



Received and Approved by:
IA Commanding Officer Acting
Captain David Jackson or
Acting Lieutenant Scott
Konczal
Initial: DJ
Date: 1/18/2024

PORTLAND POLICE BUREAU
Professional Standards Division: Internal Affairs
Confidential Investigative Report

Incident Date: November 19, 2022
Internal Affairs Case: 2022-B-0049
PPB Case: 22-803367
Review Conducted By: Investigator Stacey ROVINELLI (primary) *SAE*
Investigator Eric STOUT
Training Review
Conducted By: Lieutenant Casey HETTMAN

Involved Members:

Member Name	DPSST	Assignment	Area of Review	Area Number
1. Officer Christopher SATHOFF	58857	East Precinct	Deadly Force	1

Reviewed Members:

Member Name	DPSST	Assignment	Area of Review	Area Number
1. Sergeant Adam SPEER	51964	East Precinct	Procedure	2, 3
2. Sergeant Richard STEINBRONN	32940	East Precinct	Procedure	3
3. Sergeant Jason WOLF	35396	East Precinct	Force, Procedure	2, 3

Witness Members:

Member Name	DPSST	Assignment
Officer Israel HOLSTI	49650	Central Precinct
Officer Kenneth JACKSON	50090	K9
Officer Kayla POSTULA	59627	Central Precinct

Civilian Witnesses:

Brian GARDNER
Tanya GARNER
Stephanie LASLEY
Ayah SIBAI

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Decedent:

Immanuel Jaquez CLARK JOHNSON

Police Bureau Directives:

The following Police Bureau Directives were applicable to the Officer Involved Shooting investigative analysis, and were in effect when the Officer Involved Shooting occurred:

- | | | |
|----|--|-----------------------|
| 1. | 1010.00 – Force, Use of Deadly Force | Effective: 11/15/2022 |
| 2. | 1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures | Effective: 09/27/2017 |
| 3. | 0315.30 – Satisfactory Performance | Effective: 05/15/2020 |
| 4. | 0640.10 – Crime Scene Procedures | Effective: 09/06/2001 |

Areas of Review: 1-3

1. The Application of Lethal Force (FORCE) (Officer Christopher SATHOFF) (Directives 1010.00 – Use of Force; 1010.10 - Deadly Force and In-Custody Death Reporting and Investigation Procedures; 315.30 – Satisfactory Performance)
2. Operational Planning and Supervision (PROCEDURE) (Sergeant Adam SPEER and Sergeant Jason WOLF) (Directive 315.30 - Satisfactory Performance)
3. Post Shooting Procedures (PROCEDURE) (Sergeant Adam SPEER, Sergeant Richard STEINBRONN, Sergeant Jason WOLF) (Directives 1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures; 640.10 – Crime Scene Procedures; 315.30 – Satisfactory Performance)

Incident Overview:

This is an administrative review of an officer involved use of deadly force. The following report will summarize the actions of officers before, during, and after the Officer Involved Shooting (OIS) on Saturday, November 19, 2022, at approximately 0040 hours. The OIS occurred in the parking lot of Reedwood Friends Church located at 2901 SE Steele Street (St.) in Portland, Oregon.

At 0024 Geo MENDEZ called -911 to report someone tried to “rob” him at gunpoint at the Super Deluxe on Powell Blvd. He described the vehicle as an unknown color sedan occupied by three to four people. The gunman was wearing a black ski mask and a black hoodie. He saw one gun and described it as a handgun, possibly a Glock. He said the suspects were all males and “definitely white”. No description was given on anyone else in the vehicle. Computer aided dispatch (CAD) notes reflected the following:

Initial Remarks: COMP ROBBED AT GP.

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CT4 62858 DIAZ, VINESSA on 0:26 Sat Nov 19 2022
(M): COMP IN A GRY 2003 LEXUS, BEHIND THE STORE. SUBJS LEFT IN A
VEH-- UNK COLOR SEDAN L/S WB ON POWELL
CT4 62858 DIAZ, VINESSA on 0:27 Sat Nov 19 2022
(M): 3-4 SUBJS IN VEH, ALL M... ALL WM, HANDGUN... GUNMAN WEARING A
SKI MASK, BLK HOODIE. NO BETTER ON OTHERS.

At 0031hours, Sgt. Michael FRANCIS noticed a dark grey sedan traveling SB on Cesar Chavez/Powell at a high rate of speed. Sgt. FRANCIS lost the vehicle south of Holgate on Cesar Chavez. He said the vehicle was traveling about 75-80 mph. At 0034hours, Air2 picked up the vehicle, west bound, on SE Steele St. from SE 32nd Ave. The tactical flight observer (TFO), Sgt. Daniel BARNARD, in Air2 announced the vehicle turned into 2901 SE Steele St. and stopped on the north side of Reedwood Friends Church.

As Air2 reported the behavior of the occupants, a plan was created by members on SE Steele St. Two vehicles with various resources to include, K9 (Officer Kenneth JACKSON) and 40mm less lethal (Officer Kayla POSTULA) in one vehicle, along with a rifle operator (Officer Christopher SATHOFF), verbal commands/hands (Sgt. Adam SPEER) and hands on/free (Officer Israel HOLSTI) in the other vehicle, approached the suspect vehicle to do a high risk stop. As the two police vehicles approached and took their positions, they activated their emergency lights and take down lights. Two males ran north from the vehicle, one male stayed in the rear driver's side seat of the vehicle, while a female walked to the west of the vehicle.

Shortly after the two males ran, Officer SATHOFF fired three shots from his Police Bureau issued AR-15. Officer SATHOFF aimed/hit the male who came from the driver's compartment of the vehicle; causing him to fall between two vehicles in the parking lot just north of their location.

It was not announced/not known at the time that the male, later identified as Immanuel Jaquez CLARK JOHNSON; 06/27/1992 was hit. Air2 followed the other subject who ran and directed officers to his location; he was captured and identified as Damon DUBOISE; 04/16/72. Officers at the suspect vehicle took the other two into custody, Abel REYNA; 08/13/84 and Stephanie LASLEY; 05/17/94.

During the custody of the others, Officer JACKSON announced he could hear someone yelling for help just north of their location. Air2 went back to the suspect vehicle and observed Mr. CLARK JOHNSON on the ground, north of the officers. Mr. CLARK JOHNSON moved occasionally but was not mobile. A custody team took Mr. CLARK JOHNSON into custody. Officers immediately rendered medical aid to Mr. CLARK JOHNSON until American Medical Response (AMR) took over. Mr. CLARK JOHNSON was transported to OHSU with one gunshot wound to his lower left back area. Mr. CLARK JOHNSON died at the hospital on November 21, 2022. Portland Fire Bureau (PFB) run sheets show that PFB dispatch was notified at 00:42:27; AMR was on scene at 00:48:49; and AMR was with the patient at 01:07:18

After the force event, Sgt. WOLF took incident command and delegated specific tasks to others on scene.

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NOTE - Prior to reading this report, it would be helpful to view the Air2 footage.

Staffing:

There were ten available units listed on the UDAR under East Precinct's "E" shift, (2200-0800). They were -4 minimum staffing.

Precinct of Occurrence: This incident originated in East Precinct. However, the OIS occurred within Central Precinct's boundaries.

Internal Affairs Response:

On November 19, 2022, Internal Affairs Sgt. Scott KONCZAL was notified of the OIS, and responded to the area of 2901 SE Steele St. Sgt. KONCZAL attended the Homicide Unit briefing of the incident.

The following Divisions/Personnel also responded to the scene: Members from Officer SATHOFF's Chain of Command, Forensic Evidence Division, Professional Standards Division, Independent Police Review, Detective Division, an Employee Assistance Coordinator, and members/lawyers from the Portland Police Association.

Homicide Detectives Sean MACOMBER (primary), and Rico BENIGA (secondary) were assigned to the criminal investigation.

The following members were issued Communication Restriction Orders (CROs): Officer SATHOFF, Sgt. SPEER, Officer HOLSTI, Officer JACKSON, and Officer POSTULA.

An interview notice was provided to Officer SATHOFF, who was represented by Attorney Michael STAROPOLI. The interview was scheduled for November 20, 2022, at 2200 hours, in the Internal Affairs office, within the mandated 48-hour requirement. The interview was, subsequently, changed to 1700 hours on November 20, 2022.

Sgt. KONCZAL documented the information he obtained at the scene in a memorandum. The memorandum was added to the case file.

Officer Involved Shooting Timeline:

The incident timeline is a chronological order of relevant events that occurred on November 19, 2022, in relation to this OIS, using the 24-hour clock to document the times. The events are listed in sequential order, with each entry including a time of occurrence, a description of the event/action that took place, and the source.

Saturday, November 19, 2022

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The below documented times were taken from the Dispatch Audio/Transcript, obtained from the Bureau of Emergency Communication (BOEC)

Time	Description of Event / Action
00:24:00	Initial call from the victim at 5009 SE Powell Blvd.
00:30:28	DISPATCH: Thank you. And for everyone regarding this robbery, you just, for people in the area, suspects left in unknown color sedan last seen westbound Powell from 50 about six minutes ago now. They are all males. One white male who got a handgun wearing a ski mask, black hoodie and that is the only description I have so far.
00:30:47	DISPATCH: I copy. Just an employee and the vehicle. It sounds like Central might be behind possible suspect. They are southbound 39 from Powell. Dark gray sedan high rate of speed.
00:30:58	3830 FRANCIS: Yeah, 3830, I lost it south of Holgate. I don't know if it turned off. He was doing about 75, 80
00:31:58	Air2: And Air2, so we are in the area of that. So just to make sure, so this is not going to be related in the robbery from my understanding?
00:32:15	3830 FRANCIS: Dan, I don't know. I picked it up as it was turning southbound from Powell onto Cesar Chavez moving out real fast.
00:32:27	Air2: Just confirming the suspect vehicle on the robbery was a sedan, gray in color.
00:32:33	977 FORD: 977, affirm. It is going to be a light gray color they think. The call came out at 0024.
00:32:39	Air2: In that case based on location it is reasonable it probably is.
00:33:37	Air2: Okay, maybe check westbound Steele from 32. There is a silvery grayish thing moving westbound on Steele approaching (inaudible) right now.
00:34:32	Air2: And this car that I am looking at just turned into a church lot here, 2901 SE Steele. Working its way northbound. [00:34:05 hours] And now it is just sort of dawdling around in the lot there north side of the church.
00:35:37	Air2: So, it just caught my eye based on, you know, FLIR image, rough area. It is silver or gray as best I can tell. It has now pulled into like the darkest corner of this parking lot north side of this church. It is occupied at least by 2. It looks like maybe the back driver's side passenger is getting out. Front passenger has the door open.
00:36:29	Air2 calls for containment units on Colt, 30, 28, and Steele.
00:37:00	Air2: Yeah, so the first passenger got out is walking south along the east side of this church. There is a playground. He is closest to that. We don't have eyes on the other occupant. I still think there might be three people. It looks like maybe the driver is still inside.
00:37:19	928 TERRET: Possibly four occupants. One person driving the car. Three people on foot during the robbery. Black semiautomatic handgun similar to a Glock.
00:38:24	Male SPEER?: All right. So, the group that is down here, let's move up and let's go challenge this car to confirm whether it is or is not, and the airplane can stay with the guy that is walking in case he is related.
00:40:20	Air2: This guy is walking very quickly to this car.
00:40:42	Air2: Okay, it looks like all occupants are back to the car.
00:41:16	DISPATCH: Copy, nonemergency off. 2901 SE Steele.
00:41:22	MALE: Yep, they are running two - ***three gunshots in heard in background*** south.
00:41:30	HOLSTI: One of the men is holding his waist running northbound. Two men, black males, dark clothing.
00:41:45	K9-6 JACKSON: All right. Shots are fired. Officers are okay. Two ran north. We have two still with the vehicle. Plane, stay with the two that ran north. We will contact the two at the vehicle. At this point, we don't see anybody hit.
00:41:53	977 FORD: 977, we have got one that hunkered down, it looks like, just behind a vehicle on Colt, just east of 28 on Colt.
00:42:18	Air2: Yeah, we need whatever we can get here to lock this down. I think this guy is crossing over north side of Colt Drive now about the 2800 block. The other two are still down. Somebody down or laying down in the prone north of the car.

