



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: 7/8/2022
 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 8, 2022, at 1211 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Cory Momchilov (Momchilov) and SA Chuck Moran (Moran) interviewed Akron Police Department (APD) Officer ██████████ (██████████), who was accompanied by his attorney, Troy Reeves (Reeves), 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: █████ ID █████	Cruiser/Vehicle Number: █
Radio Call Sign: Car █	Immediate Supervisor: Sgt. Pasternak
Radio Channel Utilized: Channel 2	Mobile Data Terminal: Present; Not Used
Cruiser Description: Ford Explorer, APD markings	Occupants of Cruiser and Seating Positions: Solo
Assignment: District 4 (Ellet area of Akron)	Normal Shift: 2230-0700 hours
In-Car Camera: Not Present	Spotlight: Present; Not utilized
Emergency Lights: Present & Utilized	Siren: Present & Utilized
Shift Day of Incident: 2230-0700 hours	Duty Status: On-Duty

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Days Off: Weeks consist of 4 days working, 2 days off, rotate days off every week	Prior Overtime or Extra Details within Preceding 48 Hours: None
Hours of Sleep Prior to Incident: Did not recall, normally obtains 5-8 hours	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: Uniform shirt with APD patches on both arms, boots, external vest with badge on left chest, "POLICE" on both front and back	Equipment and Less-Lethal Options Carried on Person/Belt/Vest: Radio, firearm, handcuffs, Taser, extra magazines, flashlights, body-worn camera (affixed to center line, just below sternum)
Ballistic Vest: External Armor	Body Worn Camera: Present & Used
Other Recording Devices: None	Partner: None
Injuries: None	Equipment Damage: None
Training or Areas of Specialty: None	OPOTC Certification: Attended Akron PD academy
Military Experience/Training: None	Use-of-Force Training: Annually, attended within last 12 months
Prior Shooting Incidents: None	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: Did not recall, does not consume alcohol during 4-day work stretch

Officer's Firearm(s):

Weapon #1

Make: Glock	Model: 17
Caliber/Gauge: 9 mm	Serial: [REDACTED] (from BCI CSU report)
Type: Semi-Auto Handgun	Method of Carry: 1 round in chamber
Magazine Capacity: 23 in magazine in pistol, 17 in extra magazines on belt	Total Rounds as Carried (including chamber): 58

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Extra Magazines: 2 extra on belt, 1 in pistol with extended base plate with additional 6 rounds	Number of Rounds in Extra Magazines: 17 rounds each in 2 extra magazines = 34
Discharged During Incident? Yes	Primary or Backup Weapon: Primary
Rounds Remaining After Incident: 50	Number of Rounds Fired: During incident believed fired "3 to 4 rounds" and learned during a round count that he fired 8 rounds
Right/Left-Handed Carry: Right-Handed	Ownership: Department Owned
Last Qualification Date: Last year, summertime, within last 12 months	Type of Holster, if any: Safariland, Level III

Narrative:

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

Officer [REDACTED] said he was at the Akron City Hospital when he heard the radio transmission about "[REDACTED]" performing a traffic stop. He then heard that the traffic stop turned into a "chase," entering State Route 8 south from Tallmadge Avenue. A few seconds later, he heard "21," which is the APD code for "officer needs help." Officer [REDACTED] then heard the officer radio, "Shots fired." Officer [REDACTED] realized that the situation was not a "normal car chase." He added, "There's an extreme level for bodily injury or death." Officer [REDACTED] said his adrenaline was high and he entered his cruiser, drove on Forge Street, crossed Market Street, turned onto Goodkirk Street, crossed Carroll Street, and entered State Route 8 southbound.

Sergeant (Sgt.) Tersigni was in Car 45 and was stopped on the on-ramp with his lights on because the pursuit was still north of that location. There was radio traffic about the pursuit passing Perkins Street and then passing Carroll Street and Buchtel Avenue. The pursuit passed Officer [REDACTED]'s position on his left, and he saw the subject's vehicle leading three APD cruisers.

