



OFFICE OF POLICE ACCOUNTABILITY

DIRECTOR: Jesus Jara

CASE REVIEW

OPO18-0001

OIA18-0002

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Prepared by:

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THE SITUATION – JANUARY 2018

In January 2018, several Boise Police Department Officers (BPD Officers) were dispatched to a "man with a gun" call at a residence in the Franklin – Randolph neighborhood area during the early morning hours.

As BPD officers arrived, they surrounded the residence to form an effective perimeter before searching for the male subject. The "man with a gun" was reported to be sitting on the front porch of the residence.

Eventually, the subject walked into view of the officers from the carport and began to approach the officers while keeping his right hand behind his back and out of sight. Officer #1, the closest officer to the subject, ordered the male to stop and show his hands. The commands were constant, and the male subject refused to comply.

The subject continued to move forward while keeping his right hand behind his back - forcing Officer #1 to discharge his duty weapon. Officer #1 fired three times, striking the subject and ending the threat. The male subject would survive his injuries.

REASON FOR THE REVIEW

Boise City Code defines the authority and duties of the Office of Police Accountability (OPA). It 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.*

DIRECTOR'S ANALYSIS & CONCLUSION

The Office of Police Accountability has reviewed this incident. The following steps were taken during the review.

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

Before arriving on the scene, Officer #1 had learned that law enforcement had previously responded to this address for a "no-contact order" violation. Officer #1 had also received an update from dispatch – that a family member had called about her "dad," saying he was going home to die. Officer #1 believed that "dad" was the male subject that had violated the no-contact order and was also the man with the gun.

In response to this information, the circumstances of this call, and previous call history, Officer #1 was mentally prepared for a possible hostage situation or a murder-suicide. Immediately after their arrival on the scene, Officer #1 and #2 were preparing to evacuate the neighboring residence that was physically attached to the location in question (a duplex) to move the occupants to a safe place until the situation was resolved.

Before they could evacuate the adjoining residence, Officer #1 and Officer #2 heard a loud crash noise coming from the shared carport area of the duplex. These officers directed their attention to this carport because of the noise. Officer #1 located the reportedly armed male subject in the dark carport area. Officer #1 had his weapon drawn due to the extreme danger of contacting an armed subject who may be suicidal and violating a no-contact order. Officer #1's weapon was affixed with a flashlight that illuminated the male subject, who was now walking out of the dark carport. Officer #1 could see that the male was a large man with blood on his neck. The subject walked from the carport area of the residence. The subject began walking towards the street and directly toward Officer #1, who had taken a cover position behind a parked vehicle.



Officer #1, who was in full uniform with BPD markings, kept his weapon pointed at the subject and gave him numerous commands to stop and show his hands. The subject continued walking directly toward Officer #1 and offered his left hand but kept his right hand behind his back out of view. The subject maintained what Officer #1 described as a "thousand-yard stare" as he continued walking slowly toward Officer #1, failing to comply with Officer #1's multiple commands to stop and to show his hands. Officer #1 had prior Law Enforcement experience as a negotiator. He utilized this experience to develop a conversation with the male by telling him he was here to offer him help. The male subject would not verbally respond to any command or question from Officer #1. Officer #2 was near Officer #1 and attempted to get a line of sight of the male's right hand but could not do so as the male was holding it behind his back. Officer #2 took cover with Officer #1 behind the exact parked vehicle.

Based on the totality of the situation, Officer #1 believed the male with blood on his neck was armed and had possibly harmed someone inside the residence due to the loud crash heard and his failure to comply with his simple commands to stop and show his hands. When the subject was about 20 - 25 feet away, Officer #1 saw the male's right shoulder twitch, and Officer #1 believed the male was about to pull out a gun from behind his back and shoot. Officer #1 fired his weapon three times at the subject, who immediately fell back to the ground and was incapacitated. Officer #1 and other BPD officers ran to the male subject's location and began comprehensive life-saving efforts. During these efforts, it was discovered by BPD officers that the male had a small knife sticking in the flesh of his right leg and lacerations to his wrist and neck. He was bleeding from these wounds. The male was not armed with any weapons other than the knife that was stuck in the flesh of his leg. The male was treated by paramedics and transported to the hospital for further treatment. He survived his injuries.

INITIAL "MAN WITH A GUN CALL"

It was later learned that the first call made to the Boise Police Department regarding this incident was made by the male subject involved. Once the male subject told dispatchers that there was a man with a gun on the residence porch, he disconnected the call. Dispatchers attempted to call the male back, but he would not answer. Dispatchers were able to check the phone number used to make this call and learned it was a number previously used by a male subject who had police contact due to no contact violations at this residence. Dispatchers then received a call from the daughter of the male, who stated that her father told her he was coming home (to the duplex) to die. Dispatchers provided this updated information to all responding officers in this incident.

K-9 OPTION

A BPD K-9 officer who was typically assigned to this shift was off due to it being a holiday. A K-9 was not available to officers in this quickly unfolding situation as a force option.

It is likely that a K-9 Officer with a Police Dog would have been an asset to officers in this situation and would have given them another force option in stopping the threat posed by the male subject. Information obtained in this review indicated that a K-9 officer with a police dog usually works with the officers on this shift who responded to this call. However, the K-9 officer was forced to take this day off because it was a holiday (New Years Day). After further investigation, it was learned that Boise Police Department has since stopped the practice of forcing officers off on holidays to be at minimum staffing levels to conserve financial resources. BPD ceased this practice in October of 2021.



CONCLUSION

BPD Policy permits an officer to use deadly force in defense of their life or the life of another when they reasonably believe that imminent danger of death or serious bodily injury exists.

Officers responding to this call of a man with a gun were prepared for the possibility of confronting an armed subject. Additional information was provided to responding officers that indicated the male was likely suicidal and a known subject domestically associated with the residence who had previous contacts with BPD officers and possibly violated a no contact order.

Officers #1 and #2 heard a loud crashing sound in the carport area directly in front of the residence in question. Officer #1 located the male subject walking out of the carport area and could see that the male had blood on his neck. The male began walking directly toward Officer #1, who was about 80 feet away, taking cover behind a parked vehicle on the street. Officer #1 gave numerous commands to the male to show his hands and stop where he was. Officer #1 also tried to establish a rapport with the male by telling him he was there to help him and tried to establish a dialog. The male would not verbally respond to anything Officer #1 said. When Officer #1 repeatedly told the male to show his hands, he briefly held up his left hand. Still, he kept his right hand behind his back as if he was concealing something from the view of officers. Officer #2 was near Officer #1, was closely observing the male and attempting to view what was in his concealed right hand. The subject continued to walk slowly toward Officer #1 with a blank stare. When he was about 20 feet away, his right shoulder twitched, causing Officer #1 to believe the male was about to produce a gun from behind his back and begin shooting. Officer #1 fired three shots from his duty weapon at the subject, incapacitating him.

Based on the totality of the circumstances, Officer #1 reasonably believed he and other officers at the scene were in imminent danger of death or serious bodily injury. Officer #1 fired his duty weapon to stop this threat. Officer #2, who was a witness near Officer #1 as this incident unfolded, corroborated the statements of Officer #1.

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

1. The BPD, IA, and the CITF investigations were 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 (OIA) conclusion that the involved officers acted in a manner consistent with BPD's policy and procedures governing the use of deadly force.

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