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00:43:40	K9-6: K9-6, we got somebody yelling, it sounds like for help, north of us. I want to confirm, I know one black male or light skin black male ran north. What was the description of the second suspect?
00:43:49	MALE HOLSTI?: The second guy was also a black male with dark clothing, and the second guy that bailed was the one reaching for something in his waist.
00:44:26	Air2: Okay, so the guy yelling for help that kind of fits with the guy that I saw run just over the green space into the parking lot north of you guys and then either fell down or laid down. I am not sure.
00:45:42	K9-6: K9-6, we have the female detained right now. Let me do a quick pat down on her and then we can address the other.
00:45:53	Air2: And AIR 2, you still got another person north of you guys north of the car in the parking lot laying down.
00:47:08	3924 SPEER: 3924, just making sure we have AMR being staged for this.
00:47:18	3926 WOLF: 3926, I am on the scene here.
00:47:30	3926 WOLF: Yep, that is fine. I will be IC. Where are you at?
00:48:16	Air2: So, you see that arborvitae in front of you? Immediately to the opposite side, north side where the arborvitae is, there is a parking lot. Basically, like two car lengths, three car lengths maybe. He is going to be northeast off the front passenger like fender.
00:48:55	K9-6: We copy. We are going to have this passenger that is close to us, then. We will direct him all the way back to us, and we will take custody of him behind one of our vehicles then. If you can keep eyes on the person in the parking lot, that would be great.
00:48:59	Air2: Yep, will do. He is laying down, not moving.
00:50:26	3924 SPEER: Yeah, 3924, so we need a couple more at the stop, right, so we can get the person that is at the car in custody and then we are going to try and loud hail and get to the person that may be injured to the north.
00:51:08	Air2: Hey KEN, I just sent you a photo of what I am looking at if that helps. It shows where you guys are located at and where the subject is laying down north of you in the parking lot north of where you guys are at.
00:52:29	Air2: AIR 2, this other subject is still laying down. I can see his arms moving like he is kind of holding his head or something.
00:53:00	K9-6: K9-6, we have detained the second male.
00:54:08	K9-6: Copy, our plan here is once we get all these custodies here arranged, we are going to move a couple vehicles out, swing them wide to the east so we can do some takedown and try to observe where that person is and eventually call the guy back to us.
00:55:00	3929 STEINBRONN: 3929, I am going to the – form the custody team for this guy. Dan, when we are ready to approach. I just need really good directions on where this guy is going to be.
00:55:48	Air2: Just for reference, so the parking space that, that car is in, if you go two parking spaces to the east of that car in between two and three parking spaces east of that car but off the north side of those trees is where your subject is going to be. Just kind of north of those cars in between them a little bit.
00:56:24	Air2: Yeah, affirm. This was one of the subjects that fled. I saw two break over that little green space there just east of where that tree line breaks. This subject fell and he has been there ever since.
00:57:46	K9-6: K9-6, we moved two vehicles over. We are going to try to see if we can get a vantage point to see him, eyes on him, then we will call out to him.
00:58:36	K9-6: K9-6, we have eyes on the suspect. [03:17] K9-6, we are challenging him now.
01:00:18	K9-6: K9-6, we are now communicating with him. He says he is injured, and he cannot move. [05:10] We are working through a plan on how to safely get him medial aid.
01:01:07	K9-6: Yeah, the suspect now says he has been shot.
01:02:26	K9-6: K9-6 we're moving up.
01:02:51	K9-6: K9-6, we will be detaining the male and providing medical aid right now.

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01:03:10	3929 STEINBRONN: 3929, the suspect is in custody. Send medical up please. And can anybody with the best possible information, how many do we have in custody. Is there anybody outstanding.
01:05:23	Air2: Yeah, somebody can walk through that parking lot on Colt Drive and flag medical. They are a little lost. I don't know if they are turned around or not.
01:06:08	MALE: Just if you can put in there, 967 is going to be following them to the hospital.

Detective Interviews:

Interview with Stephanie LASLEY (Taken, in part, from Det. Shaun SAHLI's report.)

Ms. LASLEY said she walked to NE 60th Ave./ NE Prescott St., where several males in a small silver or gold sedan offered her a ride. She asked them to take her to 82nd Ave. Ms. LASLEY said there were 3 other people in the car. She was unsure if the driver was a male or female, but said they had a mohawk. She said the front passenger was a black male who she knew as "D". She said the passenger sitting next to her in the backseat was a white male with slicked back hair; she did not know him. Ms. LASLEY said she was sitting in the middle of the backseat.

Ms. LASLEY said they drove around the blocks looking for cars to steal. When Det. SAHLI asked how she knew they were trying to steal cars, Ms. LASLEY said they would pull up to the cars and the front passenger would try the door handles.

Ms. LASLEY said they were probably driving around for fifteen minutes before the driver started to drive "really fast". She said the driver saw an undercover officer and took off at a high rate of speed. She said the driver knew the police were behind them. When she tried to speak up to get out, he told her to be quiet.

Ms. LASLEY said they eventually made it to a church parking lot. She asked at least 10 times to get out of the car, but they would not let her. When Det. SAHLI asked her what she thought would happen if she tried to leave on her own, she said she thought they would hurt her but did not articulate why she thought that. She said the backseat passenger got out of the car to have a cigarette and saw the police by the entrance to the church.

Ms. LASLEY said as she got out of the car, she could see the police pulling up. She said the backseat passenger was already out of the car. She said as the police pulled up, they yelled at them to get on the ground and to get their hands up. She heard gunshots shortly after that. She said she heard about five shots and then went to the ground because she thought she was hit. She said the police had her crawl to them where she was placed into custody.

Ms. LASLEY said the police officer "shot so fast". She said she did not know why the police fired shots because she thought they had to see a weapon first. She said they did not have a reason to shoot. She did not see any weapons and never saw "D" with weapons. She was unable to recall any commands given by the officers prior to the shots being fired. She recalled hearing someone yell for help (about three times) after the shots were fired; she did not know who it was.

Interview with Brian GARDNER (Taken, in part, from Det. Jeffrey PONTIUS' report.)

Mr. GARDNER told Det. PONTIUS the following: On the day of the shooting, he was outside his apartment complex, which is located to the east of where the OIS occurred, walking his dog. While outside, he noticed there were several police cars gathered up on SE Steele St. At about this same time, he noticed an unknown subject, (possibly Mr. REYNA) on foot who approached him from the church parking lot.

Mr. GARDNER described this subject as a "dirty" white male who had a little darker complexion than most white subjects. This subject was approximately 25-35 years old, 5'8" tall, thin, short hair (almost shaved), facial hair, and was wearing over-sized black pants and an over-sized black puffy jacket. This subject approached Mr. GARDNER and asked for a cigarette, which he gave him. The subject then walked towards the direction of a vehicle parked in the church parking lot.

After giving this subject a cigarette, Mr. GARDNER walked towards a bush and began to urinate. Mr. GARDNER said this area was near the trash dumpsters inside his apartment complex and was about 100 feet away from the suspect vehicle. While doing this, he noticed blue police lights coming from the church parking lot. He looked over and noticed one to two police vehicles parked behind a car in the church parking lot. He heard a police officer yelling commands such as "put your hands up" and "come out of the bush". Shortly after hearing these commands, he heard two gunshots. After hearing the shots, he heard the police yelling out additional commands such as "See, you made me use lethal force" or something similar.

Mr. GARDNER said he never saw who was shooting and never observed any muzzle flashes. He never saw any of the subjects enter or exit the vehicle in the church parking lot. He did not know if the subject he gave the cigarette to was associated to the car. He said his girlfriend, named Tanya GARNER, was outside the parking lot at the time of the incident as well, however, was not with him at the time of the shooting.

Interview with Tanya GARNER (Taken, in part, from Det. Jeffrey PONTIUS' report.)

Ms. GARNER told Det. PONTIUS the following: On the day of the shooting, she and her boyfriend (Brian GARDNER), were doing laundry in their apartment complex. At one point, both went outside and she and Mr. GARDNER became separated. She said a short time later, Mr. GARDNER approached her and told her there were police cars out on the street. She noticed a subject walking in the parking lot of the church, which was located just west of where she was standing. She noticed this subject walking quickly; she suspected this person may have seen the police cars as well. She noticed this subject was walking towards a grey colored four-door sedan which was parked in the far north parking lot of the church.

Ms. GARNER recalled this subject was wearing a large jacket with the hood up and over his head. She recalled there was a second subject standing next to this same car; however, she was not able to provide any physical description on this person.

A short time later, Ms. GARNER heard police officers giving commands to the occupants of this four-door sedan. She recalled the officers saying, "Put your hands up" and "Get out of the car". Within a few seconds of hearing these commands, she heard three quick gunshots; and "hunched" down to avoid being shot.

Ms. GARNER said she never saw who was shooting and never saw a weapon on any of the subjects.

Det. MACOMBER's interview with Ayah SIBAI

Ms. SIBAI told Det. MACOMBER the following, in part: She was awake in bed when she heard a short disturbance followed by three gunshots. Initially, she was not sure if the police were involved; but later learned they were. She looked out her window and saw a male laying in the parking lot with what she thought to be a gunshot wound to his leg and chest. She did not know if the male was alive until the police started speaking to him. She was only able to recall someone saying "stop" prior to hearing the gunshots. She said it all happened really fast.

Ms. SIBAI said she first looked outside after the police detained the other people. Her apartment is on the second floor and overlooked the parking lot. She looked through the sliding glass door which leads to her back patio. She said she never stepped outside. She guessed the officers made physical contact with the downed subject after ten minutes of shots being fired. She did not believe the police were able to see the downed person because the cars were blocking their view. She said, *"And it was like very clear that they didn't, they couldn't, they didn't know his situation at all uh, when they started talking to him 'cause they didn't know if he was shot even or if he had any weapons on him"* (page 5 of SIBAI transcript).

Ms. SIBAI described the downed subject as African American or darker skinned, 20's, wearing a black coat, and sweatpants. She said he was not holding anything, and he was laying on his stomach. She could not see any injuries but did see the blood coming around the area of his chest. She described the actions of the officers who approached him as "rough". She said, *"...when they first approached him it seemed like they were putting a lot of like force onto him with the shield and, and when they flipped him over he was like in pain and saying he had like, where his shots, gunshots were like in his chest and stuff and they just like kept flipping him over and not really being very gentle. Um, and then they were, yeah, taking off his clothes to look at the wounds and when they looked at the wound on his leg he like screamed out a couple times and he was like I've been shot, like you're hurting me. Um, but I didn't really hear any words being said from the police that much"* (page 7 of SIBAI transcript). She did not see any strikes, hits, or kicks from the officers.

Ms. SIBAI said after Mr. CLARK JOHNSON was taken by AMR, she heard officers laughing and thought it was disturbing as someone was just shot. She does not know what they were laughing at, but thought it was "off-putting".

Interview with Sgt. Michael FRANCIS (Taken, in total, from Det. Sean MACOMBER's report.)

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Sgt. FRANCIS was assigned to Central Precinct. As he monitored East Precinct dispatch, he heard the broadcast of an armed robbery. He recalled the suspect vehicle described as a four-door sedan with three to four occupants. Sgt. FRANCIS heard the vehicle was last seen west on SE Powell Boulevard.

Sgt. FRANCIS stated he was east bound on SE Powell Blvd. between SE 21st Ave. and SE 23rd Ave. when he saw the possible suspect vehicle turn east on SE Powell Blvd. The vehicle was traveling at a high rate of speed. Sgt. FRANCIS stated the driver was operating the vehicle in an extremely reckless manner. Sgt. FRANCIS stated the vehicle travelled in the oncoming lanes of traffic and estimated the vehicle to be travelling at 60 miles per hour near Cleveland High School as it travelled east past the Motel 6. Sgt. FRANCIS stated the closest he was able to get to the vehicle was within five blocks. Sgt. FRANCIS stated he was able to see the vehicle turn south onto SE Cesar Chavez Ave. By the time he was able to make the turn on SE Cesar Chavez Ave., he only saw taillights of a vehicle as far south as SE Holgate Blvd.

Sgt. FRANCIS stated after losing sight of the vehicle, he stayed in the area and heard the Air Support Unit (ASU) broadcast they found a possible matching vehicle. Sgt. FRANCIS heard an update that the vehicle drove in the parking lot of 2901 SE Steele St. He said he was on a perimeter position at the east driveway of the church and had a spike strip set up in case the vehicle attempted to leave. Sgt. FRANCIS stated Sgt. SPEER organized a contact/custody team and drove into the church parking lot. Sgt. FRANCIS stated after the police vehicles drove into the lot, he heard three shots. Sgt. FRANCIS later saw the suspect vehicle (Kia Optima) and said the vehicle was consistent to the vehicle he saw driving recklessly.