Sgt. Tersigni pulled over to the right and allowed Officer [REDACTED] to pass him. Officer [REDACTED] radioed that he was Car [REDACTED] and asked for permission to join the pursuit. Officer [REDACTED] explained that he joined the pursuit because the initial APD cruiser did not have a second cruiser, until he heard Car [REDACTED] join the pursuit near State Route 8 south and Carroll Street. Officer [REDACTED] said there are usually two cruisers in pursuit, but there can be more cruisers involved after requesting

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permission. Officer ██████ said there was a radio transmission granting him permission to join the pursuit.

The pursuit continued south on State Route 8. Officer ██████ said his “anxiety” level was “high” knowing that the subject shot at officers and he might shoot again. The pursuit exited State Route 8 and went through residential streets to Wilbeth Road and Clairmont Avenue.

Officer ██████ said he exited his cruiser and began running toward the subject’s vehicle. Officer ██████ saw Car ██████ park sideways, in front of him, and the subject’s vehicle was on the other side of it. Officer ██████ drew his pistol from the holster. Officer ██████ stated, “So, as I get up there, I look over the cruiser, look over the hood of the cruiser and I see a guy with a ski mask jump out of the car. Um, at that point I don’t really have a great visual on him. Um, I can see he’s wearing a ski mask, but I can’t really see his hands ‘cause he jumps out and he just starts running.”

Officer ██████ continued, “I run around the cruiser and as I’m running I’m still watching him and he turns back towards officers at one point and I see a bunch of red dots.” Officer ██████ explained that he knew the red dots were lasers from Tasers. He continued, “So, at that point I see there are officers trying to use their Tasers to apprehend him. So, he turns back around and continues to run. And at this point, I don’t see anything in his hands so I holster my weapon and the only thing in my mind is you know, kind of fell back on you know, what normally happens um, this is the first 21 I’ve been involved in, but normally when chasing suspects we just catch up to them, taze them, or we just physically tackle them, take them to the ground, take them into custody. So, I holster my firearm, start sprinting as fast as I can.”

Officer ██████ explained, “During this time, I see him get to the parking lot and you can that his hands, I can see his hands around his waistband area (moved both hands downward and to front of waistband). With the knowledge of knowing that he already fired a shot at officers, and knowing that on multiple other occasions when I’ve chased people that have firearms, that’s where they normally keep them, whether it be in a pocket, a hoodie pocket um, or just in their waistband in general, that’s the general area where people normally keep dangerous weapons, firearms, things like that. Um, so that kind of put me on high alert, even higher than I already was uh, and at some point in time he had turned around and faced officers um, and at that time he simultaneously had put up one of his arms in the motion that I believed that he had a gun. And very shortly after him turning around and raising his hand I heard, heard a gunshot. Um, so at that point I wholeheartedly believed that he had fired at officers. Um, and at that moment I made the conscious decision to draw my firearm and discharge it at the subject. And in the moment, I

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thought I fired three to four rounds uh, later found out it was a few more than that. Um, but once I fired my last round um, I continued to keep cover on the subject for, I believe a second, and then I felt the need to kind of get off line.” Officer ██████ explained that “on line” is when officers stand directly next to each other so no one is in front or behind.

Officer ██████ took a step back and radioed that shots had been fired. He moved to his left behind other officers and then moved “on line” with officers and continued to “cover” the subject. Other officers handcuffed the subject. Officer ██████ was told to report to his sergeant and then was “sequestered.”

SA Momchilov asked Officer ██████ if he activated his emergency lights and siren when he exited the hospital and entered his cruiser. Officer ██████ said he activated his emergency lights and sirens as he was exiting the parking lot of the hospital.

SA Momchilov asked Officer ██████ about the moments when the subject turned and he saw the red laser dots on him. Officer ██████ stated, “So, initially um, the first time he turned around uh, he did like a 360 um, and that’s when I saw, he had a lot of light on him due to our weapon-mounted lights um, some people had their firearms out, some people had their Tasers out um, just due to the potential for him, potentially still having a gun. Um, and at that point he turned, and I couldn’t, I didn’t have a great viewpoint as to if anything was in his hands or anything like that, however, at that points in time, in essence he would have been, let’s say he’s here (moved hand), then there’s multiple officers between myself and him. I didn’t have a good vantagepoint about where his hands were, but he did initially, after like six or seven steps out of the car, he did turn around and face officers the first time. It was real quick. At that point, he hadn’t extended his arms or anything like that, he just, he just turned around for whatever reason.”

