



OFFICE OF POLICE ACCOUNTABILITY

DIRECTOR: Jesus Jara

CASE REVIEW

OPO21-0042

OIA21-0363

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Prepared by:

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THE SITUATION – Fall of 2021

During the afternoon in the late Fall of 2021, several Boise Police Officers (herein referred to as BPD) were attempting to locate an adult male subject who had an arrest warrant and was believed to be suicidal. Based on the information BPD had received, the male subject was allegedly looking to jump off a building or overpass.

BPD officers were looking for the male to conduct a welfare check and take him into custody for the warrant. Additional information received ultimately led BPD officers to a location downtown where they found the subject seated behind a building.

As BPD officers approached the subject and attempted to have a dialogue with him, the subject immediately stood up and began backing away from them while reaching behind his back around his waistband. BPD officers identified themselves and gave the subject commands to show his hands. However, the subject did not comply. While facing one of the officers, the subject quickly presented himself in a shooting stance with a dark object in his right hand outstretched in the direction of one of the officers.

Two BPD officers reacted to this threat and discharged their weapons, striking the subject with gunfire. BPD officers and responding paramedics performed lifesaving efforts on the subject who was transported to the hospital by ambulance. The subject ultimately succumbed to his injuries at the hospital.

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.*

FOCUS OF THE INVESTIGATION

This investigation had, as its primary focus the deadly force used by officers, and the related sections of the BPD Policy and Procedures Manual (herein referred to as PM) in force at the time of this incident.

PM § 1.001 Use of Force / Authorization

PM § 1.003 Use of Firearms in the Line-of Duty

THE INVESTIGATION

The Office of Police Accountability opened an independent administrative investigation. The following steps were taken during that investigation.

1. Review of BPD records, including reports, statements, audio, video, and photographs.
2. Review of footage from cameras positioned on buildings in the immediate area.
3. Review of Ada County dispatch records and reports.
4. Review of BPD Internal Affairs (herein after referred to as IA) investigative documents, including statements, records, audio, reports, photographs, and diagrams.
5. Review of the Critical Incident Task Force (herein after referred to as CITF) investigation, including reports, statements, medical records, photos, records, and audio.
6. Review of the Ada County Coroner's report.
7. OPA Investigator participation in the interviews of Officers #1, and #2, in conjunction with BPD IA.



WHAT THE INVESTIGATION FOUND

Based on the preponderance of the evidence obtained and reviewed during this investigation, I issued the following findings of fact:

- Several BPD officers attempted to locate this subject at various locations throughout the city as they followed up on the information they were receiving.
- Information being received by BPD officers included the subject's desire to commit suicide by jumping off a building or freeway overpass.
- BPD officers checked area buildings and overpasses to locate the subject.
- Additional information received eventually led BPD officers to a more specific location where the subject was observed by a BPD officer working in an undercover capacity.
- The subject was seated in a vacant open space area surrounded by buildings on three sides, limiting his ability to flee when officers arrived to contact him.
- Officers developed a plan to arrive simultaneously with two officers in an unmarked vehicle to maintain the element of surprise when contacting the subject and further limit his ability to flee successfully.
- Additional BPD officers were staged in the area to form a perimeter for further containment should the subject successfully flee the officers approaching him.
- Officer #1 and Officer #3 approached the location in Officer #1's unmarked police vehicle, stopping near the center of the open area where the subject was seated.
- Officer #2 followed behind Officers #1 and #3 in his marked police vehicle and stopped adjacent to the South corner of the opening.
- Officer #4 parked his marked police vehicle in the adjacent parking lot and approached the North corner of the opening on foot as the other officers were arriving.
- When Officer #1 stopped his unmarked police vehicle, he and Officer #3 exited.
- Officer #3 moved to a position at the South corner of the opening, and Officer #1 advanced to the North corner of the opening.
- Officer #2 exited his police vehicle adjacent to the South corner and quickly took up a position next to Officer #3.
- As Officer #3 was moving to the South corner, he yelled to the subject, "Boise Police, you are under arrest... show me your hands."
- Immediately as Officer #3 was yelling this command, the subject stood up and began to back up while placing his right hand behind his back near his waistband area.
- Officer #1 then yelled, "Show me your hands, I don't want to do this."
- The subject then abruptly got into a crouched shooting stance facing toward Officer #1 with his arms outstretched in a shooting position with a black object in his right hand pointed directly at Officer #1.
- Officer #2, who was standing next to Officer #3, observed this action and discharged his weapon at the subject.
- Officer #1 discharged his weapon at the same time as Officer #2.
- The subject was struck by gunfire and was immediately immobilized, falling to the ground.
- Officers obtained a ballistic shield, approached the subject, and began lifesaving first aid efforts.
- Officers learned that the subject did not have a firearm but had been holding a dark-colored speaker device.



- The subject was transported to St. Alphonsus hospital, where he eventually succumbed to injuries.

DIRECTOR'S ANALYSIS & CONCLUSION

Pursuant to PM § 1.003

BPD policy permits an officer to use deadly force in defense of his life or the life of another when he or she, "reasonably believes that imminent danger of death or serious bodily injury exists" (PM § 1.003). Officers #1 and #2 observed the subject pointing a dark-colored object at Officer #1 while in a crouched shooting stance. Based on the totality of the subject's actions, Officers #1 and #2 reasonably believed that the subject was about to shoot Officer #1 with what appeared to be a weapon in his hand. Officers #1 and #2 discharged their weapons at the subject in defense of Officer #1 and others in the area who may have been struck by gunfire.

Pursuant to PM § 1.001

The decision to use force "should be based on the facts and circumstances of each particular case, including the severity of the crime, whether the subject poses an immediate threat to the safety of the officer or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight." The facts and totality of the circumstances demonstrate the appearance of imminent danger to Officer #1. Officers #1 and #2 reasonably believed that it was necessary to use deadly force to prevent imminent danger of death or serious bodily harm to Officer #1 and anyone else in the area that may have been hit by gunfire from the subject.

A finding of **EXONERATED** has been issued with respect to Officer #1 use of deadly force in the matter in question. Exonerated is defined as a specific act or omission of the police officer or police employee that was justified, lawful, and proper.

A finding of **EXONERATED** has been issued with respect to Officer #2 use of deadly force in the matter in question. Exonerated is defined as a specific act or omission of the police officer or police employee that was justified, lawful, and proper.

The Director also 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.

CRISIS INTERVENTION

Of note, during the OPA investigation – the office learned that a Crisis Intervention Team (CIT) member was a part of the group of officers that contacted the subject. However, due to the subject response upon seeing the officers – there was no opportunity for dialogue. The subject reached for his waistband within two seconds of the officers making contact, and nine seconds later simulated the raising of a weapon from a shooting stance. The entire incident lasted a total of thirteen seconds from the arrival of officers to the scene.



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