Internal Affairs Investigative Review and Interviews:

It should be noted that any interview summaries documented below only highlight important and/or relevant points of the interviews. They are not intended to be verbatim accounts and do not memorialize all statements made during the interviews. Audio by the parties in the interview room were electronically recorded. Those audio files were transcribed and stored.

Interview with Sgt. Adam SPEER

Sgt. SPEER said the following: He has been with the Bureau since 2011 and promoted to sergeant in 2020. He has been a reviewed member in prior OIS investigations. For the past three years, he has been involved with the ASU as both a tactical flight operator (TFO) and a tactical flight observer (TFO).

Sgt. SPEER explained he is somewhat familiar with the area where this incident occurred. He said previous calls involved eluding vehicles. He said the area is challenging due to it being at the extreme ends of Central and East Precinct boundaries taking a significant amount of time for responding officers to get there. He said there was an eluding stolen vehicle call that he and other units were working prior to the robbery call. The eluding call terminated at SE 52nd Ave./SE

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Holgate Blvd. with two people in custody. Directly after, a sergeant out of Central Precinct (Sgt. FRANCIS) located a vehicle, he thought, was related to the robbery call because of its location and reckless speed. The ASU switched from the eluding call to the robbery call/vehicle. The ASU located the vehicle and followed it until it stopped at 2901 SE Steele St.

Sgt. SPEER said the only description they had from the robbery was a sedan occupied by three to four people. He thought this vehicle was tied to the robbery, *“So, the vehicle was reported to have left the scene of the robbery westbound on Powell and he broadcasted that he had a vehicle that was eluding him at a high rate of speed on I think it was Cesar Chavez and Holgate was the last area. And so, I mean that was west of Powell, he saw it from Powell, and went down south from like, you know, Cesar Chavez and Powell. And so, it was in the proximity and the direction that the vehicle was last seen going. And, you know, the plane picked it up, got it to the church, and there was like a radio broadcast and it was like six minutes from the robbery to when this car was seen. So it was like six minutes, not like - you know, just, you know it didn’t just happen, didn’t just see it leaving the scene, but having been in a plane I’ve seen these cars leave the scene of a shooting or other violent crimes like a robbery and they’ll leave the scene, go a couple blocks, and then on a major road and then go into the residential blocks and they’ll just stop and wait. And so it wasn’t too unreasonable to be, you know, just a couple dozen blocks down the road and then they’d see the police and then now they’re started to elude and go high rates of speed. And so that kind of played a factor. And then once the plane kind of said, you know, they’re out of the car and there’s three to four people, you know, it’s starting to lead to like okay, this could be the robbery car”* (Lines 153-166).

Sgt. SPEER explained he, Officer SATHOFF, and Officer JACKSON arrived at the front of the church at 2901 SE Steele St. relatively quickly. As they waited for more officers to arrive, they learned one of the occupants exited the vehicle and walked towards them. The ASU reported the same person turned around and began walking back to the vehicle at a quick pace. Sgt. SPEER said this sped up their approach as they did not want the vehicle to return to the street and drive recklessly.

Sgt. SPEER’s plan included:

- Putting spike strips at the exit/entrance of the church.
- Utilize two different marked vehicles to approach the suspect vehicle.
- Conduct a felony high risk stop.

Sgt. SPEER utilized numerous tools to assist in the approach/contact of the suspects connected to the vehicle.

- Ballistic shields.
- Assigned officers to 40 mm less lethal launchers.
- K9 was present on scene.
- Lethal cover, Ar-15
- Had visuals from Air2.

Assigned officers as hands on.

Sgt. SPEER said they were unable to see any movement, people, or vehicles from their position at the front of the church. He said Officer POSTULA (less lethal) would go with Officer JACKSON (K9); Officer Israel HOLSTI (hands) and Officer Christopher SATHOFF (rifle) would go with him on the approach. Officer SATHOFF was in the front seat and Officer HOLSTI was in the rear passenger seat. The plan was to approach the vehicle with their emergency lights off but to illuminate it upon contact.

Initially, Sgt. SPEER was assigned as the Acting-Lieutenant (A/Lt.) for the shift. We talked about his thought process of being the A/Lt. and taking an active role during this incident; *“So, I’m involved in it and yeah, I’m acting lieutenant, but I’m - it makes us short sergeants-wise so we would’ve been short sergeant-wise. And so acting lieutenant, I’m basically covering the admin duties of a lieutenant, but then so now we’re short a sergeant so I’ve got to - I’m filling that role. And then on top of that we were multiple officers short. I think we only had like eight officers working a whole shift that night. When I officer on the shift we were like 24 officers a night so it’s just how short we are. I know Central was really short too. So, we’re - for officers to go and have every tool available from rifle, less lethal, K9, the plane, a sergeant there or acting lieutenant - so we had the resources, but I didn’t have - I wasn’t part of the tools so I’m basically the leader of a custody team at that point. And it’s - I’m taking the car because we were able to combine. I don’t have a car like a cage in my car; it’s just a standard back seat so I can take people into there. And so, I was taking a supervisory role in this in that, you know, yeah I’m a rifle operator, but I wasn’t going to have my rifle out. And so, I wasn’t taking like a tool approach to this, I was - we prepared the plan to do a high risk stop, I gathered the tools together, and then - and made the decision to go with the team and be the supervisor of the custody”* (Lines 267-280).

Sgt. SPEER operated a marked FIU (Ford SUV) on the night of the incident; it was not equipped with ballistic panels in the doors. As he drove towards the suspect vehicle, he was unable to get directly behind it because there was a landscape island blocking his way; this caused him to approach at an angle. Officer JACKSON pulled his vehicle up to the left of his vehicle. He said Ms. LASLEY was already out of the vehicle walking towards Officer JACKSON’s vehicle; the front passenger (DUBOISE) ran to the east then north towards the apartments; someone else (CLARK JOHNSON) ran from the driver’s seat and he ran to the front of the car and followed the front passenger. Mr. REYNA remained in the rear driver’s side seat with the door open. Once Mr. CLARK JOHNSON hooked around the vehicle, he lost sight of him. He said, *“I’m on the driver’s side so I have the driver’s side. So effectively I focus my eyes on the person that was directly in front of me, they were in the rear driver’s side of the vehicle. And so, I’m mainly looking there. And then looking at them, there’s someone there and I remember looking at this rear passenger seeing what they’re doing because they were kind of going to get out of the car and then curled back in the car and then - and also as I’m running I should say before we stopped, I say stop. Immediately as I open up the car door I yell stop and - something to the effect stop or you may get shot or you might get shot. And right after that I hear something - HOLSTI next to me or it was on the radio saying he’s reaching and I hear shots fired”* (Lines 333-340).

Sgt. SPEER discussed the timing of when shots were fired, *"It was like right after, you know, I'm sure that person like after I said that goes like by the driver - hooks around the front of the car and gets by the car and I focus back on my eyes, I'm yelling, you know, stop, you're going to get shot and it was - it was like right after that and hear he's reaching for something that then I hear shots"* (Lines 348-351).

Sgt. SPEER said he did not see the two subjects who ran when shots were fired. He heard two to four shots all in a "standard (even) cadence". He described Mr. CLARK JOHNSON as crouching (with a lowered center of gravity) when he ran around the front of the vehicle; he was unable to see his hands. He said the shots "stunned" him because he was not expecting that from what he saw. As he looked to his right, he saw Mr. CLARK JOHNSON rounding the corner through the arborvitae trees just after the shots were fired. He looked over at Officer SATHOFF and saw smoke coming from his rifle as Officer HOLSTI announced "shots fired" over the air. He did not know what the threat was or if officers were fired upon. He confirmed Officer HOLSTI and Officer SATHOFF were not injured. At that point, he did not know if anyone was struck by the rounds. He said, *"We talked. They didn't think anyone was hit. There was like, you know, chatter between HOLSTI, SATHOFF, and myself, and also over to JACKSON. They didn't think anyone was hit at that point"* (Lines 408-410). Sgt. SPEER then focused on getting Mr. REYNA into custody, as Officer JACKSON and Officer POSTULA worked on getting Ms. LASLEY into custody.

Sgt. SPEER said as they took Ms. LASLEY and Mr. REYNA into custody, he heard someone yell for help. At the same time, the ASU announced there was a subject down about 50 feet north of their location. He explained what his priorities were at that point, *"...we definitely wanted to get medical attention to him at that point, especially with the help. But my priorities were getting to that point safely because we have the car and we have two people in front of us. And so, the apartment complex is in front of us, we couldn't approach from that way because we still had our threats in front of us with any crossfire issue. So, my priority was to as quickly and efficiently and safely start eliminating some of our threats or safety issues and get to the person that we believe is down and also simultaneously working on a perimeter for the fourth person that was still running and which it was super helpful to have the plane up. So, we really went to like a hasty, like custody teams to move as quickly as we could"* (Lines 465-473).

Next, Sgt. SPEER informed Sgt. WOLF over the radio he was a witness member and he [WOLF] would need to be the Incident Commander (IC). He then had medical stage. Sgt. STEINBRONN and Sgt. WOLF arrived on scene, and he briefed them. He said, *"I had a plan working with the people that were showing up that we had to work around the island and get over to the north so we could get eyes on and have a better location to see where this person was down on the ground who yelled for help so we could loud hale him, get communication, and move up and get him help. So, we started creating that plan. STEINBRONN came. He said I'll handle that. I communicate my plan to him that we had to, you know, drive a car around the island, you know, closer to the church. Move over, approach that way, loud hale, get communication, and get him help. Made sure, you know, like I said medical is staged so I pass it off to STEINBRONN. And right as I did*

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that, SATHOFF was still there with his rifle and I said hey, you're good to go. Let's pull you back over here. And I think we had another officer go and bring him to the car" (Lines 512-521).

Sgt. SPEER said once everyone was in custody, he gave the public safety statement to Sgt. WOLF. He was then separated and had no further involvement in supervisory tasks. He said he was not reluctant to assign Officer SATHOFF as the rifle operator during this call. He described Officer SATHOFF as calm, collected, and a strong member of the team who is well respected. He did not recall seeing Officer SATHOFF on the stolen vehicle call.

There was some discussion about what, if anything, Officer SATHOFF said right after he shot, *"Yeah, so he said - so you know, I'm trying to get out info as I'm running and I was like did you see a gun or anything like that just because I want to make sure - I don't know what they saw at the time the shots were fired and I knew there was a firearm still outstanding and, you know, if there was a guy running with a gun in his hand it's different than in his holster like us or whatever. And so, I asked that and I - when HOLSTI said that, I know HOLSTI said back there that he was reaching for something, that no, like he didn't have the gun in his hand, like no he was reaching for something. SATHOFF confirmed it or said it almost at the same time, but I heard HOLSTI, you know, kind of talk over him and was louder and clearer"* (Lines 607-612).

Sgt. SPEER said he thought it took medical about two to three minutes to render aid after Mr. CLARK JOHNSON went down and was surprised it actually took twenty-two minutes. He said they moved quickly to get everyone into custody and said there was no downtime.

Interview with Officer Kenneth JACKSON

Officer JACKSON said the following: He has been with the Bureau since 2015 and has been a K9 handler since 2020. Prior to coming to the Bureau, he worked at Deschutes County Sheriff's Office for over seven years. He is familiar with the area where this incident occurred but said he does not go there often. Prior to this call, he was on the eluding stolen vehicle call. He talked about the information he received and his thought process, *"...towards the end of that call, Dispatch got on the radio and put out that there was a robbery around 50th or 52 and Powell and that there were people seen I believe it was, like, 2-3 people I believe is what the information was were seen leaving in an unknown direction in a silver gray sedan. Once that information came out, again, we were still dealing with the rolling stolen. That cleared up, and within minutes of me - or less, probably a minute and a half/two minutes I would say, an officer from Central got on East net and said that they had a silver sedan traveling at a high rate of speed southbound 39th from I believe Powell is what they said was the intersection. So, just based on the timeframe and the description of the vehicle, it just seemed reasonable that this could be the suspect vehicle involved in the robbery. The plane was up, so they happened to be in the area to begin with because of that rolling stolen prior, so they got overhead in a reasonable amount of time, and they started area checking. I went to go flood the area just trying to look for tail lights in hopes prior to the plane getting overhead that I might get lucky and see a vehicle going in an unknown direction. That being said, the plane got overhead. They saw a 4-door silver sedan somewhere down south by 29 and Steele, and at some point, it had turned into the church there at 29th and Steele and parked on*

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the north end of the church. The TFO had mentioned that the vehicle had made a couple turns that seemed very unusual for that time from what I remember and then that the behavior of the occupants of the vehicle was just very strange. They're up there a lot. They're looking down seeing a lot of things, so if they tell me that, you know, what they're looking at doesn't add up and is weird behavior, to me that interests me. So, based on the information that we had, I just felt it was reasonable that we should probably go check this out and investigate whether or not these are the armed robbers or not" (Lines 108-128). He did not recall anything regarding the description of the suspect's race.

