firing at that point?” Officer [REDACTED] answered, “I heard one gunshot before I started shooting.” SA Momchilov asked, “Did you know where that gunshot

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was coming from?" Officer ██████ answered, "I did not." Officer ██████ stated, "And at that time I was fearful for my life and I was fearful for every live(s) of the officers that were presently on scene." SA Momchilov asked Officer ██████ to explain. Officer ██████ stated, "That, the fact that he already, that I believed he already shot at officers and that he was going to attempt to shoot at officers again. And uh, he was presenting himself in a way that uh, he was going to attempt to shoot at officers." SA Momchilov asked, "Can you think of any other reason he might make that motion?" Officer ██████ replied, "I do not know." SA Momchilov asked Officer ██████ what his distance from the subject was when he saw the subject make those motions. Officer ██████ estimated that he was "10 to 15 feet" away.

SA Momchilov asked, "Was he upright when you fired your first shot?" Officer ██████ answered, "Uh, I believe so. Yes." SA Momchilov asked, "At some point did he fall?" Officer ██████ answered, "Yes sir." SA Momchilov asked, "Were you still firing when he fell?" Officer ██████ answered, "Yes sir."

Officer ██████ explained, "I, through prior experiences, I discharged my firearm until the threat was eliminated. The last, I was at a previous signal 21 which was another intense situation where uh, the suspect was able to harm another individual and uh, even after he had been shot. And with that experience, I believed he was still a threat with the rounds that I fired." SA Momchilov asked, "What led you to believe he was still a threat?" Officer ██████ answered, "I, once his uh, he was laying on the ground once I saw his right hand come up I uh, that's when I stopped firing and um, that was when I didn't believe he was a threat anymore." SA Momchilov asked, "When he was on the ground, was he making any movements?" Officer ██████ answered, "Um, he was, he was rolling as he was on the ground and we weren't sure if he was still trying to pull a firearm or what exactly he was doing." SA Momchilov asked, "Could you see his hands when he was rolling around?" Officer ██████ answered "No, I could not."

SA Moran asked Officer ██████ about the vehicle pursuit and if he could see any actions or movements by the subject inside the vehicle. Officer ██████ explained that he could not see any movements inside the subject's vehicle and he was behind the lead cruiser and they were "a distance back because he had already discharged the firearm from the vehicle at officers."

SA Moran asked Officer ██████ about the moments when the subject exited the vehicle and began running. Officer ██████ stated, "The thoughts that were going through my mind were, I was trying to safely apprehend this subject um, because he had already fired at officers once. I, with my training, I thought at the time I had lethal coverage so I attempted to safely apprehend him before uh, having to use deadly force."

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SA Moran asked Officer [REDACTED] about the moments when he was near the passenger side of the vehicle and before the subject exited the vehicle. Officer [REDACTED] recalled seeing the subject moving inside the vehicle, but he did not know exactly what the subject was doing.

SA Moran asked Officer [REDACTED] about the lighting conditions during the foot pursuit and where the incident ended. Officer [REDACTED] stated, "I remembered seeing lights on the building that was behind us, but it was, the rest of the area it was dark."

SA Moran asked Officer [REDACTED] if he recalled experiencing any "perceptual phenomena" during the incident. Officer [REDACTED] stated, "When we got into the parking lot I did experience tunnel vision. When he turned around and presented himself and acted as if he was firing, 'cause I was in fear for my life at that point and the lives of the other officers."

SA Moran asked Officer [REDACTED] about his attempt to holster his Taser and if he looked down. Officer [REDACTED] stated, "I was attempting to holster my Taser and then when I looked up that's when I saw the suspect had stopped and then I stopped immediately, got off the attack line." Officer [REDACTED] said his pistol was holstered at that time and confirmed that he drew it from the holster to fire.

SA Momchilov asked Officer [REDACTED] if he knew who was to his right and to his left when he was firing. Officer [REDACTED] did not know which officers were next to him. SA Momchilov asked about the "L formation" the officers were in and where Officer [REDACTED] was in the formation. Officer [REDACTED] believed he was in the "center." Officer [REDACTED] said he could tell other officers were firing because he could hear "gunshots from both directions." SA Moran asked Officer [REDACTED] if the "L formation" was planned or if it "just happened." Officer [REDACTED] answered, "It just happened."

SA Momchilov asked Officer [REDACTED] if there was anything unusual about this vehicle pursuit. Officer [REDACTED] said he has been involved in vehicle pursuits in the past. Officer [REDACTED] stated, "The suspect discharging the firearm at police. Um, the suspect getting out of the vehicle in the summertime with a ski mask on." Officer [REDACTED] said vehicle pursuit sometimes end in similar areas and "it just depends."