Officer ██████ said he has been involved in foot pursuits in the past. SA Momchilov asked, “Is that typical of somebody who is running from the police?” Officer ██████ answered, “No. That’s was very strange. Um, normally we encounter people that are trying to get away from us. That’s their main goal. They’re not trying to turn around and fight us or anything like that. They just want to run and get away. So, for him to turn around that was extremely odd. Um, but I trusted my fellow officers that if they didn’t see anything and they didn’t react in such a manner that they needed to fire, then I shouldn’t either. And I honestly couldn’t just due to the safety issue of me being at one point and them being in between me and him.”

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Officer ██████ said he has been involved in vehicle pursuits in the past. SA Momchilov asked, "Where that vehicle stopped, would you say that would be a typical location for somebody to stop?" Officer ██████ answered, "No. It was extremely odd as well. Um, so, he was the only person inside the vehicle. I knew that based off of what the initial officers stated. They stated that it was just one man inside the vehicle so, when I looked over the hood of the vehicle, it had already ramped up onto the curb and the sidewalk and he exited the passenger side so, that was extremely odd. Um, and that is not a typical place that somebody pulls over or stops and the vehicle is also still in motion when he exited too, so..."

SA Momchilov asked, "In your past pursuits of individuals, do they usually run like, in an open area?" Officer ██████ replied, "Uh, no. So, most people are trying to get away so they get behind buildings, get behind the bushes, if they can find somewhere to just bed down at, they will, Um, but no they don't normally run into open areas where they're extremely visible to us."

SA Momchilov asked about the lighting conditions. Officer ██████ stated, "So, where he initially jumped out at there wasn't like a street light there or anything so, from what I remember it was pretty dark other than the weapon-mounted lights causing him to be visible. Um, as we got into the parking lot there was a light that I remember specifically being on the far end by the actual building, but in the actual parking lot it's pretty dark um, where he ended up being."

SA Momchilov asked, "You said at one point he stopped and made motions to his waist area, what's the position of him from you? Is his back turned towards you? Is he bladed on your side? Or can you describe that a little more?" Officer ██████ responded, "So, from where I am, um, he's like, I'm off to like, his side. Um, so as he's doing this (moved both hands down and near front waistband), I believe he, I can't even remember exactly which way he turned, but when he goes from here (hands still by front waistband), he turns and then he raised his arm um, so at some point he just turned and raised his arm um, but I was off to the side when I saw him initially reaching down."

SA Momchilov asked about the distance between Officer ██████ and the subject. Officer ██████ estimated that he was about "25" feet away. SA Momchilov asked Officer ██████ to provide more details or demonstrate the motion(s) that the subject made with his arms. Officer ██████ "I very specifically remember him reaching down towards his waistband (moved both hands downward and to front of waistband) and then he turned and he put his arm up (raised right arm and hand up end extended outward about shoulder height) like this as if he is holding a firearm or something to that effect, but he very specifically made that motion (extended right arm and hand outward about shoulder height) outward with his arm towards officers and faced them

