



OFFICE OF POLICE ACCOUNTABILITY

DIRECTOR: Jesus Jara

CASE REVIEW

SUMMARY – NOVEMBER 2021

OPO16-0014

Prepared by:

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Jesus Jara

THE SITUATION – Summer of 2016

Stop #1

During the evening hours of darkness, Boise Police Department (BPD) Officer #1 was dispatched to a location regarding a possible drunk driver with a provided vehicle description. Officer #1 located the described vehicle with its engine off and headlamps on occupied by a male subject. Officer #1 requested assistance from dispatch to assist with a possible driving under the influence investigation. BPD Officers #2 and #3 arrived to assist Officer #1. Officer #2 spoke with the male subject and agreed with Officer #1 that the subject was either under the influence of alcohol, delusional, or both as he was claiming to see people that were not present.

While still seated in the vehicle, the subject picked up a large screwdriver (about 12" long) and a wrench. The subject was asked to exit the vehicle several times, but he would not comply. Fearing the subject may attempt to flee in the vehicle, Officer #3 laid stop sticks in front of the subject's vehicle tires. After repeated attempts to get the subject to exit the vehicle, Officer #2 decided to remove the subject from the vehicle. Officer #2 reached into the vehicle to physically grab the subject's wrists. When Officer #2 did this, the subject abruptly moved his hands in an upward motion, pushing the screwdriver shank up towards the body of Officer #2. Officer #2 felt they were going to be stabbed by the subject with the screwdriver. The subject then started the vehicle, put it in gear, and quickly sped away, almost colliding with Officer #3 who was standing near the front of the subject's vehicle. Due to the movement of the subject with the screwdriver toward Officer #2 and narrowly colliding his vehicle with Officer #3, Officer #2 reported that the subject committed two aggravated assaults on Officers. Officers then began to search for the subject.

Stop #2

About 30 minutes later, Officer #2 located the subject parked in the same area as the prior stop. Officer #2 waited for the arrival of assisting Officers before initiating a felony stop. Officers #4, #5, and #6 all arrived about the same time. A few moments later, Officers #3 and #7 arrived.

Officers #2 and #3 parked their patrol cars in front and behind the subject's vehicle, boxing the subject in between. Officer #3 was positioned at the rear passenger side of the subject's vehicle. Officers #4 and #6 approached the subject's driver's side. The subject then revved the engine of his vehicle, spinning the tires and causing smoke from friction with the pavement to engulf the passenger side of the subject's vehicle. The subject did not follow loud commands to exit the vehicle and continued to depress the accelerator spinning his tires creating smoke while pushing against the patrol cars that were boxing in his vehicle. The force created by the suspect's vehicle was significant and rocked both patrol cars. An Officer was yelling "stop!"

Officers #6 and #4 were pointing their weapons at the subject through the driver's side of the subject's vehicle. Commands were shouted to the subject, "Don't move!" The subject would not comply and continued to rev his engine, spinning his tires which continued to fill the area with smoke from friction. Officer #6 fired one shot from a few feet away, striking the subject on his left side while still seated in his vehicle. Officers yelled, "Shots fired, Shots fired!" The engine of the subject's vehicle stopped revving and the tires stopped spinning. Officers yelled to the subject, "Don't move!"

Officer #4 opened the subject's driver side door with Officer #2 assisting. Officer #2 removed the subject from the vehicle. Paramedics were immediately requested. Officers assisted with life-saving efforts until the arrival of paramedics. The subject succumbed to his injuries a short time later.

REASON FOR THE REVIEW

Boise City Code defines the authority and duties of the Office of Police Accountability and grants the Office the authority to investigate and evaluate the performance of Officers whenever certain criteria are met.

INVESTIGATION OF CRITICAL INCIDENTS

If a BPD Officer or employee is involved in a critical incident, defined below, as a principal, victim, witness or custodial Officer, BPD shall immediately notify the Office of Police Accountability. The Director may provide on-scene monitoring



of critical incidents and may act as a real-time observer to any criminal, administrative, or civil investigation conducted by or on behalf of BPD (e.g., the Critical Incident Task Force). The Director shall be given full access to observe interviews or any other aspects of the investigation. If the Director believes additional investigation is necessary, the Director may employ an outside investigator who will perform investigatory functions at the discretion of the Director. Critical incidents include:

- 1. Use of deadly force (excluding animals).*
- 2. Use of force or any other police or law enforcement action that results in the death of one or more persons, or serious bodily injury requiring hospital admission.*
- 3. Vehicle pursuits, roadblocks, or intercepts resulting in the death or serious bodily injury requiring hospital admission.*
- 4. Vehicular collisions resulting in death or serious bodily injury requiring hospital admission that occurred while a police Officer or police employee was operating a city vehicle (either on-duty or off-duty) or a private vehicle while on-duty.*

THE REVIEW

The Office of Police Accountability has reviewed this incident that took place several years ago. The following steps were taken during that review.

1. Review of BPD records, including reports, statements, audio, video, and photographs.
2. Ada County dispatch records and reports.
3. BPD Internal Affairs (hereinafter referred to as IA) investigative documents including statements, records, audio, reports, photographs, and diagrams.
4. Critical Incident Task Force (hereinafter referred to as CITF) investigations including reports, statements, medical records, photos, records, and audio.



DIRECTOR'S ANALYSIS

BPD policy permits Officers to utilize vehicle force methods to stop a vehicle to safeguard life and preserve public safety. Vehicle force stop methods include stop sticks (tire deflation devices) and boxing-in. The appropriate method should be based on the totality of the circumstances. BPD policy permits an Officer to use deadly force in defense of his life or the life of another when they reasonably believe that imminent danger of death or serious bodily injury exists.

When Officers located the subject for the second time, there was a warranted concern that the subject would again try to flee the area in his vehicle as he previously did about 30 minutes earlier. This would likely have resulted in him fleeing in the residential area. To mitigate the opportunity for the subject to again flee in his vehicle, Officers boxed in his vehicle with a patrol car at the front, and a patrol car at the rear. An officer also approached the rear of the subject's vehicle to place a device by the tires designed to rapidly deflate the tires when driven over. As this occurred, the subject began accelerating, revving his engine, spinning the tires on the right side of his vehicle as he attempted to drive away. This action put extreme force on both patrol vehicles blocking him in, slightly moving, and rocking them. Officer #6 believed that the subject was still armed with a large screwdriver that he used to try to stab another Officer during the prior stop thirty minutes ago. Officer #6 approached the driver's door with his weapon drawn and commanded "Stop" and "Don't Move" to the subject. Officer #6 observed the subject continuing to accelerate the engine, endangering the lives of the Officers standing adjacent to his vehicle and the Officer behind the vehicle with the tire deflation device. Officer #6 believed the subject was imminently going to free his vehicle, so he discharged his weapon at the subject in defense of these officers he reasonably believed were in imminent danger of being seriously injured or killed by the subject's vehicle.

DIRECTOR'S CONCLUSIONS

The Director finds that the BPD, IA, and the CITF investigations were thorough, objective, and complete. Finally, the Director finds no need to conduct any additional investigation of this incident.

The Director has issued the following findings with respect to the allegations.



Based on my review, I have come to the following conclusions:

1. The BPD internal review of this incident was thorough, objective, and complete.
2. I find no need to conduct any additional investigation of this incident.
3. I concur with the Office of Internal Affairs' conclusion that Officer #6 acted in a manner consistent with BPD's policy and procedures governing the use of deadly force.

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