



# USE OF FORCE INVESTIGATIVE REPORT

**DATE OF INCIDENT:** 07/26/2023

**INVOLVED PERSON:** Macey J. Juker

**INVOLVED BPD OFFICER:** Ofc. Dominic Rogers

**INVOLVED BPD OFFICER:** Ofc. Ryan Pollard

**INVOLVED BPD OFFICER:** Ofc. Chase Fiddler

**INVOLVED BPD OFFICER:** Sgt. Kirk Rush

**INVOLVED BPD OFFICER:** Ofc. Craig Sousa

**INVOLVED BPD OFFICER:** Sgt. Jason Pietrzak

**WITNESS BPD OFFICER:** Ofc. Jonathon Howarth

**WITNESS BPD OFFICER:** Ofc. Jacob Lee

**OPA:** OPA24-0060

**OIA:** OIA23-0148

**DATE OF REPORT:** 08/20/2024

## CASE SYNOPSIS

On the night of July 26, 2023, BPD Officers responded to a dispatched 911 crisis call in a residential neighborhood of Boise's North End. Ofc. Lee contacted the 911 caller, Macey Juker, by telephone. During the telephone conversation, Ofc. Lee learned that Mr. Juker had consumed alcohol, purchased heroin, and was exhibiting signs of a mental health crisis. Ofc. Lee attempted to engage Mr. Juker in further conversation but Mr. Juker stopped responding, though he remained on the call. Ofc. Lee then heard Mr. Juker fire several rounds from a rifle.

Multiple BPD officers responded to assist. Officers determined that Mr. Juker was firing shots while on foot in the neighborhood. Officers located Mr. Juker outdoors in a dimly lit area. Mr. Juker fired his rifle at arriving officers. Officers returned fire striking Mr. Juker with multiple shots. Mr. Juker died at the scene as a result of his injuries.

## DETAILED DESCRIPTION OF INCIDENT

On July 26, 2023, at approximately 10:24 pm, Mr. Juker called 911. He reported that there were people outside his house "trying to get in and kill me." Mr. Juker responded very slowly to the dispatcher's questions. He told the dispatcher that he had an "assault rifle" and that "radiation is melting my brain."

The call was assigned to Ofc. Lee. While responding to the call, Ofc. Lee set up a staging area a short distance away. He then contacted Mr. Juker by telephone. During the telephone conversation it became apparent that Mr. Juker was likely suffering from a mental health crisis. Mr. Juker told Ofc. Lee that he was "really drunk" and that he had bought some heroin. Ofc. Lee inquired if Mr. Juker was thinking of hurting himself or

others, and Mr. Juker answered yes to being suicidal, but did not respond to the question of whether he was homicidal. Ofc. Lee then heard a series of gun shots coming from the direction of Mr. Juker's residence a few blocks away. He heard the same gunshots over the phone. Officers realized that Mr. Juker was firing a weapon while on foot in the neighborhood.

Numerous officers responded to locate Mr. Juker. Officers were wearing full police uniforms, operating marked police vehicles, and were equipped with on-body video cameras. Their cameras functioned properly and captured the incident.

During the initial police response into the neighborhood, Sgt. Rush and Ofc. Pollard parked in a dimly lit area to listen for gunfire and attempt to locate the suspect. Immediately upon getting out of their cars, Mr. Juker walked up on them. He was holding an AK-47 style rifle. Officers gave Mr. Juker commands with which he initially complied. He placed the rifle on the trunk of a nearby car. Officers had him move closer to them so that he would be farther from the rifle. Mr. Juker obeyed commands and assumed a kneeling position in the street. Because officers were concerned that he may have a concealed handgun or other weapons, they waited for additional officers to arrive before coordinating a custody plan.

As Officers Rogers, Fiddler, Sousa, and Sgt. Pietrzak were arriving, Mr. Juker jumped to his feet and sprinted to where he had placed the rifle. Officers commanded him to stop. Mr. Juker grabbed the rifle, ran a few more steps, turned and fired towards officers. Officers were aware that he was also firing toward multiple occupied homes.

Officers fired at Mr. Juker in response to his actions. A review of the on-body video footage shows that officers' shots likely struck Mr. Juker during this initial exchange of gunfire. Despite this, Mr. Juker ran approximately 25 yards farther, turned and again fired toward officers and nearby homes. Officers returned fire striking Mr. Juker. He fell to the street and continued to fire at officers while lying in the street. Officers fired at Mr. Juker several more times eventually incapacitating him.

Officers quickly organized a custody team, which utilized a patrol car as a rolling bunker, a ballistic shield, and a police K9 to take Mr. Juker into custody. Officers provided medical aid to Mr. Juker until emergency medical personnel arrived. Mr. Juker died at the scene because of his wounds.