Officer JACKSON met Sgt. SPEER and other officers at the front of the church. As they were coming up with a plan, Air2 announced one of the passengers was walking towards their location. As the passenger reached the corner of the building, he turned around and "abruptly" walked back towards the suspect vehicle as if they saw the officers. At that point, they made the decision to leave some officers at the front of the church with spike strips while he, Sgt. SPEER, and other officers approached the suspect vehicle to conduct a high risk stop. No one had any questions, and everyone seemed comfortable with their roles. He talked about why he thought the vehicle was the robbery suspect vehicle, "*Just based on the driving behavior, the time of night, no other vehicles in the area, the plane getting there very quickly, the plane adding, you know, the driving behavior of this vehicle that just didn't add up, and then further parking in a, you know, church that's empty like they did, and their behavior of them walking around the car and trying to walk away from it, and the information of the plane just being like, "Hey, this vehicle's driving behavior prior to and now the occupants' behavior is very suspicious" led me to believe that – reasonably believe that this was going to be the vehicle involved in the robbery"* (Lines 217-223).

Officer JACKSON talked about their approach and that they illuminated the suspect vehicle well enough to see inside of it. He said, "*...by the time we pulled up on the cars, they were bailing out of the cars. I had a white female coming at me, and then there was another black male in the back passenger seat or back driver side seat with the door open, and he was kind of like half in the car, half out of the car. So, as I get out of my car, I literally have time to hit my take downs, put my spotlight on, and then I've got a female that's probably 10 feet-ish away from the car already, the one male in the back driver side, and then I see the driver coming out of the driver portion. Again, I don't know if his door was open prior to, partially open, or closed. I just remember seeing him in the driver portion coming up and around and immediately just doing a button hook to the north side of the car. So, again, my attention is divided. I'm dealing with the threats and stacking them, and I've got one person relatively closer to me. I've got a person still at the car, and then I've somebody else that's button hooking, you know, to the front of the car which could be taking up a position of cover. I don't know in this case. They went towards the arborvitae that were on the north side there because the vehicle was parked facing the arborvitae and immediately went past his vehicle and towards the arborvitae towards the end of it which is where another front passenger – I just saw a blur of something coming out of there"* (Lines 244-257).

Officer JACKSON said he gave commands but did not hear any force warnings. As the driver and front passenger reached the arborvitae trees, he heard "two relatively quick shots". He then focused on the female who was now directly in front of him. He recalled someone saying "he's

reaching” but was unable to recall whether that was said before or after shots were fired. He said he, “...got on the radio and let them know shots were fired, officers were okay, we don’t know if anyone else was hit, and that the two people ran north and out of sight, and that we were still dealing with the two that were on scene that were uninjured” (Lines 371-373). He acknowledged he transmitted over the radio that he did not think anyone was hit.

Officer JACKSON said after he secured Ms. LASLEY, he heard someone yelling for help. He announced that information over the air and focused on the rear passenger. Once the rear passenger was secured, Officer JACKSON said he became part of the custody team. He said, “...we still believed that this person is armed with a gun or potentially armed with a gun. So, we give some commands. We don’t get any – no response right off the bat. We moved vehicles in. We can really illuminate the area. We can see the person’s laying with his feet towards us and his head away, so his hands are away from us. Eventually, he starts to say that he’s been injured, so I’m telling him like, “Hey, man. We want to get you help, but we need to see your hands before we can move up.” He was down in between two cars, so the way he was positioned, we couldn’t actually, like, safely approach him. And so, we were asking him to try to crawl to us or crawl away from the cars. He said he couldn’t move. He then said that he had been shot. So, at that point, it was like, “All right. Put your hands up. Get your hands to where we can see them, and then we’re going to come up and give you medical aid.” And he was able to get his hands where they were visible. So, we moved up, and then officers detained him and immediately started rendering aid. And we had medics staged prior to that, so they were already on scene. So, once we were able to do a weapon sweep on him and start the medical rendering aid for him, we immediately asked for medics to come in, and they were there I know very extremely fast” (Lines 398-411). He was not surprised it took over twenty minutes to get Mr. CLARK JOHNSON medical attention. He said they had to ensure the other subjects were in custody prior to focusing on the downed subject for officer safety purposes.

Once the scene was under control, Officer JACKSON was separated and told not to talk about the incident.

Interview with Officer Kayla POSTULA

Officer POSTULA said the following: She has been with the Bureau since 2019. She was riding with Officer Jeffrey LIVINGSTON the night of the OIS. She is familiar with the area where the OIS occurred and cited the apartments to the rear of the church was a concern. She talked about the information she had about the robbery call, “It began with a robbery at gunpoint at a Super Deluxe. And our sergeant had alerted that he saw a vehicle matching the description that was given out from dispatch traveling at a high rate of speed southbound on 39th, which ultimately the vehicle ended up - once the plane picked it up ended up being parked in the back lot of the church next to an arborvitae hedge which is connecting the parking lots from the church to the apartment complex. So, plane had eyes on the vehicle and the occupants inside the vehicle and around the vehicle and we tried to formulate a plan while out on SE Steele” (Lines 74-80).

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Officer POSTULA said the initial description of the suspect vehicle was a silver sedan occupied by multiple occupants; she did not remember anything regarding their reported race. When specifically asked if she was aware the suspects in the robbery were described as white males, she said she did not remember; she also did not recall seeing that in the CAD notes.

Officer POSTULA talked about the plan and assignments to approach the suspect vehicle. Her knowledge was the same that Sgt. SPEER explained, except, Sgt. FRANCIS and Officer LIVINGSTON stayed on Steele St. in case the suspects fled. She said everyone seemed to be comfortable with the roles they were assigned.

Officer POSTULA thought the suspect vehicle was the one involved in the robbery due to its driving behavior and its close proximity to where the robbery occurred. There was no discussion on who was to cover specific areas of the suspect vehicle. She said since Officer JACKSON's vehicle was on the driver's side of the suspect vehicle, they were to cover the driver's side while Sgt. SPEER's vehicle was to cover the passenger side of the suspect vehicle. She said the area was well lit and was able to see the occupants of the vehicle. She recalled hearing, "*Stop. Portland police*" (Line 283) upon their approach but was unable to recall if she heard force warnings. As they approached, she noticed Ms. LASLEY to the west (left) of the suspect vehicle and a black male (Mr. CLARK JOHNSON) bent into the front driver's compartment of the suspect vehicle. She talked more about Mr. CLARK JOHNSON, "*So, initially, his torso is in the driver's compartment. It almost seemed like he was trying to grab something, I don't really know. He was doing something in there. I recall him running. As soon as we approached with our lights on and we were getting out of our vehicles to challenge them I remember him running behind the vehicle, the suspect vehicle, towards the passenger side. So, running to the east and then running to the north towards the apartment complex parking lot just to the east of the arborvitae hedge. And then once he passed the hedge, along with the male that was on the passenger side of the suspect vehicle, once they passed that hedge they were out of my sight so I couldn't see them at that point and determine what they were doing. So, then my focus was still on the female that was in front of me along with the back passenger that was behind the driver's seat*" (Lines 194-202). She did not see him retrieve anything from the vehicle, nor did she see anything in his hands.

Officer POSTULA said she was unable to see Mr. CLARK JOHNSON's hands as he ran. When asked what she thought he was going to do, she said, "*Just running to get away*" (Line 224). She thought he was running away to avoid custody. She said Mr. CLARK JOHNSON was out of her sight when the shots were fired. She believes she heard two or three shots with an even cadence. She estimated the shots were fired about one minute (or less) after they contacted the suspect vehicle, and about ten to fifteen seconds after Mr. CLARK JOHNSON ran past the arborvitae.

Officer POSTULA recalled hearing Officer SATHOFF say he [CLARK JOHNSON] was reaching for his waistband shortly after shots were fired. In her detective's interview, Officer POSTULA said she heard Officer SATHOFF say Mr. CLARK JOHNSON was "indexing near his waistband". She did not recall using the word "indexing" in her detective's interview. She explained what she meant, "*Indexing near his waistband, what I take that to mean is reaching near his waistband going to grab something. Typically, when we say indexing towards someone's waistband I think*

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of a firearm. That's where a lot of people keep their firearms is in their waistband. When they index they're going to grab that gun" (Lines 371-374).

Officer POSTULA did not know Mr. CLARK JOHNSON was shot until the two occupants were in custody and heard someone calling for help. She knew Officer SATHOFF was on the passenger side of Sgt. SPEER's vehicle and estimated the distance between him [SATHOFF] and the arborvitae to be about 30-50 feet. Officer POSTULA, a rifle operator, said the shot was within the training distance.

Officer POSTULA said she never saw Mr. CLARK JOHNSON indexing or reaching for anything while he ran away. She said, *"I saw him when he had his torso inside the driver's compartment as if he may have been going to grab something. When he ran, I could never see his hands. They were just in front of him like lower down near his waistband, but I can't say what he was doing, if that's just how he was running away or if he was holding so I don't know"* (Lines 339-342).

Officer POSTULA became part of the post OIS custody team. She was assigned as the 40mm less lethal operator. Once they made verbal contact with Mr. CLARK JOHNSON, they learned he had been shot. They told him to keep his hands raised and in view as they approached. They initially approached in a stack formation, but she was unable to see Mr. CLARK JOHNSON. She said, *"...it was a difficult area to get to him just because he was at the back of the parked cars and he was laying down in like the fetal position at the back bumpers of those vehicles. And so, the way that we approached was in between the two parked cars so it was a very tight squeeze. So, we had the shield go up first, so HOLSTI went up first with the shield and we all stacked behind him"* (Lines 421-424).

Officer POSTULA felt she was useless if the subject reached for a weapon because she did not have a shot. She said even though it seemed fast, she believed it took longer than five minutes to form the custody team and take Mr. CLARK JOHNSON into custody. She said medical came in immediately (within 30 seconds) after Mr. CLARK JOHNSON was in custody. She confirmed Mr. CLARK JOHNSON was the one who ran from the front driver's compartment of the suspect vehicle. Officer POSTULA did not think Mr. CLARK JOHNSON could have received medical attention sooner than he did.

Officer POSTULA said she was separated after everyone was in custody and the scene was secure/safe.

Follow-up interview with Officer POSTULA

Officer POSTULA was interviewed a second time due to her statement that Mr. CLARK JOHNSON ran south from the vehicle, when the AIR2 showed something different. Initially, she reported, Mr. CLARK JOHNSON, *"...did like a loop around the back of the car and then northbound towards that hedge. And then once he was past that hedge, I couldn't see him anymore"* (Lines 207-208). During her second interview, after being showed the Air2 video, Officer POSTULA said, *"In the video, as we are approaching the suspect vehicle, that's when the*

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driver's side door opens, and the driver exits the vehicle and runs around the front of the vehicle" (Lines 94-95). She also said the driver's door closed and the rear passenger door open. She was surprised at what she saw in the video but stood by her initial recollection as what she experienced.