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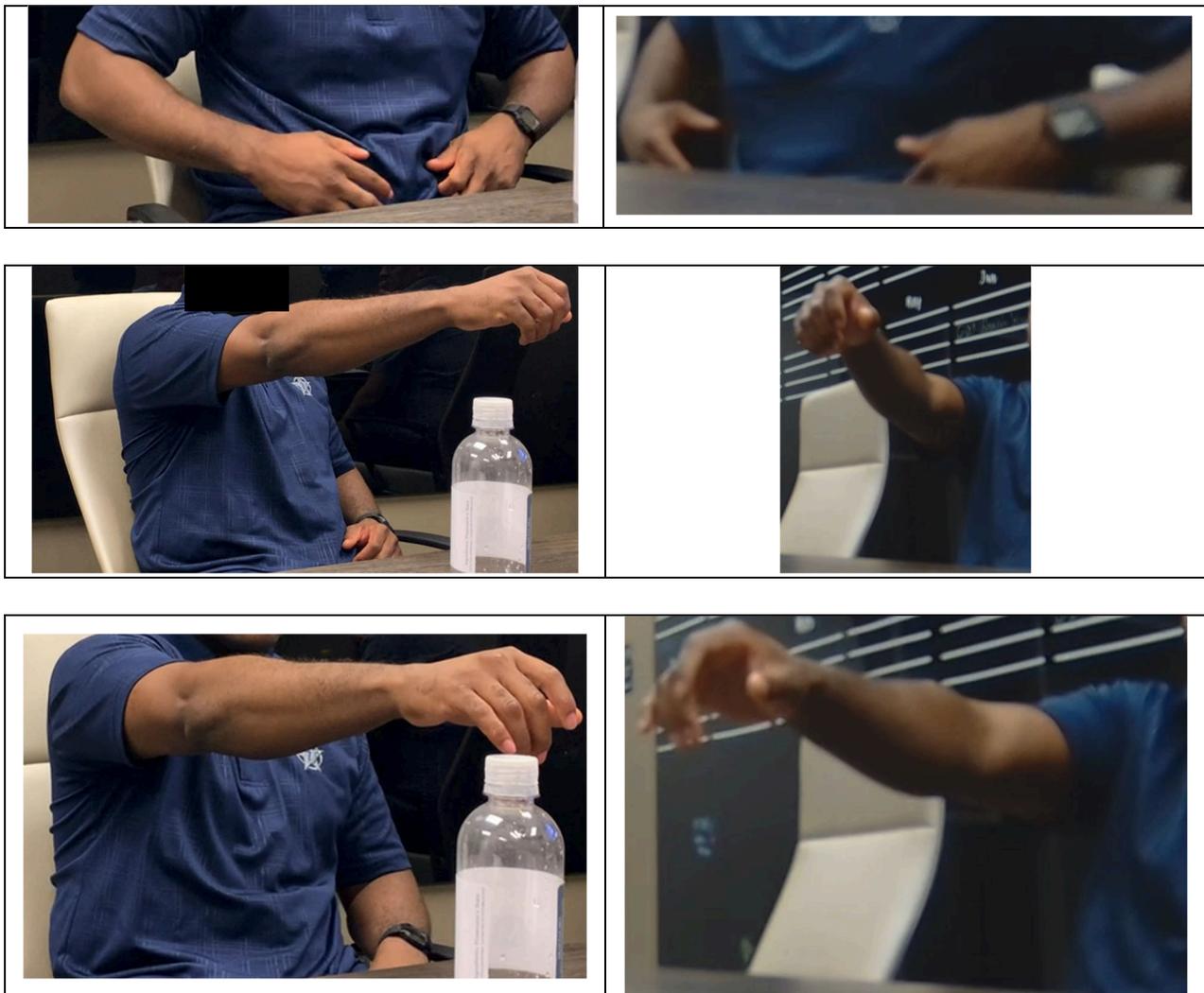


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as well.” SA Momchilov asked, “And I believe you said at that point you heard a, what you believed to be, a gunshot?” Officer ██████ stated, “A gunshot.” Officer ██████ confirmed that he believed the gunshot was fired by the subject.

Still images of the movements described and demonstrated are shown below:



SA Momchilov asked, “Did you make your own decision to fire or was it based on other officers’ actions?” Officer ██████ replied, “So, as soon as I heard the gunshot and I saw him make that motion um, I immediately fell back on my training. So, I made a conscious decision to

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draw my firearm and engage the threat until it was no longer a threat.” SA Momchilov asked, “Was he upright when you fired your first shot? Do you know?” Officer ██████ responded, “I believe so.” SA Momchilov asked, “Did you fire, if you can recall, when he was on the ground at any point? Do you know?” Officer ██████ replied, “Uh, yes.” SA Momchilov followed, “Could you see his hands at that point when he was on the ground.” Officer ██████ answered, “Uh, I couldn’t just because of all...so, when I was firing um, I don’t specifically remember looking at my sights. Um, I do remember the flashes of the muzzle, the muzzle flashes um, so I couldn’t, I couldn’t tell you that I could see his hands, but I could tell that he was still moving um, during the time at which I was discharging my firearm.” SA Momchilov followed, “When you say moving, was it rolling around? Was he making motions with his hands? Can you describe it?” Officer ██████ responded, “Yeah, once, once he hit the ground I remember him very specifically rolling um, and once I felt as though he wasn’t a threat anymore that’s when I stopped discharging my firearm.” SA Momchilov asked, “Could you tell if other officers were firing during that point?” Officer ██████ answered, “Yes.” SA Momchilov asked Officer ██████ if he recalled which officers were to his right and to his left. Officer ██████ stated, “In the moment I did not know.”