The ensuing Critical Incident Task Force (CITF) investigation revealed that Mr. Juker fired multiple rifle shots near his residence, as he moved throughout the neighborhood, and during the engagements with police officers. Five spent shell casings from his rifle were

found near his residence. Seven spent shell casings from his rifle were found near where the final exchange of gunfire occurred. Because the scene was a large outdoor area, it is likely that not all of Mr. Juker's spent shell casings were recovered.

The CITF investigation found that Sgt. Pietrzak, Sgt. Rush, Ofc. Pollard, Ofc. Fiddler, Ofc. Sousa, and Ofc. Rogers each fired their weapons at Mr. Juker at different times and from different vantage points during the incident. The investigation found that Mr. Juker was struck by more than eight rounds fired by officers before he stopped firing at them.

## **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 POLICY<sup>1</sup>**

### **A. 1.001 USE OF FORCE/AUTHORIZATION**

The legal standard for use of force generally by officers.

### **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 Garden City 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 Gem County Prosecuting Attorney reviewed the CITF investigation and determined that each officers' use of deadly force against Mr. Juker was justified under Idaho law.

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<sup>1</sup> This policy manual has been updated effective April 1, 2024, See <https://www.cityofboise.org/media/16346/bpd-policy-manual-4124.pdf>. The referenced policies in effect at the time of this incident are attached to this report.



## **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 each involved officer. BPD's administrative review concluded that by pointing and firing a rifle multiple times at officers and toward occupied homes, Mr. Juker presented an imminent threat of death or serious injury to officers and members of the public. Each officer's use of lethal force in response to that immediate threat was reasonable and did not violate applicable law. BPD found that the officers' actions were compliant with existing BPD policies. BPD identified no additional training recommendations specific to the individual officers involved in this incident.

BPD noted that Ofc. Lee's decision to initially stage away from the scene and contact Mr. Juker by telephone to gather first-hand information was well thought out and consistent with standard BPD de-escalation protocols. When Mr. Juker began firing his rifle, it created an exigent circumstance requiring officers to move in and locate him.

BPD found this critical incident highlighted the continuing need to emphasize certain key aspects of BPD's operational philosophy:

### **Supervision**

BPD found that arriving supervisors should have asserted operational oversight sooner to coordinate resources and direct incoming officers' route of travel to the crisis point. BPD recognized that this effort was complicated by the fact that initially officers did not know the suspect's location. The armed suspect walked up on Sgt. Rush and Ofc. Pollard as soon as they arrived, interrupting their coordination efforts.

### **Suspect Control**

BPD found that prior to the suspect fleeing to obtain the rifle, officers placed him in a kneeling position for approximately 90 seconds and that no one was communicating with him during this time. BPD found that officers should have used better communications with the suspect as they waited for additional resources to arrive to take him into custody.

### **Training and Philosophy**

BPD recommended that the Training Division and BPD leadership continue to emphasize the general principles of early supervisory involvement, incident communications, and overall de-escalation at every opportunity.

### C. OFFICE OF POLICE ACCOUNTABILITY FINDINGS:

OPA concurs with BPD's findings regarding operational oversight and suspect engagement, and recognizes the challenges presented during the incident that impacted their preplanning, coordination, and communication.

OPA finds that Ofc. Lee complied with existing BPD de-escalation policy by establishing a staging area and making telephone contact with Mr. Juker. By firing his rifle, Mr. Juker created an exigent circumstance forcing officers to immediately move in and begin searching for him.

Upon contacting Mr. Juker, officers gave commands, separated him from his rifle, and began directing arriving officers to their location. While officers were coordinating additional resources, officers missed an opportunity to continue a dialogue with Mr. Juker in an attempt to maintain compliance. Again, OPA recognizes this effort was complicated due to the limited number of officers present at the time of contact, the compressed time frame in which this incident unfolded, and the continuing threat posed by Mr. Juker (officers did not know whether Mr. Juker had additional firearms on his person).

When Mr. Juker sprinted toward his rifle, officers gave additional commands and attempted to gain compliance without using force. By firing his rifle toward officers and occupied homes, Mr. Juker presented an imminent threat of death or serious injury to officers, occupants of nearby homes, and the public generally. For this reason, each officers' use of deadly force against Mr. Juker was reasonable, necessary, and consistent with BPD policy and the applicable legal standard for use of force by law enforcement officers.

Once Mr. Juker was incapacitated, supervisors quickly made and directed an effective custody plan. Officers provided on-scene medical care to Mr. Juker until emergency medical personnel arrived.

## **POTENTIAL CONTRIBUTING FACTORS AND MITIGATION EFFORTS**

Several factors contributed to this critical incident.

First and foremost is Mr. Juker's conduct. He armed himself with a rifle and fired multiple shots in his neighborhood forcing police to respond and confront him. When they located him, he initially complied with their commands. He put his rifle down, moved toward officers with his hands up, and took a kneeling position as instructed. For no apparent reason, Mr. Juker sprang to his feet and retrieved his rifle. Despite officers' commands to stop and drop his rifle, he ran a few steps, turned, and fired toward

officers and occupied homes. Officers fired on Mr. Juker in response, likely wounding him.

