



USE OF FORCE INVESTIGATIVE REPORT

DATE OF INCIDENT: 03-08-2023

INVOLVED PERSON: Gavin Donithorne

INVOLVED BPD OFFICER: Ofc. Nicholas Quintana

INVOLVED BPD OFFICER/WITNESS: Cpl. Brad Griffin

OPA: 023-0023

OIA: 023-0060

DATE OF REPORT: 03-14-2024

CASE SYNOPSIS

On March 8, 2023, Boise Police Department (BPD) officers were actively searching for Gavin Donithorne. Mr. Donithorne had a history of violent behavior and threats directed toward his family members and others. Mr. Donithorne was also on felony parole in Oregon. Family members reported that Mr. Donithorne was traveling to Boise from Oregon to carry out recent threats he had made against them.

An Ada County Sheriff's Department Deputy spotted Mr. Donithorne's car in the Boise area. The deputy attempted to stop the vehicle. Mr. Donithorne fled from the attempted traffic stop at a high rate of speed. Officers initially pursued Mr. Donithorne's car. They called off the vehicle pursuit because of Mr. Donithorne's dangerous driving but continued to search for him.

A short time later, Cpl. Griffin and Ofc. Quintana, riding together in a patrol car, saw Mr. Donithorne in traffic and positioned their car behind him. He pulled into a business parking lot and stopped his car. Cpl. Griffin and Ofc. Quintana stopped behind him. As the officers were getting out of their car, Mr. Donithorne got out of his car and pointed what appeared as a handgun directly at Cpl. Griffin. Ofc. Quintana and an assisting Ada County Deputy fired several shots from their duty handguns at Mr. Donithorne. Mr. Donithorne was struck once in the upper torso. He fled on foot for several blocks then surrendered to officers who were chasing him. He was taken into custody and provided with medical aid. Mr. Donithorne survived his injuries.

DETAILED DESCRIPTION OF INCIDENT

On March 8, 2023, BPD began searching for Gavin Donithorne after family members reported that he was traveling from Oregon by car to carry out recent threats he had made against them. BPD determined that probable cause existed to arrest Mr. Donithorne for felony stalking as a result of these threats.

Family members reported that Mr. Donithorne had a history of violent and threatening behavior against them and others. They also reported a history of mental illness. BPD learned that Mr. Donithorne was on parole in Oregon after being convicted of felony assaults there. Mr. Donithorne had allegedly committed parole violations and an Oregon arrest warrant was being issued because of these violations.

At approximately 10:19 am, an Ada County Sheriff's Department deputy spotted Mr. Donithorne's car traveling on State Street near Eagle Road. The deputy attempted to stop the car, but Mr. Donithorne refused to comply, and a pursuit ensued. Officers observed Mr. Donithorne driving recklessly at speeds of over 100 mph during the pursuit. After the pursuit entered Boise, Cpl. Griffin and Ofc. Quintana, driving a marked patrol car, positioned themselves ahead of Mr. Donithorne. They attempted to deploy Stop Sticks to flatten his tires. They were unable to get the Stop Sticks in place before Mr. Donithorne sped past them. The active pursuit was called off due to the risks posed by Mr. Donithorne's excessive speed and dangerous driving.

Officers continued to follow Mr. Donithorne seeking an opportunity to arrest him. Officers observed him driving recklessly as he attempted to avoid them.

At approximately 10:42 am, Cpl. Griffin and Ofc. Quintana saw Mr. Donithorne's car on Apple Street approaching the intersection of Boise Avenue. Ofc. Quintana's on-body video camera was activated and captured the incident. A security camera at a nearby business also recorded the shooting portion of the incident. Cpl. Griffin's on-body video camera was not activated.

