



OFFICE OF POLICE ACCOUNTABILITY

DIRECTOR: Jesus Jara

CASE REVIEW

OPO17-0014

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Prepared by:

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Jesus Jara

THE SITUATION – Spring of 2017

During the morning hours in March of 2017, Boise Police Department (BPD) Officers responded to the Boise foothills regarding a male subject reportedly harassing people and threatening them with a gun.

Police arrived at the location but could not find the subject. Police interviewed witnesses, but they could not resolve the issue and departed the scene because they were unable to locate the subject.

Later that morning, police received another report from dispatch explaining that a man on a bike who had been shouting and acting erratic had shot and killed a dog. The caller gave specific directions to the location.

Police arrived and located a witness and the dead dog. The witness was distraught but could make a good description of the subject. Six Patrol Officers began to search for the subject and located him approximately one mile up the trail, hiding in the brush.

The subject started to challenge the police and would not comply with their directives. The subject then raised his handgun and fired at the police. The Officers returned fire, killing the subject on the scene.

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 that took place several years ago. The following steps were taken during the review.

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

BPD received various reports about a male subject acting erratically near the Boise Foothills. The subject had been observed riding his bike into a runner on the sidewalk, causing the runner to nearly fall. The same subject reportedly attempted to kick a dog as he passed by on his bike a short while later. These witnesses reported they observed the subject throwing his bike down, rummaging through his backpack, and producing a black handgun quickly and deliberately. The subject pointed the gun at the hiker's dog when she and her dog were about ten yards away from the subject. The hiker fled with her dog, and the subject rode his bike out of the area. Witnesses reported this incident to the Boise Police Department, and BPD Officers responded to investigate. BPD Officers took a report from the female victim and searched for the subject but could not locate him.

About an hour and a half after the first incident with the female victim, BPD Officers were dispatched to the Boise Foothills trail system (about 2 – 3 miles northeast of where the first incident occurred) regarding a report of shots being fired. A witness with their dog and another witness were walking on the trail when they encountered a male subject who was off his bike in a rocky area where people typically



walk their bikes over the rugged terrain. They passed by the subject, who got back on his bike and then rode past them on the trail in the same direction. A short distance later, the subject stopped on the left side of the trail - as if to allow the witness with the dog and the other witness to pass by on the right.

As the witness with the dog was next to the subject, he produced a handgun and shot the dog point-blank on the dog's left side. The dog owner challenged the subject as to why he had shot his dog. The subject then pointed his handgun at both witnesses and told them to back off. The witnesses fled the area in different directions and contacted other witnesses, asking them to call the police. The witness whose dog was shot then heard more-gun shots. Several witnesses called for police and explained to dispatchers that the subject had fired at least six shots after shooting the dog. Witnesses described the male subject, including his clothing and where he was last seen on the trail.

Several BPD Officers responded to the Boise Foothills area, and Officers were updated by dispatch on the shots fired by the subject as well as his physical and clothing description. The Officers received information that the male subject had likely shot at numerous people on the trails. A group of six BPD Officers searched for the subject on the trail and spotted him hiding in the brush. These six Officers broke off into two groups, one to the north of the trail and one to the south, to better monitor, observe, and communicate with the subject as they got closer to him. Officers (including one K-9 Officer) could see that the subject was visually tracking their movements as they approached. The Officers maintained a distance of approximately fifty yards from the subject.

The group of Officers observing the subject began by verbally announcing their presence to him as the Boise Police Department and for him to show his hands. In a very loud voice, one Officer told the subject that he was under arrest and for him to come out showing his hands. The subject did not comply and began to yell back at the Officers that he (had encountered) an aggressive dog. Officers were aware that the subject had at least committed the crime of reckless discharge of a firearm and aggravated assault. They also realized that he was armed, had fired several shots before their arrival, and posed a significant threat to the citizens in the area. The K-9 Officer also warned the subject that his K-9 might bite him if he did not comply. Officers continued to give the subject commands for over three minutes to show his hands and come out of the brush, but he would not comply.

The subject continued to move around while hiding in the brush and took off his backpack. Officers observed him rummaging through his backpack and retrieving an item. The male then got into a shooting position with his arms outstretched and pointed a weapon at the Officers. The K-9 Officer could see that the male was pointing a gun at the Officers in the other group. Officers could hear gunshots coming from the subject's gun and could see smoke coming out of the gun's barrel. The six Officers engaged the subject by discharging their weapons at him to stop his threat. The Officers fired sixty-two rounds from their .45 caliber handguns and (six) 12 gauge shells for a total of sixty-eight rounds. After the exchange of gunfire, the subject fell to the ground motionless.

Officers took a position above the trail in a berm that overlooked the scene. From this vantage point, they could see the subject lying on the ground. It was unknown to the Officers whether the subject was alive, wounded, or simply laying down to set an ambush. The Special Operations Unit (SOU) had been previously dispatched to the scene and arrived to clear the area. A canine was sent to the scene with the purpose of trying to see if the subject would react; the canine made contact with the subject including physical contact. The SOU Officers contacted the subject and verified that he was, in fact, deceased. A semi-automatic handgun was found next to the subject, and two spent shell casings were found near his body. The male subject was killed by gunfire from the six Officers who discharged their weapons.

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. This armed subject pointed a handgun at several people in the foothills who were walking the trails. In an abrupt and unprovoked manner, he shot and killed a dog that, according to witnesses, was not aggressive. Before the arrival of Officers, the subject's actions demonstrated a severe threat to the public. When uniformed Officers responded to investigate and contact him, he would not comply with their commands. He pointed a handgun at Officers and ultimately began shooting at them. All six Officers who were in contact with him discharged their weapons in self-defense. The actions of the involved Officers stopped the deadly threat to the public.

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 BPD's 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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