



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



2023-0228

Officer Involved Critical Incident - 18697 Bagley Rd., Cleveland, OH
44130, Cuyahoga County

Investigative Activity: Involved Staff Interview
Activity Date: May 1, 2023
Activity Location: BCI - Richfield
Authoring Agent: SA Matthew Armstrong #146

Narrative:

On March 24, 2023, at approximately 1016 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Matthew Armstrong (Armstrong) and SA Nick Valente (Valente) met with and interviewed Registered Nurse (RN) Jeffrey Rubel (Rubel). Rubel was identified as a nurse who worked in the Emergency Department at Southwest General Medical Center (SGMC) on October 18, 2022, and was involved in the incident surrounding the death of patient Bryan Bailey (Bailey). The interview took place at the BCI Richfield Office and was audio and video recorded. The audio recording has been attached to this report and the video recording has been stored in the BCI SIU Case File as Reference Item F.

Rubel agreed to participate in an interview with BCI Agents. He was not represented by an attorney. Rubel indicated he was providing a statement on his own and he understood he could not be punished by an employer or a regulatory board for declining to provide a statement.

The following is a summary of 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. The information 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. Time references made throughout this report correspond with the video recording.

Throughout the interview, Rubel provided the following information:

At the time of the interview, Rubel worked through an agency known as Total Med and he was assigned to Barberton Emergency Department. Prior to his employment at Total Med, he was employed at SGMC as a RN in the Emergency Department. While working at SGMC he wore navy colored scrub pants and shirt. He also wore a name badge which identified him as a nurse. Rubel believed he was well represented as a nurse while working in the Emergency Department.

Rubel had worked as a RN for 24 years. He had completed an Associate Degree in Nursing through Lorain County Community College in 1999, a Bachelor of Science in Nursing through

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Ohio University in 2014, a Master of Science in Nursing through Chamberlain University in 2017, and a Master of Business Administration through DeVry University Keller School of Business Management in 2021.

He did not believe he had any encounters with Bailey prior to the October 18, 2022 incident.

On October 18, 2022, he was assigned 4 or 5 rooms to care for during his night shift. Bailey was a patient in one of the rooms. Bailey was presented for suicidal ideations or a suicidal attempt. The last task needed to complete Bailey's medical clearance was to obtain a urine specimen. Bailey needed cleared medically so he could be evaluated by psychiatry.

Rubel explained a urine specimen was needed for the medical clearance and at times patients can be reluctant to provide a specimen because they are worried about illicit substances being present in their urine. In those instances, staff will explain they are not concerned about the presence of drugs and if the patient does not provide a specimen willingly, the staff would have to obtain a sample with a catheter.

When Rubel went into Bailey's room to obtain the urine specimen, Bailey was in the bed receiving I.V. fluids. A female visitor was present but left the room. Rubel told Bailey he needed to get a urine specimen and if he wasn't going to give it he would have to obtain it with a catheter. Bailey did not acknowledge his presence. He placed his hands on Bailey's shoulders and shook him a little bit trying to wake him. Bailey opened his eyes but then closed them. Bailey's eyes were opening then closing repeatedly as if he was drowsy. Rubel explained it was more than being sleepy and Rubel believed Bailey was under the influence of something. Rubel spent approximately five minutes trying to arouse Bailey and repeatedly told him he needed to give a urine specimen. Rubel explained he did not like to present the catheter method in a threatening way and his goal was to convince Bailey to provide the urine willingly.

Rubel said at one point after repeatedly telling Bailey he needed to give the sample, Bailey "Looked at me and he was like 'Just fucking kill me'" (13:06). Rubel told him that statement was not helping his situation. Bailey then stood up out of the bed, extended his left arm and ripped his I.V. out. Bailey was unsteady on his feet and Rubel moved toward him. Rubel said he did not want to get hit, but at the same time Bailey was not safe by himself so he did not believe he could just walk out of the room. As Rubel moved toward him, Bailey raised his fists, started moving toward Rubel and swung at him with one of his hands. Rubel grabbed hold of Bailey's wrist and moved behind Bailey. He held him from behind in a firm hug and slowly walked

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Bailey over to the foot of the bed where they both fell into the bed. Rubel demonstrated this on SA Valente at 51:45.

Rubel then yelled for help and within 5 seconds the first person came to help. Rubel said he and Bailey were both hanging off the bed. Once help arrived, they tried getting Bailey further into the bed. That is when Bailey started resisting and the struggle began. The hospital police arrived and they began putting restraints on Bailey to keep him from hurting himself. Rubel remembered there were a lot of people everywhere, there was a big struggle and it was chaotic.