As Cpl. Griffin and Ofc. Quintana pulled in behind Mr. Donithorne, he turned into a business parking lot and stopped his car as there was no exit. The officers stopped behind him and got out of their patrol car. Ofc. Quintana gave two clear commands to "show your hands," as Mr. Donithorne stepped out of his car. Mr. Donithorne then took a shooting stance and pointed what appeared to be a black handgun directly at Cpl. Griffin. Ofc. Quintana then fired several shots from his duty handgun at Mr. Donithorne. Mr. Donithorne also pointed what officers believed to be a gun at Ofc. Quintana. Mr. Donithorne then turned away from officers and began to run towards a nearby fence. He maneuvered around the fence as he fled from officers. Ada County



Sheriff's Department Sgt. Santucci had arrived and was positioned to assist the BPD officers. Sgt. Santucci fired at Mr. Donithorne who still had the pistol in his hand. Mr. Donithorne ran several blocks down the street with officers chasing him. He dropped or discarded the gun during the foot chase. He then ran onto a nearby lawn, laid down and surrendered to officers. He was taken into custody and provided medical care for a gunshot wound to the left side of his chest below his armpit. He survived his injuries. Mr. Donithorne was later convicted of Fleeing or Attempting to Elude a Police Officer and Aggravated Battery on a Police Officer.

Mr. Donithorne's handgun was recovered along the route that he ran. It was determined to be a compressed air BB gun that was nearly identical in size and appearance to an actual Beretta handgun. It did not have orange color marking on the muzzle that is typically found on BB guns and airsoft guns that otherwise replicate real firearms.

During the shooting incident, Cpl. Griffin saw Mr. Donithorne point the handgun directly at him. Cpl. Griffin believed it was a real handgun and ducked down to avoid being shot. He then heard sounds he recognized as a BB gun firing. He did not fire at Mr. Donithorne because he then believed Mr. Donithorne had a BB gun as opposed to a real handgun. This occurred while Ofc. Quintana was firing at Mr. Donithorne.

SCOPE OF REVIEW

Boise City Code Title 2 Chapter 10 defines the authority and duties of the Office of Police Accountability (OPA). As the City's police oversight entity, the OPA is authorized to investigate and evaluate the conduct of Boise City police officers involved in critical incidents. Critical incidents include the 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. OPA is also authorized to make BPD policy, procedure, practice, and training recommendations to the Mayor, the City Council, and the Chief of Police.

BOISE POLICE DEPARTMENT POLICY¹

A. 1.001 USE OF FORCE/AUTHORIZATION

The legal standard for use of force generally by officers.

¹ https://www.cityofboise.org/media/16346/bpd-policy-manual_11152023-version-11-new.pdf, *This manual has since been updated but no substantive changes have been made to the referenced policies, See BPD Legacy Manual pages 28 and 29 and Updated Manual pages 160 and 161.*



B. 1.003 USE OF FIREARMS IN THE LINE OF DUTY

Firearms may be used by officers to “protect themselves or others from what they reasonably believe to be an imminent danger of death or serious bodily injury.”

INVESTIGATIVE FINDINGS

A. CRITICAL INCIDENT TASK FORCE FINDINGS:

After the shooting incident, the Ada County Critical Incident Task Force (CITF) was activated, led by the Meridian Police Department. The CITF conducted a forensic investigation of the scene, interviewed witnesses, interviewed the involved officers, collected dispatch records and audio/video evidence, and produced numerous reports. The investigation was detailed and thorough. The Blaine County Prosecuting Attorney reviewed the investigation and determined the officer's actions were justified under Idaho law.

B. BOISE POLICE DEPARTMENT FINDINGS:

BPD conducted an administrative review of this critical incident, which included reviewing the CITF investigation in its entirety and administrative interviews with both officers. BPD's administrative review concluded that Ofc. Quintana was faced with an immediate threat to his life as well as to the life and safety of Cpl. Griffin and that Ofc. Quintana's use of lethal force in response to that immediate threat did not violate applicable law or policy.

BPD also concluded that BPD Policy 17.020 (Audio/Video Recording) was violated when Cpl. Griffin did by not timely activate his on-body video camera.

BPD has recommended the following additional training be conducted:

- Stop Stick deployment
- Felony cars stop tactics
- Preplanning communications
- Force on force scenarios
- Incorporating on-body video activation into training scenarios
- Incorporating planning over the radio into training scenarios
- Awareness training concerning the effect of on-body video cameras being in sleep mode
- Supervisor training in command and control and pre-planning communications

C. OFFICE OF POLICE ACCOUNTABILITY FINDINGS:

OPA agrees that Ofc. Quintana was justified in using deadly force against Mr. Donithorne.



At the time he used deadly force against Mr. Donithorne, Ofc. Quintana knew that probable cause existed to arrest Mr. Donithorne for felony offenses including stalking and fleeing or eluding an officer. The stalking offense involved threats of violence against his family members. The eluding offense involved endangering the public by driving recklessly and at speeds in excess of 100 mph. Ofc. Quintana also knew that Mr. Donithorne was on felony parole in Oregon, and that an arrest warrant resulting from parole violations was being issued.