SA Momchilov asked Officer [REDACTED] if it was typical for a person to flee on foot into an open parking lot. Officer [REDACTED] said he has been involved in foot pursuits in the past. Officer [REDACTED]

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████████ stated, "Um, depending on where the vehicle stops. Sometimes it will be in an open parking lot area, but the suspect doesn't stop usually, it depends."

SA Momchilov asked Officer ██████████ if he remembered where his point-of-aim was during the incident. Officer ██████████ said he aimed at the subject's "center mass." Officer ██████████ was not sure if his round struck the subject.

Officer ██████████ believed that his actions were consistent with his training and experience. He also believed that actions of the other officers were consistent with their training and experience.

SA Momchilov asked Officer ██████████ if he discussed the incident with any of the other officers involved. Officer ██████████ stated, "I've just, it was briefly, but I didn't get into any specific with anyone." SA Momchilov asked Officer ██████████ if he spoke with the other officers to determine what each officer would say. Officer ██████████ stated, "No. No. Absolutely not." SA Momchilov asked if first aid was administered to the subject.

Officer ██████████ said first aid was provided by other officers. Officer ██████████ said he was almost immediately "sequestered" by one of the sergeants. Officer ██████████ stated, "I wanted to add after the actual incident occurred I was, I checked myself to make sure I didn't get shot because I wasn't sure 'cause I did not know at that time so I, I did a, I checked underneath my vest and my arms just to make sure I didn't get hit."

SA Momchilov asked Officer ██████████ if he had any contact with the subject, Jayland Walker, in the past. Officer ██████████ answered, "No."

Officer ██████████ said that no one asked him to lie or tried to influence his statement to BCI agents.

SA Momchilov asked, "And you said you fired a whole magazine?" Officer ██████████ responded, "I believe so." SA Momchilov followed, "I guess some people might say that was excessive. What would your response to that be?" Officer ██████████ responded, "I discharged my firearm until the threat was neutralized. I believed he was still a threat even though he was shot because through my past experiences someone that is shot doesn't mean the threat's neutralized."

Attorney Knabb asked, "Was it unusual that he stopped and presented himself to you twice?" Officer ██████████ said he did not see the first time the subject presented himself because he was drawing his Taser from the holster. Officer ██████████ saw the subject turn around the second time.

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Attorney Knabb asked, "Did it appear like he was trying to get away from you? Considering the totality of the circumstances, did it appear as if he was trying to, to truly flee the scene?" Officer ██████ stated, "I don't believe so because that second time he turned around he was in an open parking lot and it didn't seem like he wanted to turn around, or run away, he wanted to confront us." Attorney Knabb asked Officer ██████ about his past experiences with "signal 21" calls. Officer ██████ reiterated that those calls are "high intense and your adrenaline is pumping" and it is "rapidly evolving." Officer ██████ said after the incident he could "feel the adrenaline dump." He added, "I couldn't believe what I had to do. I didn't want to discharge my firearm, but the suspect presented himself as a deadly threat so I was given no choice." Attorney Knabb asked, "And you tried to subdue him with the Taser, correct?" Officer ██████ stated, "Yes. I tried all the resource that were available to me given the distance and the time to subdue the suspect in a safe manner before I had to discharge my firearm." Attorney Knabb asked how Officer ██████ was feeling in the week after the incident. Officer ██████ stated, "This has been the worst experience I've ever felt in my entire life because I haven't been sleeping good. I've been getting three to four hours a night. I've been getting these reoccurring headaches. I've been getting nightmares. Um, reoccurring thoughts of the incident in my head."

SA Momchilov asked Officer ██████ if his statement to BCI agents was based off of the BWC video or his recollection. Officer ██████ said, "It's based upon my recollection."

SA Moran asked Officer ██████ if his decision to fire was based upon what he observed or if it was "sympathetic gunfire." Officer ██████ answered, "It was based upon what I observed."

The first segment of the recording ended and BCI agents left the room so that Officer ██████ could review his BWC video.

At 1514 hours, BCI agents re-entered the room and a second segment of the recording began with the same parties in the room.

Officer ██████ mentioned that he had a weapon-mounted light on his pistol. He also said he had his Taser in his left hand and he also had his pistol in his right hand during the incident. He initially believed that he holstered his pistol, but after watching the BWC video he saw that he did not holster his pistol.

The interview concluded at approximately 1516 hours.

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Reference Item:

The video recordings were submitted to the BCI case file and were labeled as Reference Item K.

Attachments:

The interview was audio recorded. The audio recording was attached to this report. The signed BCI Criminal Investigation Notification form is also attached to this report. Please see the attachments for further details.

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Supervisor Approval: SAS David Posten #6

2/16/2023 3:18 PM



Criminal Investigation Notification

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


Printed Name of Interviewee

7/12/2022
Date / Time


Signature of Interviewee

Cory Monchick #
BCI Agent (Printed)

 #64
BCI Agent (Signature)