SA Moran asked Officer ██████ if he experienced an “perceptual phenomena” during the event. Officer ██████ replied, “Um, I will say uh, auditory exclusion. Um, I’ve been to ranges and had someone pop off a round without having ear protection on, it’s extremely loud um, it’s really jarring, and in the moment I heard the gunfire, but it wasn’t anything like I had ever experienced. It was more like a pop, like a very small firecracker or something along those lines um, but I do remember understanding that they were gunshots, but not really having that jarring sensation of you know, somebody just fired a gun. Um, I don’t know if that made sense um, but it did seem extremely quick um, looking back on it, like thinking through it, like it starts slowing down, but in the moment it happened (snapped fingers) extremely quick.”

SA Moran referred to the moments when Officer ██████ began firing and the subject fell to the ground. SA Moran asked, “Does that add to like, the quickness? Like, somebody could fall down quickly while you’re firing these rounds?” Officer ██████ answered, “Yes.”

SA Moran asked Officer ██████ about the moments when he was approaching the subject’s vehicle on foot and if he could see anything the subject was doing inside the vehicle. Officer ██████ responded, “I could not.”

SA Moran asked Officer ██████ if there was any “cover and concealment” in the open parking lot. Officer ██████ responded, “No. Um, there was nothing in the parking lot at least not in the

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general area where we were. Um, there weren't any light poles or anything that we even, gave us any kind of cover."

SA Moran asked Officer [REDACTED] if he knew if the Tasers were discharged at the subject during the incident. Officer [REDACTED] replied, "During the entire incident I just the, the, um, the Tasers and I heard like, I heard something. Um, I wasn't sure if they were discharged. I assumed that they were during the moment just because that's one of the tools that we have to try and take people into custody." Officer [REDACTED] said that the Tasers were "ineffective."

SA Momchilov asked Officer [REDACTED] if he provided verbal commands when he was running after the subject. Officer [REDACTED] responded, "Uh, I did not. I was, I was gaining ground, but I also heard other officers that were a lot closer than I was giving him verbal commands. Um, so in essence if I were to do that it potentially could have just drowned out what they were saying and it just would have um, caused confusion in essence."

SA Momchilov asked Officer [REDACTED] about his point of aim during the incident and if he believed his rounds hit the subject. Officer [REDACTED] stated, "Center mass. I believe they did um, but I, I have no way of knowing."

SA Momchilov asked, "At the time of the incident did you perceive you had any other option other than to use deadly force?" Officer [REDACTED] answered, "No."

SA Momchilov asked, "Did you fear for your safety and the safety of other officers?" Officer [REDACTED] answered, "I did."

SA Momchilov asked, "Do you believe your actions were consistent with your training?" Officer [REDACTED] answered, "They were." SA Momchilov asked, "What about the actions of the other officers involved? Think it was consistent with their training?" Officer [REDACTED] answered, "Yes."

SA Momchilov asked Officer [REDACTED] if he had any discussion with any of the other officers involved in the incident. Officer [REDACTED] answered, "Yes." SA Momchilov followed, "Did they, did you guys, I guess what I'm getting at here is, did they, did you guys all get together and say, 'Well, I'm going to say this, make sure you say this.'" Officer [REDACTED] responded, "No." Officer [REDACTED] said it was to make everyone was "good" because this was not a "normal" event. He said it was the first "21" he ever experienced.

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SA Momchilov asked Officer [REDACTED] if anyone asked him to lie or tried to influence his statement to BCI. Officer [REDACTED] answered, "No."