As officers continued to give commands, Mr. Juker moved again, turned, and fired several more shots at officers. He was struck with multiple rounds and died because of his wounds.

Mr. Juker's actions demonstrate a deliberate effort to force an armed confrontation with officers. He could have stopped the confrontation at any point by complying with officers' commands. He could have chosen not to shoot at officers and toward nearby homes.

Mr. Juker told Ofc. Lee that he was very drunk and had recently purchased heroin. Mr. Juker's blood alcohol concentration (BAC) was .432. Given this high BAC, alcohol was a contributing factor to this incident, though it is unknown to what degree. There is no evidence of any previous mental health or substance abuse-related incidents or violent conduct with law enforcement.

Ofc. Lee's initial efforts were designed to slow things down, learn more information, and de-escalate the situation. When forced to act, officers quickly located Mr. Juker as he moved through the dimly lit residential neighborhood firing a rifle.

Officers used restraint, gave commands, and attempted to resolve the matter without using force. When faced with an imminent deadly threat, officers responded with disciplined, accurate gunfire in a tense and rapidly evolving situation.

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

## **RECOMMENDATIONS**

OPA concurs with BPD's findings and training and procedural recommendations concerning this incident. OPA supports BPD in its efforts to balance dynamic tactics and firearms training with training emphasizing command and control, slow tactics, de-escalation, communication and less-lethal tools during high-risk events.

OPA also recognizes the proactive policy development and ongoing training by BPD since this incident. BPD is training all sworn officers on the new polices, which emphasizes pre-planning, gathering appropriate resources, controlling the pace,

constant communication between officers, supervisors and involved individuals, de-escalation, and report documentation.

With policy updates and subsequent training aligned, OPA has no additional recommendations. OPA will review future use of force incidents occurring after the effective date of these policies and will be assessing this training's impact in the field.

## **LINK TO DOCUMENTS**

The Critical Incident Task Force report, the officer body-worn camera video, and BPD news releases of this critical incident may be viewed at:

<https://www.cityofboise.org/departments/police/critical-incidents/> under "2023 Critical Incidents" and July 26, 2023".

### **REPORT PREPARED BY:**

William R. Long, OPA Investigator

Nicole McKay, OPA Director

## **BOISE POLICE DEPARTMENT REFERENCED POLICIES**

### **1.000 Use of Force**

#### **1.001 Use of Force/Authorization**

Force is a deliberate and intentional application of effort by a police officer on another person.

A police officer shall never employ unnecessary force or violence and shall use only such force in the discharge of duty as is objectively reasonable in all circumstances. 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 suspect poses an immediate threat to the safety of the officer or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. While the use of force is occasionally unavoidable, every police officer shall refrain from unnecessary infliction of pain or suffering and shall never engage in cruel, degrading, or inhumane treatment of any person.

Under *Graham v. Connor*, 490 U.S. 386 (1989), Officers will only apply force reasonably believed to be necessary under the circumstances. When determining when to apply force, consider the totality of the circumstances including the following.

- Immediate threat of the suspect to the officer/(s) or public
- Level of resistance offered
- The severity of the crime.

Force intentionally applied in excess of what is reasonably necessary, or in circumstances where there is no justification for its use, is an excessive application of force.

Officers will use de-escalation techniques to prevent or reduce the need for force when safe and feasible to do so based on the totality of the circumstances. This includes continually assessing the situation and modifying the use of force as circumstances change, consistent with officer safety.

Examples of de-escalation techniques include but are not limited to:

- Utilizing verbal skills and providing a warning prior to the use of force.
- Determining whether the officer may be able to stabilize the situation through the:
  - o use of time, distance, or positioning to isolate and contain a subject,
  - o request of additional personnel to respond or make use of specialized units or equipment and alternate resources including crisis-intervention team trained officers.

In the discharge of their duties an officer may encounter a dynamic situation requiring immediate action where time does not allow for the de-escalation techniques listed above.

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### **1.003 Use of Firearms in the Line of Duty**

An officer shall be authorized to discharge firearms in the line of duty under the following conditions:

- To use their firearm to protect themselves or others from what they reasonably believe to be an imminent danger of death or serious bodily injury.
- To use their firearm to affect the capture or prevent the escape of a felony suspect whose freedom is reasonably believed to represent a significant threat of serious bodily injury or death to the officer or other persons.
- During firearms training sessions as directed by the firearms instructors.
- To shoot an animal as outlined in Treatment of Animals.

An officer shall not discharge firearms:

- As a warning
- When the discharge of the weapon may unreasonably endanger the lives of persons not involved in the commission of the crime in progress.