Interview with Officer Israel HOLSTI

Officer HOLSTI said the following: He has been with the Bureau since 2008. He was getting food at SE 42nd Ave./Powell Blvd. when the robbery call came out at SE 50th Ave./Powell Blvd. He watched for a sedan traveling westbound with multiple occupants. When he did not see the vehicle, he traveled south towards SE Gladstone St. As he was on SE Gladstone St., Sgt. FRANCIS transmitted he was behind a gray sedan travelling at a high rate of speed on SE 39th Ave. from SE Powell Blvd. At the intersection of SE 39th St./SE Gladstone St., he saw the speeding vehicle followed by Sgt. FRANCIS. He tried to follow Sgt. FRANCIS and the suspect vehicle, but he quickly lost sight of both vehicles. Once Air2 transmitted they saw the vehicle in the parking lot of 2901 SE Steele St., he headed that way. Once he arrived, Sgt. FRANCIS told him to go with Sgt. SPEER and Officer SATHOFF as part of the contact team; Sgt. SPEER drove, Officer SATHOFF was in the front passenger seat, and he was in the rear passenger seat behind Officer SATHOFF. He explained, why he thought, the vehicle was involved in the robbery, "*Just given the time and proximity with the call. It was, you know, a sedan. We had got - started getting updates about people in dark clothing and then that these people were wearing dark hoodies. And so, I was like okay, these - you know, that and then this is also the car that was just running at a high rate of speed down 39th. And as I pull in I was like okay, we're dealing with the robbery suspects from, you know, less than - well, at that time now, you know, within a - less than - it was like about a mile from the initial call location"* (Lines 219-224).

On their approach, Officer HOLSTI recognized the suspect vehicle as the same vehicle being followed by Sgt. FRANCIS. He recalled Sgt. SPEER giving commands as a female was outside of the suspect car. He said the front passenger exited the vehicle, ran around the row of arborvitaes, and disappeared north from their location. He indicated the driver of the vehicle ran to the south towards the rear of the vehicle then east around the backside of the vehicle then north following the same path as the front passenger. He said, "*...as he was coming around the corner, it was - he was looking right at us and I thought it was really odd behavior that if he was - you know, he was looking right at us and then all of a sudden I realize he's grabbing at his waist. He's coming around the corner looking at us and he's got layers of clothing on him and it looks like he's trying to dig through the layers of clothing to pull something and he's grabbing and pulling at something at his waist. And immediately I'm like this guy's going for a gun, I mean this guy has to have something. He's targeting us and he's reaching for something out of his waistband is my thought process. And at that point I was - I didn't have any - you know, this is happening so quickly, it's not like I could like hey, look, he's got a - he's grabbing. It's - because he's grabbing and he's also moving around this vehicle. So, I'm starting to reach for my firearm when the suspect came around at the corner of the passenger side of the car. So, at one point - it was at the point of the back of the car towards the arborvitaes in that, like second is when I heard SATHOFF fire his rifle. And I was just like - and at that point I didn't, you know, the guy disappeared. It was like he kept running and then disappeared at that point"* (Lines 263-275).

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Officer HOLSTI said he heard two shots, after which he said the scene became quiet. He spoke to Officer SATHOFF and thought the following, *“And then SATHOFF is like did you see that? And I said that guy was grabbing something out of his waist. That guy was grabbing, you know, and I said - and he’s like okay, you know. And that was - other than the - another conversation where I said - I had with him I’m like did you - you know, I was like did you shoot that guy? Because he ran and disappeared and he had stated that he had put shots on him and he believes that he - he goes I watched him fall on the other side of the tree. From my position I couldn’t see him. And I think from where we were at once he went - at that point I don’t think SATHOFF had a good view of the suspect either. We just know that this male and another male are now somewhere on the other side of these trees. Who knows where they ran or how far they are at this point or what their plan is. You know, even where - did they continue to run or their plans to come back. But at that point when I was watching this guy’s behavior it was very - it was in no - I had no doubt in my mind that this was turning into a lethal encounter because if SATHOFF hadn’t have shot, I would have”* (Lines 282-293).

In his interview with detectives on the morning of the shooting, Officer HOLSTI said after Officer SATHOFF shot, he asked Officer SATHOFF if he hit the suspect. Officer SATHOFF told him, "I placed a shot". In our interview, Officer HOLSTI said Officer SATHOFF also told him he saw the suspect go down behind the arborvitae. Officer SATHOFF asked Officer HOLSTI, "Did you see that?" Officer HOLSTI said he responded, "...him going for his gun?" "Yeah. I saw that". Officer SATHOFF said, "Good, 'cause that's what I was seeing"(page 19).

Officer HOLSTI said he announced over the air the male was reaching after shots were fired.

During our interview, we discussed this conversation further. Officer HOLSTI acknowledged his response to Officer SATHOFF and said he did not see a gun. When asked why he said what he did, Officer HOLSTI responded, *“To be - because the way his body movement was when grabbing at his waist was as if he was trying to grab something with his hand, not - he wasn’t like buttoning his pants, he was reaching, pulling with his hand as if he was trying to grab something larger than, you know, say a pocket knife, you know, something smaller. And so, the behavior was indicative of someone grabbing for like a handle. That’s what it appeared to be”* (Lines 520-524). Officer HOLSTI said Officer SATHOFF almost seemed relieved that someone else witnessed the same movements of the suspect prior to firing the shots. We then discussed Officer SATHOFF telling Officer HOLSTI that he placed a shot and saw the subject go down:

ROVINELLI: Did you announce that he thought he’d placed a shot and hit a suspect?

HOLSTI: I didn’t.

ROVINELLI: Did you announce that over the air at all?

HOLSTI: No.

ROVINELLI: How come?

HOLSTI: Because I was busy watching this unknown threat area and I just - I didn’t get that out on the air.

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ROVINELLI: Is that something that - having that information, is that something that you would've normally announced?

HOLSTI: You know, to be honest with you I - this is the first time I've ever been in this kind of a situation so I can't answer to what I would normally do because this isn't a normal situation I've ever been in, in my career (Lines 559-570).

Officer HOLSTI said Mr. CLARK JOHNSON was running away and looking back at the same time when he heard the shots fired. He said, "...while he was rounding that car he was looking at us grabbing for his waist. And then as he's kind of around the car heading towards the trees he's still kind of - was looking back at us, you know so - and then that's when everything happened" (Lines 321-323). He said Mr. CLARK JOHNSON was "grabbing or manipulating" his clothing and demonstrated the motion by moving his hand/elbow up and down near his waist. He explained why Mr. CLARK JOHNSON's behavior concerned him, "I've been doing this job for almost 15 years and I've had suspects run from cars, I've had people run from us, and this is the first time I've had someone stop and try - and look right at us as, you know. And it just - right away it made the hair on the back of my head stand up and on my neck. And then I was like this guy's not really that afraid of us, I mean he's doing something that's - that I'd deem like was out of the ordinary, you know, from my experiences in the past when people are running from the cars - or, running from us when we give them commands to stop" (Lines 390-396).

Officer HOLSTI recalled pulling Officer SATHOFF to him behind the door of the police vehicle in case of return fire. He explained Officer SATHOFF stepped outside an area of cover when he shot. He thought Mr. CLARK JOHNSON was about twenty feet away from them when he heard the first shot.

Officer HOLSTI learned Mr. CLARK JOHNSON was down after hearing yells for help. He said Sgt. STEINBRONN made a plan and assigned him to the shield. Everyone stacked in behind him as they approached Mr. CLARK JOHNSON who was down between two parked cars. Once he reached Mr. CLARK JOHNSON, he placed the shield on him and applied pressure until Mr. CLARK JOHNSON was in handcuffs. We talked about the tactic of approaching Mr. CLARK JOHNSON between the two vehicles and his thoughts if it was a safety concern. He said he was not concerned about the approach because the front passenger was still outstanding.

Officer HOLSTI said medical was already staged and they rendered aid quickly. He was separated and given instructions not to speak about the incident. He did not believe medical aid could have been rendered quicker, because they still needed to address the passenger in the rear of the vehicle.

Officer HOLSTI explained why Officer SATHOFF's force was reasonable, "Because of the - of all the things I laid out about this guy's behavior. I was in the process of drawing my firearm because I believed this person was ready to pull out a weapon to use against us and that's when I heard the shots fired and I stopped and then I just started kind of observing everything and then everything else that happened" (Lines 760-765).

Follow-up interview with Officer HOLSTI

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Officer HOLSTI was interviewed a second time to clarify some information from his first interview and because he said Mr. CLARK JOHNSON ran south from the suspect vehicle around the backside, but the Air2 video showed something different.

Officer HOLSTI acknowledged that on the night of the incident, he was seated in the rear seat of Sgt. SPEER's vehicle with the door fully closed and latched. He was unable to pinpoint how long it took him to manipulate the handle to open the door, get out of the police vehicle, take your position near the A pillar, and acquire a visual on Mr. CLARK-JOHNSON but said maybe five, ten, or fifteen seconds; he really was unable to remember. When asked how long he had a visual on Mr. CLARK JOHNSON before he could no longer see him, he replied, "...10 seconds maybe, if that" (Line 100).

Officer HOLSTI talked about how Mr. CLARK JOHNSON looked at him. He said, "*Well, as we were at the car he just kept looking back at the front of our vehicle, in our direction and just looked like he was looking to see where we were at. Like I said, the first guy just grabbed, you know, took himself and ran, just disappeared. This guy was too – really, really focused on watching what we were doing as he was running away or running around the car to, you know, escape from the area*" (Lines 143-147). Investigator STOUT asked Officer HOLSTI if he believes the suspects were trying to escape and he replied, "*Well, I don't – they were fleeing the scene, so at that point they're running from our presence*" (Lines 220-221).

Prior to viewing the Air2 video, Officer HOLSTI marked on a diagram that Mr. CLARK JOHNSON began looking at him when he [CLARK JOHNSON] was at the rear of the suspect vehicle (driver's side). He marked at the center rear of the suspect vehicle where Mr. CLARK JOHNSON was when he heard the first shot. He marked at the right rear passenger side of the suspect vehicle where he heard the second shot. (See Holsti Diagram 2 in the Diagrams folder for specific details.) [NOTE: Officer HOLSTI only heard two shots. It is uncertain whether Officer SATHOFF's third shot was at the beginning, or the end of the shots Officer HOLSTI heard.]

We took a break and watched the Air2 video and the surveillance video. Each video was viewed twice. Officer HOLSTI acknowledged the video showed something different than what he initially perceived. He was unable to articulate a different location, than where he marked on the diagram, of where Mr. CLARK JOHNSON was when he heard the first shot.

Officer HOLSTI was asked what it looked like the two people in the surveillance video were doing. He responded, "*They're running from the vehicle*" (Line 234). After watching both video, Officer HOLSTI was asked if they changed his thoughts on what he thought he saw behavior-wise. He said, "*Well, the only thing, you know, I'm confused about is the direction that the path went, but he went – the second subject was running who was holding his waist and grabbing, it looked – and then grabbing at his waist or indexing, people – however you want to word it, but it's still – I'm still very confident that that hand motion was present*" (Lines 239-242).

When asked if Mr. CLARK JOHNSON gave any indication, to him, that he was going to stop and engage, he replied, “No” (Line 281).

We ended Officer HOLSTI’s follow-up interview by discussing whether he believes Officer SATHOFF’s use of deadly force was still reasonable. Although his answer was not as confident as in his first interview, he said, *“I think unfortunately, I can’t – the problem is his perspective versus my perspective are two different things. Because initially like I had mentioned in my previous interviews that when I was watching his behavior, it made me concerned enough to kind of like think about grabbing – like think about pulling my firearm out in case this becomes a deadly force incident on his part, so. But then at that time, that’s when I hear the shots from SATHOFF”* (Lines 284-288).

Officer Christopher STAHOFF’s Use of Deadly Force interview

Officer SATHOFF was interviewed on November 20, 2022, in the presence of his attorney, Michael STAROPOLI. At the time of this incident, he had been with the Bureau for four and a half years. He was assigned to patrol his entire career except for the time he spent with the Rapid Response Team (RRT). He has eight years of military experience in the Navy and no prior law enforcement experience. This incident occurred during his normal shift, being his third night of his work week. We talked about the twenty-four-hour period prior to this incident and nothing of note occurred. He wears contact lenses but was not wearing them during the OIS. He is an Enhanced Crisis Intervention Trained (ECIT) and a certified AR-15 operator. Prior to responding to this call, he was working the eluding stolen vehicle call.

Officer SATHOFF said he deployed his department issued Colt AR-15 rifle in the OIS. He talked about his training with the rifle and qualifications. He did not have any issues with his AR-15 during this incident.

Officer SATHOFF described the details of the call as a robbery at gunpoint around the area of SE 50th St. and SE Powell Blvd. The vehicle was described as a dark gray 4-door sedan. The subject with the gun was described as a male wearing a ski mask, a black hoodie, and blue jeans. He did not recall if the race of the subject was given. He recalled Sgt. FRANCIS located the vehicle and reported it as driving recklessly; then, Air2 picked up the vehicle on Cesar Chavez Blvd. Once the two people from the eluding stolen vehicle were in custody and the scene was under control, Officer SATHOFF made his way to 2901 SE Steele St. driving Code 2. He said his thoughts as he traveled to the call were about slowing things down and getting resources to the scene.