Rubel said he and Bailey never fell to the floor. He did not remember the names of other staff who came to assist. He remembered there was one or two other nurses, a male medic and multiple police officers. He said the male medic may have been the first to come into the room after he called for help. When asked why other staff members reported Rubel was on top of Bailey on the floor he responded "No. We were not on the floor, ever. That's really weird" (41:05).

During the restraining process, Rubel remembered the doctor ordered medication to sedate Bailey because he was so wild. One of the nurses gave Bailey the shot in his leg and within two minutes Bailey stopped moving and the struggle was over.

Rubel then noticed Bailey's color did not look good and he said "Hey. He's not fucking breathing. Somebody start giving him oxygen" (18:48). They immediately began giving him breaths with an ambu bag/mask and Rubel told someone to check for a pulse. They realized Bailey had no pulse and they immediately began CPR.

Rubel excused himself from the room because he was taken back by everything that had transpired. He remembered thinking he had gone in to get a urine sample and now the patient was receiving CPR. Rubel said every effort was made to resuscitate Bailey. In the 24 years he has been a nurse, he had patients who died but never under these circumstances. He said "This is the most traumatic experience that I have ever had in my entire career and, I mean it's still screwing with me" (20:58). Rubel explained Bailey was a 33-year-old young man present for a psychiatric evaluation and he went into full cardiac arrest and died. He didn't know the autopsy results but said there was never a time when Bailey was on his stomach, in a choke hold, or had pressure on him in a way that would have prevented him from being able to breath.

Rubel described Bailey as approximately 5'9" and approximately 240 pounds. He said Bailey ended up being stronger than he would have thought. Rubel estimated the struggle lasted

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between 5 to 10 minutes. He said there was a lot of staff trying to get Bailey into the bed so he could be properly restrained. Bailey was using all of his strength and effort to resist being restrained. Rubel said there were six full grown men trying to control Bailey.

When Bailey raised his fists at Rubel, he believed Bailey was going to attack him. He said he did not fear for his safety too much because Bailey was unsteady on his feet. He was more concerned for Bailey's safety.

Rubel did not see any staff sitting on top of Bailey at any time. He did not see any staff strike Bailey and he did not see Bailey strike or kick any of the staff. He believed Bailey was trying to kick staff, but he did not remember Bailey making contact with any of the staff members. Rubel believed Bailey was struggling to get away from the staff. He did not remember Bailey making any noises or saying anything during the struggle. He did not remember seeing Bailey trying to bite or spit. When Bailey ripped the I.V. out, he thought it would have been bleeding but he did not remember seeing that happen. He said that could have been because he was focused on what was happening next and it just did not register with him.

Rubel did not witness Bailey using drugs while present in the Emergency Department. He suspected Bailey was already under the influence of drugs when he arrived. Rubel's belief was based on how drowsy Bailey was and Bailey's history of using illicit substances.

When asked if he felt guilty or responsible for Bailey's death, Rubel explained he did have guilt and felt bad that Bailey died because he wasn't there for a medical problem. He said the situation was very unusual. However, he never felt like something he did or didn't do led to Bailey's death.

Rubel said he became emotional afterward because the patient was a young kid who lost his life and he wasn't even there for a medical issue. Rubel said he first became emotional in the exam room while staff was trying to resuscitate Bailey and that was the reason he excused himself from the room. He explained at that point there was plenty of medical help and his departure did not change the amount of care Bailey received.

Rubel was asked about two actions he documented in his progress note, one being Bailey reciting the "Our Father prayer" and Bailey wrapping himself in the bed sheet. Rubel said when Bailey first stood up out of the bed, he started reciting the "Our Father prayer" and that was another indicator that something bad was going to happen. He recalled writing about Bailey wrapping himself in the sheet but said that detail was not something that stood out to him now several months later during the interview. Rubel explained he did not think Bailey was going to use the

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sheet to hurt Rubel or himself. He said Bailey may have just been covering himself with the sheet.

Rubel was asked if he remembered making any comments after learning of Bailey's death. Rubel said he told the doctor "Well I guess he should have given us a urine sample" (1:09:59). Rubel said although he made the statement he did not actually feel that way. He believed the statement was part of a coping mechanism which he correlated with working in high stress environments where staff members in those environments tend to have a more cynical and twisted sense of humor.

Rubel resigned from his position following this incident because he felt as though the hospital was going to fire him. Rubel explained he had a meeting with the Director of the Emergency Department and the Vice President of Human Resources and they told him if they did not separate from him, it would look bad for the hospital if the family sued them. Rubel told them it sounded like they were terminating him and asked if he had the opportunity to resign. They told him he could resign and they would not fight him on unemployment benefits.

After the incident, he completed a written statement for the Southwest General Police Department. Rubel consented to BCI agents obtaining and reviewing a copy of his statement.

Attachments:

23-05-01 Interview Jeffrey Rubel

Reference Items:

Item F – Thumb drive containing video recorded medical staff interviews