It was reasonable for Ofc. Quintana to believe that the weapon Mr. Donithorne pointed at Cpl. Griffin (and Ofc. Quintana) was an actual handgun. It was identical in size and appearance to a real handgun.

Ofc. Quintana could reasonably conclude that based on Mr. Donithorne's history of making threats and escalating violent behavior, he presented a continuing threat of harm to his family, the public, and to law enforcement if he were to escape. A high school was in session a short distance from the scene of the incident.

When Mr. Donithorne pointed a weapon directly at Cpl. Griffin and Ofc. Quintana, he presented an immediate threat of death or serious bodily injury to both officers. Ofc. Quintana correctly assessed that it was reasonable and necessary to use deadly force against Mr. Donithorne in defense of Cpl. Griffin and in self-defense.

As soon as practicable after the shooting, officers rendered medical aid to Mr. Donithorne at the scene. He was quickly transported to the hospital by medical personnel.

Given the imminent nature of the threat of being shot, less lethal force options, such as a taser or pepper spray, were not appropriate or reasonable for the officers to use in this situation.

Based on the OPA review and analysis of the facts and circumstances of this case, OPA concurs with the CITF and BPD investigations that Ofc. Quintana's actions were reasonable and necessary when officers faced an imminent threat of being shot with a handgun. Ofc. Quintana's actions were consistent with BPD policy and complied with the applicable legal standard for use of force by law enforcement officers. OPA also concurs with BPD's finding that BPD policy was violated when Cp. Griffin failed to activate his on-body video as required.

POTENTIAL CONTRIBUTING FACTORS AND MITIGATION EFFORTS

Several factors contributed to this critical incident. First, Mr. Donithorne pointed what appeared to be a handgun directly at an officer, which created an immediate threat to the lives of the officers.

Second, Mr. Donithorne failed to cooperate during every interaction with officers. Mr. Donithorne had numerous opportunities to comply with officers before deadly force was used against him. Rather than fleeing, he could have cooperated during the initial attempted traffic stop. At any point during the pursuit, he could have pulled over and surrendered. When confronted by Ofc. Quintana and Cpl. Griffin, he could have complied with commands and been arrested without further incident.

Third, Mr. Donithorne clearly demonstrated an escalating, imminent threat to his family, the officers and the public. Mr. Donithorne, in a short amount of time, made specific and violent threats toward family members, created a serious risk to the public at large by driving recklessly at high speeds in heavy traffic, and aimed what appeared to be a firearm at officers in front of a high school and in a busy intersection.

It is unknown whether Mr. Donithorne's escalating dangerous behavior was attributable to the reported mental health crisis, an unidentified factor, or a combination of factors. There is no information in the investigation that indicates substance use contributed to the incident. In addition, while Mr. Donithorne's threats to family members had been previously reported to BPD, there is no evidence that BPD officers ever had contact with Mr. Donithorne, as he resided in Oregon.

OPA recognizes the effective mitigation efforts by BPD officers in the response to this incident. Officers terminated the active vehicle pursuit after Mr. Donithorne began driving recklessly at high speeds in high volume traffic. They adjusted their plan by maintaining visual contact while seeking an opportune time to arrest him. After the shooting and foot chase, officers slowed their actions down and calmly took Mr. Donithorne safely into custody. They assessed his wound, rendered medical aid at the scene, and enabled a prompt response by emergency medical personnel.

OPA will continue to track data on potential contributing factors for evaluation of community support and response and aggravating or mitigating efforts by officers to inform best policing practices.

RECOMMENDATIONS

OPA concurs with BPD's training recommendations and has no additional recommendations. OPA concurs with BPD's finding that BPD policy was violated when Cp. Griffin failed to activate his on-body video as required.

LINK TO DOCUMENTS

BPD news releases, officer body worn camera video, and Critical Incident Task Force reports may be viewed at: <https://www.cityofboise.org/departments/police/critical-incidents/> under "2022 Critical Incidents," "March 8, 2023 – Boise Ave. and Apple St."

REPORT PREPARED BY:

William R. Long, OPA Investigator
Nicole McKay, OPA Director