Officer SATHOFF talked about the resources on scene: two supervisors (Sgt. SPEER and Sgt. FRANCIS); K9 (Officer JACKSON); less lethal (Officer POSTULA); and two other officers (Officer LIVINGSTON and Officer HOLSTI). The plan was for him to go with Sgt. SPEER as the rifle operator while Officer HOLSTI was in the back seat. They were to address the vehicle by way of a high risk/felony stop. Upon his approach, Officer SATHOFF believed the vehicle was more likely than not involved in the robbery and occupied with at least one person armed with a gun. When asked why, he explained, *“Based on the description, how many occupants were*

around or near the vehicle at the time; it was reported that there were four occupants in the robbery vehicle so we believed more likely than not this vehicle had been in the area driving recklessly, trying to - and possibly trying to get away from the area as quickly as possible, and had ultimately led to this location” (Lines 492-495).

Officer SATHOFF said as they approached the suspect vehicle, he was unable to see anyone around it because it was dark. He said Sgt. SPEER then activated his overhead lights and take downs to illuminate the area which allowed them to see the vehicle very well. At that point, he saw everyone scatter. As soon as he exited the vehicle, he saw a subject by the passenger rear quarter panel who matched the description of the male who had a gun in the robbery wearing a black “hoodie” and blue jeans. He said he was focused on the male’s hand and explained why, *“Because when people - what people do with their hands is extremely important. When they start to reach for something or try to grab at something. In this particular case we’re dealing with a possible armed subject, I want to know where they’re putting their hands. So, I focused very heavily on their - first off was just the clothing description; this person’s matching the description, and then what are they doing with their hands. So, I focused - was almost hyper focused on the hands at that point” (Lines 578-583).* He said he did not know where the subject came from in the car and saw him put his hand in his right jacket pocket, *“...as if he was trying to dig and access something” (Line 598).* At the same time, Sgt. SPEER gave a force warning of, *“...stop or you will be shot” (Line 599).* All the while, as the subject ran from the passenger rear quarter panel area to the northeast. He observed the subject continue to “dig” in his pocket after Sgt. SPEER gave the force warning. Officer SATHOFF said he believed the subject was reaching for a firearm and was about to use deadly force, so he shot him (Lines 661-662).

When asked what made him believe the subject was about to use deadly force, Officer SATHOFF said, *“He was reaching into his pocket. He was - matched the description of the subject who is armed. Based on my training and experience I’ve seen suspects who have their weapons in a right-side pocket. Sometimes it’s in a jacket pocket, sometimes it’s tucked in a waistband. I believed he was trying to pull out a gun at that time... (Lines 664-667).* He did not see a gun and was unable to recall seeing anything other than his hand in his pocket.

Officer SATHOFF said he believes the subject was at the beginning of the arborvitaes when he fired his first shot. He was stationary just outside the cover of the door to the police vehicle when he fired three shots. He explained he stepped outside the cover of the door to get a clearer sight-picture. He described his sequence of fire as a “volley” of three shots within one or two seconds. He was unable to get a visual of any of the shots hitting him. He realized the subject was shot when he fell to the ground after the third shot; he did not know whether or not the subject moved after he fell. He said he fired his rifle until the subject changed his behavior and the threat was no longer present. He explained what went through his mind right before he fired, *“I was scared. I was scared that he was going to pull out a gun and start shooting at us. I thought he was - honestly, I thought he was running for cover and was going to get into a position where he could engage in a gunfight with us” (Lines 830-832).* He explained what specifically caused him to fire his weapon, *“He was digging in his pocket looking like he was trying to access a firearm and I was not going to wait for him to pull it out and start shooting at us” (Line 848-849).* When asked what made

him believe the subject was going to take cover and engage, Officer SATHOFF said, *“He could have only taken seconds to do that and we have a very - like seconds with reaction time to do that. So, he could’ve turned and started shooting at us at any point in time or he could’ve gone to the front of this car and started shooting at us at any time. He also could’ve been shooting through the arborvitaes. If we had waited for that, that’s a much more dangerous situation for anybody on scene”* (Lines 1128-1132).

Officer SATHOFF said his rifle was charged when he retrieved it from his vehicle and his safety was on until he was ready to fire. He said he utilized his EOTECH sight when he fired, and he did not need to use accessory lighting. He explained that he used an unoccupied vehicle as his backstop and his aim was low center mass. His sight-picture included his lower back and buttocks area (Line 1021). He does not believe he had any other force options.

Officer SATHOFF explained why his force was reasonable, *“I believed that he was a threat of death or serious physical injury to me and other officers on scene. He matched the description of the suspect who was armed with a handgun and I was - I was not going to wait for him to engage in a gun battle with us”* (Lines 905-907). He said he was able to use deadly force on Mr. CLARK JOHNSON because he was a threat of death or serious bodily injury and to prevent escape. He continued and said a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threaten infliction of death or serious physical injury and the member reasonably believes that the subject poses an immediate threat of death or serious physical injury to the member or others (Lines 1172-1176).

Officer SATHOFF said prior to approaching the suspect vehicle, the following de-escalation techniques were used: Numerical superiority; getting a plan together; distance; a force warning with time to obey; K9; and less lethal force options. He said there was no chance for de-escalation or to be able to tell if the subject was impaired after contact was made. He described the incident as rapidly evolving. He estimated the time from when Sgt. SPEER’s vehicle stopped behind the suspect vehicle to the time he fired shots as “seconds”.

Officer SATHOFF said he kept his rifle raised in the area where he saw the subject go down until he was relieved by Sgt. WOLF. Other members were still getting the occupants of the vehicle in custody while he sat in Sgt. WOLF’s vehicle. Once everyone was in custody, Officer LIVINGSTON sat with him until he was relieved by an EAP member.

We talked about the conversation he had with Officer HOLSTI after he fired. He recalled asking Officer HOLSTI, “Did you see it” and Officer HOLSTI responding, “Yeah.” Officer SATHOFF explained he was referring to the subject reaching into his pocket, digging around, and trying to access a firearm but he said there was no further conversation between them.

Officer SATHOFF’s Grand Jury testimony

On August 16, 2023, Officer SATHOFF testified in front of the Grand Jury. His testimony was relatively the same as his initial interview with a few exceptions. Officer SATHOFF spoke about

his observations as the vehicle he was in approached the suspect vehicle. He confirmed he and Officer HOLSTI were responsible for the right side of the vehicle upon approach. He said there were two people: one in a red shirt (DUBOISE) and the other in a black hoodie and blue jeans (CLARK JOHNSON). He said the one in the black hoodie and blue jeans was outside of the vehicle and matched the suspect in the robbery as having a gun; so, he concentrated on him. He saw the red-shirted person run "*real quick, really fast*" (pg. 132 lines 11-12) toward the vehicles just beyond the arborvitae trees and the one in the black hoodie run in the same direction behind him. He described Mr. DUBOISE as being in a "*pretty sold run*" (pg. 133 line 7). He said CLARK JOHNSON, "*He started to slow down a bit. He wasn't moving like a person I'd run into in my (indiscernible), that is necessarily trying to get away from us*" (pg. 133 line 13-16). He went on to explain, "*...the people that run from us, are – that are trying to get away, are usually in a dead sprint, with their arms moving and stuff*" (pg. 133 lines 18-20).

Later in his testimony, a juror asked Officer SATHOFF in what direction was Mr. CLARK JOHNSON facing when he pulled up. Officer SATHOFF said Mr. CLARK JOHNSON was facing to the east. He went on and said Mr. CLARK JOHNSON looked quickly at him and then started moving.

One of the last juror questions was about if he only saw Mr. CLARK JOHNSON's back when he shot. Officer SATHOFF responded, "*It was like kind of his side. So, when he was moving, he had kind of turned, as if he was like going in between the vehicles. So, I saw the left side of him and his back, as well. And at that time, his right hand was still, from what I could see, in this area*" (pg. 166 lines 16-20). [NOTE – "this area" is later described as his right jacket pocket.] Officer SATHOFF confirmed he shot at Mr. CLARK JOHNSON's back.

Follow-up interview with Officer SATHOFF

Officer SATHOFF was interviewed a second time to clarify information he relayed during his first interview and that was contradictory to video evidence. We began speaking about his use of contacts. Officer SATHOFF said he does not wear his contacts all of the time. They are mainly used to fine focus details such as reading license plates and street signs at night. He does not wear them when he qualifies. He does not think the absence of his contacts affected what he saw during this incident in any way. He was unable to recall participating in training at night.

Officer SATHOFF said he used a similar rifle platform, the M4, during his 3-year military career. All told, Officer SATHOFF has four years of rifle experience as he was initially rifle certified with the Bureau in October 2021. His most recent qualification was October 2022.

We discussed how he is trained to shoot when he perceives a threat; specifically a volley of shots or a single shot. Officer SATHOFF replied, "*It depends on the course of fire. So, sometimes we're trained to fire a few rounds center mass, but that's just – I guess that is being consistent. It's more focused on consistency and accuracy, that we can place shots in the same area or even different areas depending upon where we're aiming. But we're taught to shoot until there's a change in behavior. Even when there's – we have targets, the targets are nonreactive, so our main focus*

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when we're shooting at targets is again, consistency and accuracy; to make sure that we have both when we're deployed in the field" (Lines 121-126).

Officer SATHOFF said he was trained to assess between each shot fired. When asked what he assesses between each shot, he explained, *"...each round that we fire we try to see if the person is responding to the shots, if they're hit, anything like that. Stopping their behavior from what they're doing at the time"* (Lines 139-141). He said, there is no set of time.

Officer SATHOFF said, during this incident, he assessed a change in behavior between each shot. He could not recall how much time was in between each shot. When asked if it was enough time to assess, he said, *"I'm continuously evaluating throughout the whole process. I know that by the time I fired the third shot is when I saw the change in behavior. How much time in between each shot, I couldn't tell you how much time exactly. Again, this is happening very fast"* (Lines 267-272).

Officer SATHOFF was given a photo taken from Air2 on the evening of this incident. He was asked to mark where Mr. CLARK JOHNSON was when he [CLARK JOHNSON] initially looked back at him with an "L"; where Mr. CLARK JOHNSON was when he slowed down with an "S"; where Mr. CLARK JOHNSON when he fired his first, second, and third rounds with a "1", "2", and "3" respectively. (See Sathoff4 in the diagrams folder for specific markings.) He does not know which shot hit Mr. CLARK JOHNSON just that his behavior changed after the third shot when Mr. CLARK JOHNSON fell forward. He still recalled seeing Mr. CLARK JOHNSON at the rear passenger quarter panel of the suspect vehicle.

We took a break and watched the Air2 video and the enhanced surveillance video. Each video was viewed one time. Officer SATHOFF acknowledged he did not see Mr. CLARK JOHNSON at the rear of the vehicle in the video and that he ran in front of the vehicle. When asked if he saw anything else different than his initial recollection, he responded, "No." He acknowledged he was not able to see him grabbing at his waist during the video.

When asked what he saw after watching the enhanced surveillance video, Officer SATHOFF said he saw, *"Two subjects running towards the vehicle that I believe I used as my backdrop during the shooting incident and then the apartment complex in the background"* (Lines 348-349). He characterized Mr. CLARK JOHNSON's movements during that video as, *"Maybe a jog"* (Line 362). He was unable to recall Mr. CLARK JOHNSON looking back during the video.

Officer SATHOFF said he maybe had a *"half-a-second"* (Line 387) visual on Mr. CLARK JOHNSON when asked how long of a visual he had on Mr. CLARK JOHNSON before he fired his first shot.

We ended Officer SATHOFF's follow-up interview with the following:

ROVINELLI: Okay. So, you pointed out that he looked to you that he was slowing down, and you mentioned that night that he was slowing down. You also mentioned that night that you

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didn't know if he was going to engage – stop and engage or not. What if he was slowing down to give up and not engage?

SATHOFF: He didn't show me any indication that he was slowing to give up and not engage— Because he was still digging in his pocket at the time.

ROVINELLI: And did you give him enough chance between each shot to do that, to actually – to give up?