SA Momchilov asked Officer [REDACTED] if he had any prior contact or knowledge of the subject, Jayland Walker. Officer [REDACTED] answered, "No."

Attorney Reeves asked Officer [REDACTED] about how the incident has affected him. Officer [REDACTED] stated, "Due to the media coverage, it's something that you don't forget, but you also don't forget because that this isn't something that you come to work to do. Um, we all knew that this was a possibility when we took this job when we applied. But nobody came to work and said, 'Hey, let's go put ourselves in this crazy situation where we might die or we might have to take somebody else's life.' Um, and it's something I think about every day. It's not something I wanted to happen. I mean, at the end of the day, looking back at it and seeing the news coverage it's, it's, it's eerie, because at some point in time I could say that I, I could have looked like Jayland like, when I was in middle school I had a little fro um, you know, we have similar facial features. I mean, I can look at him and see part of myself in him and that's, that's something I'm going to have to live with for the rest of my life that I had to take somebody's life. I did what I did because of my training, my experience, but it's not something that I wanted to do. It's not something that I'm going to ever truly just be able to look at an say, 'Yeah, it is what it is.' Um, he was a human being just like everybody else. Unfortunately, he did something that caused me to have to act, but it's not something that I'm, I'm proud of. It's not something I'll ever brag about. It's something that's going to take a lot of time to try and at least cope with it."

SA Momchilov asked Officer [REDACTED] if he watched his body-worn camera video and how many times he watched it. Officer [REDACTED] said he watched his body camera video one time. SA Momchilov asked Officer [REDACTED] if the statement he provided to BCI was based upon his memory of the incident or based upon the body-worn camera video. Officer [REDACTED] answered, "It's based on my memory."

SA Moran referred to when Officer [REDACTED] said he was afraid for his safety and the safety of other officers. SA Moran asked, "What specifically did you think was going to happen to you or the other officers?" Officer [REDACTED] answered, "I thought that he was going to kill one, another officer. When I saw him turn around and put his hand up and I heard that shot, I felt as though he had shot one of my fellow officers." SA Moran followed, "And I know we discussed the way that people do carry guns in foot pursuits and you've found those in the past, this movement he makes when he turns around and he extends his arm out, is there any other reason that you know of that someone would make that type of motion?" Officer [REDACTED] answered "No." SA Moran

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followed, "And what's the reason that people make that motion in your training and experience?" Officer ██████ replied, "Um, they only really make that motion if they're going to fire a gun at somebody. Um, use deadly force towards somebody else."

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

At 1248 hours, BCI agents re-entered the room and the second segment of the recording began with the same parties in the room.

SA Momchilov asked Officer ██████ if there was anything he wanted to add or clarify after watching his body-worn camera video. Officer ██████ mentioned that there were a few more lights in the parking lot and that it was more visible than he recalled. He also mentioned that there were not other officers in between him and the subject while they were running, and it was "clearer."

Officer ██████ continued, "But very distinctively um, I remember him and see him put his hands into like, his waistband area. Um, again, like I said, that's where people normally keep firearms and weapons. Um, but also uh, it reminded me because in high school and middle school I ran track and over the summer ran AAU track um, and you can even see it on my body cam, when somebody's trying to run and they're trying to go fast you know, you're pumping your arms like this (pumping both arms), um, you can see that when I had my gun it was down by my side, you only see my left hand (pumping left arm), I start putting it away (holstering gun with right hand), but I really start moving when I put both hands up (pumping both arms). Um, which tells me that he wasn't trying to get away. He had his arms like this (moved both hands and arms down toward center waistband). Um, and it's very indicative of somebody that's reaching for a weapon or some sort of uh, something that he shouldn't be. Um, and that's what I wanted to add."

SA Moran asked, "You mentioned the lighting conditions. What you see on the camera it became lighter when you watched the video, but like, during the event you experienced it being darker than what the camera showed? Is that fair to say?" Officer ██████ answered, "Yes."

The interview concluded at approximately 1251 hours.

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Reference Items:

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

9/7/2022 2:54 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

7/8/22 1211
Date / Time

Signature of Interviewee

Cory Monchik
BCI Agent (Printed)

[Signature] #64
BCI Agent (Signature)