SATHOFF: Again, we shoot to change behavior, and he wasn't changing his behavior between each shot, and he was not giving up, he was not putting his hands in the air; he showed no indication that he was going to stop digging in his pocket for whatever that object is, and I believed at the time it was a firearm. So, he did not stop doing what he did until after my last shot. And that's when I saw him fall forward (Lines 444-457).

Interview with Sgt. Richard STEINBRONN

Sgt. STEINBRONN said the following: He has been with the Bureau for twenty-six years and has been a sergeant for approximately fourteen years. He explained he carries an OIS checklist while on duty to ensure all tasks are completed. He said he was not geographically familiar with the area where the OIS occurred. He knew Sgt. WOLF was the incident commander when he arrived on scene as it was announced over the air.

Upon arrival to the OIS, he learned three people were in custody, and a fourth person was down behind the vehicles to the north (which the FLIR camera from Air2 confirmed). At that point, he formed a custody team to address the fourth subject. He explained his thought process, *“So, at that point in time I didn't know who was involved in anything other than Sergeant SPEER witnessed the OIS. So, I grabbed people. Officer HOLSTI was already on scene. I made him a shield officer, just grabbed a shield from the back of a car. Officer SHELTON, he's ECIT so he was in charge of commands and hands. Officer ROBLES was in charge of the second hands. We had Ken JACKSON there from K9 Division. He was our K9 officer in case we needed a K9 because again, we didn't know what his status was”* (Lines 185-190). In addition, Officer POSTULA was assigned to the 40mm less lethal launcher and Sgt. LLOYD was assigned as the AR-15 rifle operator.

Sgt. STEINBRONN explained the plan was to move a police vehicle up for cover and to contact him. He said, *“So, we did move up the car. The contact team, everybody knew what their assignments were. I even asked them does everybody understand what the assignments are and what your role is and does anybody have a problem with the plan? Okay. Nobody had a problem with the plan, everybody knew what their assignments were. So, we moved up the car. Officer SHELTON tried to make contact with the downed subject. And basically, we told him - told him to crawl out towards us. And then we could barely hear anything. It was a cruddy, cruddy night and we were doing this by voice. We could barely hear what he was saying, but he says I can't - what we thought was I can't, I can't crawl out to you. Then we said we know you have a gun, throw the gun out so the gun's away from you. It was something inaudible, something around I can't or whatever. So, at that point in time he won't crawl out to us, he can't - maybe he can't crawl out to us. Not throwing the gun out, we didn't know if he had a gun, you know, specifically*

or not, but we believed he may be armed so we wanted to at least announce it. Once that was done and then we still weren't getting him, you know, to crawl out, we realized that in between two cars that were right here, we had to reposition ourselves just slightly over. But we could see in between two cars and he was at the - I guess what you would call the back of the cars in front of us" (Lines 207-222). They were able to see the male between the two vehicles but did not see a gun. Once the subject raised his hands, they felt safe to approach and put him in custody.

They approached the subject in a stack formation between two vehicles. He said Sgt. LLOYD was unable to get into a good position to cover if he approached in the stack formation, so he moved to a better position for better visibility. He explained why he made the decision for the custody team to approach in a stack formation, "...the cover was, our going in between them, the ballistic shield basically covered from car-to - basically car-to-car... And with a single stack. The reason that we're coming in this way is the entire approach we could see him. So, if he's diving under the car, you know, hands under the car, we can see it. If we - I didn't think any other approach that we could see the entire - as much of the area as we could while approaching. You want to see as much as you can" (Lines 582-588). He estimated it took approximately five minutes from the time he arrived on scene to assemble a custody team and approach the subject.

Sgt. STEINBRONN explained the purpose of the ballistic shield. He, "...told Officer HOLSTI to pin him in place. Again, if he's got a gun in his waistband, if he's got a gun within his arm reach, you pin him down with that shield. It restricts his movement and again, if he's got the gun in his waistband, he's not going to be shooting any of the custody team and the custody team can simply pry out his arms" (Lines 450-453).

Once in custody, Sgt. STEINBRONN said the subject complained of leg pain. As they provided medical aid, he saw a gunshot wound to his lower back. He said AMR was staged prior to approaching the subject. He estimated it took them about 30 seconds to come in after the subject was secured. He did not believe AMR could have rendered aid any sooner. He explained why twenty-two minutes to render aid was reasonable, "So, that's 22 minutes of shots fired over the air, coming from 82 and Division, coming up there, them - guy running on 30th, getting taken into custody, getting resources there, setting up containment, taking the other two people into custody. Figuring out is there a downed guy? Again, somebody heard, you know, help. The plane - you know, after the fact in - matter of fact I think I even asked after I found out it was an officer-involved shooting and somebody was yelling for help, can you confirm on your FLIR or whatever the system is, is there somebody down and he does confirm that there does appear to be somebody down. So again, we don't fully know that this guy's been shot, okay? We're trying to figure it out. So once that - I'm going to say third person from the car is taken into custody that team to address him, that fourth person, I mean it was quick. So, no, it doesn't surprise me because there's a lot going on, a lot going on. You've got resources from two precincts coordinating, you've got the scene. You've got one running on 30th. This guy potentially, you know, we know that there's a fourth, and then the two people in the car. So yeah, it does not surprise me" (Lines 479-491).

We discussed the decision to use witness members from the OIS to participate in the custody team. Sgt. STEINBRONN said, "So, here's the deal. In a tactical situation you use the bodies—That

you need, but as the goal was to get him into custody as soon as possible while being safe doing it so we could get him medical attention. At that point in time yeah, we're still in the tactical phase. Yes, I'm going to use those officers. I didn't specifically ask hey, were you involved as a witness, you know, prior to doing my custody team. I was taking the people that were on scene so we could get a custody team together, we could get him into custody, and get him medical attention. Afterwards I found out that some of them were, told them don't talk about the incident. We're going to get you separated. So that was administratively taken care of during the administrative portion of this; the crime scene portion of it. So basically, transitioning from, you know the tactical to the crime scene management of the OIS" (Lines 307-317).

Sgt. STEINBRONN said after the tactical portion of the incident was complete, he and Sgt. WOLF ensured all responsibilities and notifications were completed, to include, separating all involved and witness members, addressing all injuries and medical needs, assigning members to set up an inner and outer taped perimeter, and adjusting the perimeter as needed. He contacted the PPA and EAP while Sgt. WOLF made the other notifications.

Interview with Sgt. Jason WOLF

Sgt. WOLF said the following: He has been with the Bureau for twenty-five years and has served in the role of A/Lt. since August 2022. On the evening of this incident, Sgt. SPEER was assigned as the A/Lt. After learning Sgt. SPEER was a witness, Sgt. WOLF announced he would take over as the IC.

Sgt. WOLF talked about the information he had prior to arriving on scene, "So, the information beforehand I heard of a call of a robbery that happened around 50th and Powell, an attempted carjacking. Then I'd heard that a Central Precinct sergeant had located a vehicle somewhere in the area that matched the description they had given out. Air Support - he had lost the vehicle when he turned around to attempt to stop it - Air Support was up, they had located - they came in the area and they had located what they believed was a possible vehicle that had pulled in behind this church at this location. And they were giving out information about people getting in and out of the vehicle parked in the back of the church. So, it was at that time that officers responded to that area and then Acting Lieutenant SPEER was out there with them. I began heading that direction, but he - they put together a plan there, I don't know what their plan was at that moment - and then they made contact with the vehicle. So, and then at that point they say there's people running from the vehicle, it was broadcast that shots were fired, I was already enroute to the location. And I knew Acting Lieutenant SPEER was there, I left him as the IC at the time because I knew that he was on scene and he knew what was going on. Once I got there is when he - I said I had arrived and he had said I need you to take over the IC so I went to where their location was where I found where the incident happened in the back-parking lot" (Lines 122-137).

This is the information he learned from Sgt. SPEER after he arrived, "When I got to him, I asked him who had shot and he said that Officer SATHOFF had shot. He was still up front. They were still dealing with people that were in the vehicle. He said that Officer SATHOFF shot, he was standing up there still to give - we had limited officers. So, I pulled Officer SATHOFF back from

the scene and I put him in a vehicle, just told him to wait there. I had nobody else to go with him so I just had - I just asked him to stay in the vehicle for the moment, a police vehicle away from the scene. Went back up, I asked Acting Lieutenant SPEER a couple questions that I noted in my report. I just asked him how many shots were fired and did the suspect fire and in what direction were shots fired, just so I had an idea of what we were dealing with. He told me he believed he thought two shots had been fired at the time. And then at that point Sergeant STEINBRONN had arrived and Sergeant STEINBRONN then put together a custody team. Once we had the person in custody at the car they were dealing with, then he had a custody team together to move forward to deal with the person who had been shot” (Lines 139-150).

Sgt. WOLF said he was aware there was a subject calling for help as he arrived on scene. He described the actions he took and the directions he gave, *“So, at that point I - so I had Sergeant STEINBRONN take care of the custody team. I did request medical to make sure that they were staged which I was notified they had already been requested by someone to stage so medical was already there. So STEINBRONN took care of the custody - of the - with the suspect who was down. At that point then I moved back and made sure - I identified who were the - any witness officers at the scene. I briefly spoke to them and told them to not talk to each other, I separated each of them. When we got some more officers there we assigned officers to each of those officers, they were all separated in vehicles” (Lines 161-167).*

Sgt. WOLF assigned a member to crime scene log and began making notifications, as required by directives, to include having BOEC send out the OIS page. He remained as the IC until the Homicide Unit arrived on scene.

Interview with Subject Matter Expert/Instructor Officer Brandon COX

Officer COX talked about his training with and using the AR-15 rifle. He had been teaching and qualifying members of the Bureau with the rifle since 2018. Prior to qualifying with the Bureau in 2012, he had five years of military experience with using a rifle. He discussed the New Operator course (60-hours) and the yearly in-service training (10-hours 1x a year). The New Operator course is “essentially” a use of force decision making class that has a weapon component installed into it where the operator must figure out how to use rifle before they start incorporating it into use of force decision making. The last day of the course is a full day of scenario-based training. For the in-service training, he tries to come up with a lesson plan that is most beneficial for the bureau, for the operators to work on. It mainly consists of transitioning to a handgun if the rifle goes down. Along with malfunction clearances and reloads. He said, *“...lately he’s been working on a bunch of eye movement drills, so identifying where your target is, acquiring it with your rifle, getting that good sight picture with your optic, ensuring that you have a nice accurate shot. And then you’ve got to start that process all over again identifying where that next target is or identify where you need to be moving next. So, it’s just an eye movement drill trying to reinforce you need to be having your eyes open, you need to be able to see the bigger picture around here and always be thinking” (Lines 15-120).* He explained the rifle operators qualify three times a year along with their handgun. When asked if the rifle operators train at night, Officer COX replied, *“We haven’t trained at night. I’m trying to see if we can start training at night at the range that we currently*

use. If not, then I'll try and schedule some indoor training here where we can adjust the brightness level" (Lines 208-210). Officer COX said it has been "a while" since he, as an instructor has trained at night.

Speed vs Accuracy

We talked a bit about the differences and similarities between the military and law enforcement objectives. He emphasized law enforcement tries to restore peace and resolve conflict as safely as possible. We discussed how he trains Bureau members under stress if he emphasizes speed or accuracy. He answered, "*It's both. I tell them this is where you need to be shooting if your rounds are hitting outside of this target location. It adds time on your overall time. And people are generally very competitive so they want to try to get the best time that they can, and it's a good talking point of speed and accuracy; where's that fine line? Yes, you want to be fast, but you don't want to be so fast that you're missing all the time. But again, you might have to be – time is of the essence so you might have to be a little bit faster and have accurate rounds, so it's a really good talking point there*" (Lines 152-157).

Round Responsibility

Officer COX said he stresses that every time the trigger is pulled, the operator needs to be able to articulate the reason they are firing because they are responsible for every round fired.

He said members are not taught to fire a volley of shots, then assess. He said, "*We tell them they need to constantly be assessing the situation and then once that behavior has changed and that person or that it's no longer a threat and then that's when you should stop firing*" (Lines 288-290).

He believes each trigger pull is considered an individual use of force and explained, "*...because you're assessing each one and you made that decision yes, I need to keep on firing*" (Lines 294-295).

Assessing

Officer COX said, "*...when deadly force is involved, you're looking for any change of behavior. If that individual has presented or that threat has presented something that the officer perceives as an immediate threat of deadly force or serious physical injury, then they're going to respond appropriately with that force until they change the behavior, and that subject is not presenting that threat anymore*" (Lines 161-164).

He said he teaches to try to assess at each trigger pull. The amount of time to assess is dependent upon the individual. He said, "*But again, how the body works, it takes time for you to observe changes in what you're seeing and then send that message to your body and then your brain telling your body to change that to action that you're doing. So, we tell them that you need to be assessing between each round that you fire*" (Lines 282-285).

Surveillance Video:

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No video, other than the video provided by Air2, of the OIS was discovered by the time of this writing. Although there was no video of the actual force, there is a surveillance video of Mr. DUBOISE and Mr. CLARK JOHNSON running North by the arborvitaes. This video is labeled video1 and is discussed during Officer HOLSTI's and Officer SATHOFF's follow-up interviews.

On October 18, 2023, Photographic Reproduction Specialist Mark WEBER used VideoFOCUS Pro to edit a portion of video1 to zoom in and lighten the area where Mr. DUBOISE and Mr. CLARK JOHNSON ran towards the arborvitae trees. Officer SATHOFF viewed the edited video for his follow-up interview. The video was not enhanced prior to Officer HOLSTI's follow-up interview.

Noted Discrepancies:

In my review of the interviews conducted in the administrative investigation and the Detective Division criminal investigation, I noted the following discrepancies:

Officer HOLSTI and Officer POSTULA both reported that Mr. CLARK JOHNSON ran to the rear of the vehicle (South) prior to running north towards the arborvitaes. This is a perception they both experienced during a high stress situation and does not mean they were being untruthful.

In Officer HOLSTI's initial interview with detectives, he mentioned seeing Mr. CLARK JOHNSON grabbing for a gun to Officer SATHOFF. In his initial IA interview, he did not volunteer specially mention seeing Mr. CLARK JOHNSON grabbing for a gun until I specifically asked him about it. In his Grand Jury testimony, he used the terminology of grabbing for a weapon. He was asked about the inconsistencies during his follow-up interview. He did not offer an explanation.

Officer SATHOFF reported seeing Mr. CLARK JOHNSON at the passenger rear quarter panel of the suspect vehicle when he initially saw him. Based upon the LEICA viewpoint, it is possible that was his perception when Mr. CLARK JOHNSON was actually at the passenger front side of the vehicle after sliding off the hood. Due to the high stress of the situation, it is reasonable to believe his depth perception may have been affected.

In addition, Officer SATHOFF added that Mr. CLARK JOHNSON slowed down as he ran from the vehicle. He offered that as time went by, he was able to fill in more detail about the events as they unfolded.

Internal Affairs Notes:

Mr. DUBOISE and Mr. REYNA did not give statements to detectives.

LEICA determined Officer SATHOFF's distance was approximately 65 feet from his target (see Exhibit 2).

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Officer POSTULA believed the initial contact could have been slowed down a bit more than it was because the ASU had eyes on.

BOEC did not elicit the time delay between the occurrence of the robbery and the time the victim called to report the robbery.

Forensic Evidence Division (FED) conducted the round countdown to determine how many rounds Officer SATHOFF discharged. At the completion of the countdown, it was determined Officer SATHOFF discharged three rounds from his duty rifle. Officer SATHOFF's rifle, magazines, and contents of the weapon were photographed and secured by members of FED.

On August 16, 2023, the Grand Jury returned a verdict of No True Bill.

In recording B000037 12 PP22-308667 East Dispatch 0040 – 0055 (located in the BOEC folder) at the 1:22 mark, a series of three shots is heard in the background. These shots appear to have taken one second from start to finish.

Once Officer SATHOFF fired his third shot, he saw Mr. CLARK JOHNSON fall to the ground, but there was no announcement/discussion with anyone except Officer HOLSTI regarding this. If Officer SATHOFF had reported this, it is possible the custody plan could have been altered to render aid to Mr. CLARK JOHNSON sooner.

We later learned that neither the vehicle nor the suspects involved in the OIS matched those involved in the initial armed robbery call.

There was a Glock firearm recovered north of the crime scene to the west of 2830 SE Colt Dr. The items discovered were in areas where Damon DUBOISE had been observed by the Air Support Unit as having travelled through after his departure from the suspect vehicle.

On January 9, 2024, I reviewed the training analysis authored by Lt. Casey HETTMAN. The analysis was included in the case file.

AIR2 photo sequence:

In the IRM section of the case file in the Videos folder, there is a series of six still shots from the Air2 video. Because of the type of file, the Air2 video cannot be edited or altered to include slowing it down. The first photo is at 41:21 as the officers approach the suspect vehicle. The second photo at 41:22 as Mr. CLARK JOHNSON and Mr. DUBOISE run from the suspect vehicle. The third photo at 41:23 is Mr. CLARK JOHNSON on the hood of the suspect vehicle. The fourth photo at 41:24 is Mr. CLARK JOHNSON landing after sliding across the hood of the vehicle. The fifth photo at 41:25 is Mr. CLARK JOHNSON just reaching the parked vehicles north of the church parking lot. The sixth photo at 41:26 is Mr. CLARK JOHNSON falling into the vehicle (presumably after he is shot).

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Internal Affairs Recommended Findings:

On October 18, 2023, I completed the investigation, review, and analysis of this deadly force encounter. I conducted interviews and reviewed all the information needed to make my recommendations.

In recommending these findings, I reviewed the Police Bureau Directives that were in effect at the time of the incident to determine if there was a violation of policy or procedure. I also reviewed the Directives in the case file and Grand Jury testimony.

Area of Review 1: The Application of Lethal Force (FORCE) (Officer Christopher SATHOFF) (Directives 1010.00 – Use of Force; 1010.10 - Deadly Force and In-Custody Death Reporting and Investigation Procedures; 315.30 – Satisfactory Performance)

The Application of Lethal Force: Officer Christopher SATHOFF

Investigator Analysis:

According to the surveillance video at the Super Deluxe, the robbery occurred at 0006 hours. The victim reported the above-described robbery at 0024 hours (eighteen minutes later). Sgt. FRANCIS saw a gray sedan traveling recklessly at a high rate of speed at 0034 hours; twenty-eight minutes after the attempted robbery was reported. Most members we interviewed believed this car was associated with the robbery call. Air2 followed this vehicle to the north of the church's parking lot. Soon after, officers arrived at the south end of the church. Sgt. SPEER put together a plan to approach the subject vehicle/occupants, utilizing marked units.

Five Police Bureau members in two separate police vehicles approached the suspect vehicle, which was still parked at the north end of the church's parking lot. Air2 remained in the area to observe from above. Prior to the officer's approach, one of the occupants of the suspect vehicle walked in the officer's direction near the front of the church. The occupant stopped and quickly walked back to the suspect vehicle. This caused extra stress to the officers, with the occupants possibly now knowing law enforcement was present.

Upon approach, emergency and flood lights were activated. All officers said the vehicle was well illuminated. Sgt. SPEER gave orders to the occupants to stop and issued a force warning. Two occupants immediately fled/ran to the northeast ignoring commands to stop. One occupant stayed inside the rear driver's side seat of the vehicle, and one occupant was outside the vehicle, walking in the direction of Officer JACKSON's police vehicle.

Within four seconds of contact with the suspect vehicle, Officer SATHOFF fired three shots, in one second or less, from his Police Bureau issued Colt AR-15 rifle. Directly after shots were fired, Mr. CLARK JOHNSON who was still running north away from officers, fell to the ground. He fell between two parked cars, in the parking lot just north of the church parking lot. Mr. CLARK JOHNSON was struck by one round to his lower rear torso. One round struck a vehicle to the

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left/west of Mr. CLARK JOHNSON and other round struck a vehicle to the right/east of him.

Officer SATHOFF said he used deadly force because a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threaten infliction of death or serious physical injury and the member reasonably believes that the subject poses an immediate threat of death or serious physical injury to the member or others. Officer SATHOFF believed his deadly force was reasonable because Mr. CLARK JOHNSON was a threat of death or serious physical injury to him and other officers on scene. Officer SATHOFF said Mr. CLARK JOHNSON matched the description of the robbery suspect who was armed with a handgun.

This was an investigatory stop with articulable suspicion that the occupants might have been involved in an attempted armed robbery. The initial description of the robbery suspects and their vehicle was vague to include an unknown color sedan with four males; the male with the gun was described as white, wearing a ski mask and a black “hoodie”. Mr. CLARK JOHNSON was a black male who wore a black jacket. He did not possess any weapons at the time of the deadly force incident.

Based upon the facts presented, there was no probable cause to link/arrest Mr. CLARK JOHNSON to the previously described armed robbery or support Officer SATHOFF’s belief that Mr. CLARK JOHNSON posed an immediate threat to the public when he attempted to escape. There were not enough facts available/gathered at the time Officer SATHOFF made the decision to use deadly force and shoot Mr. CLARK JOHNSON. Although Officer SATHOFF stated he believed Mr. CLARK JOHNSON was reaching for a gun and, therefore, was an immediate threat of serious physical injury and or death, he did not see a gun or any object. He based his thought process on his training and experience. Officer SATHOFF did not articulate an immediate threat Mr. CLARK JOHNSON posed to him, officers on scene, or to community members. None of the officers/sergeants, including Officer SATHOFF, could articulate why Mr. CLARK JOHNSON was an immediate threat to them or others. There was no indication, or evidence to support that Mr. CLARK JOHNSON was going to stop running away from officers, stop/turn and engage officers in a firefight or some other deadly force situation/incident. In addition, none of them, including Officer SATHOFF, were able to articulate they saw anything in Mr. CLARK JOHNSON’s hands, pocket, or waistband. Officer SATHOFF’s anticipation of Mr. CLARK JOHNSON was going to stop running away, turn back towards officers and engage them in a gun fight is unreasonable.

Officer SATHOFF testified in the Grand Jury that, “*He [CLARK JOHNSON] started to slow down, a little bit. He wasn’t moving like a person that I’ve run into in my (indiscernible), that is necessarily trying to get away from us... ..the people that run from us, are – that are trying to get away, are usually in a dead sprint, with their arms moving and stuff*” (Grand Jury Transcript 8-16-23; pg. 133 lines 13-20). The AIR2 video shows Mr. CLARK JOHNSON exiting the suspect vehicle at the driver’s door, going over the hood of the suspect vehicle, then running northeast between two parked vehicles when Officer SATHOFF fired three rounds. As Mr. CLARK JOHNSON slid off the hood of the vehicle and landed, he turns and runs north without giving an

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indication he was going to stop. The surveillance video shows Mr. DUBOISE and Mr. CLARK JOHNSON running north and not looking back. It also appears that Mr. CLARK JOHNSON is running and not jogging as Officer SATHOFF stated.

Officer SATHOFF said he told the Grand Jury he fired his rounds at Mr. CLARK JOHNSON's left side/back area which is consistent with him already making the turn to go north. As Officer HOLSTI agreed, Mr. CLARK JOHNSON gave no indication that he was going to stop and engage. He specifically stated he thought he was trying to escape/flee.

Officer SATHOFF fired three rounds in a second or less. This goes against his training of not to shoot a volley of shots but rather to assess between each trigger pull. Based upon the evidence gathered and presented there does not appear to be enough time for Mr. CLARK JOHNSON to change his behavior between each trigger pull.

Bureau Directives authorize PPB Officers to use force that is objectively reasonable.

Directive 1010.00 Use of Force, states in part,

2.1. Constitutional Force Standard (Graham Standard): Force Performance Requirements;

2.1.1. Members shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances;

2.1.2. When determining whether to use force, members must balance the individual's Fourth Amendment rights against the government's interest. At a minimum, members shall consider the following three factors prior to using force:

2.1.2.1. Threat. Whether the individual poses a threat to the safety of officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter;

2.1.2.2. Severity. The severity of the crime at issue.

2.1.2.3. Active Resistance or Evading. Whether the individual is actively resisting control or attempting to evade;

2.1.3. A reasonableness inquiry is not limited to these factors, and the Bureau will evaluate a member's use of force based on the totality of the circumstances and all policy requirements;

2.3.5. When a member uses force, they should be supported by at least one member capable of providing immediate cover, if feasible.

Police Bureau Officers are mandated by Directives to perform their duties in a manner that meets standards of efficiency and service in order to carry out the functions and objectives of the Bureau. Directives also state members perform their duties in a satisfactory manner during confrontation management.

Directive 0315.30 - Satisfactory Performance states, in part;

2.1. This subsection sets performance standards for decision-making during confrontations, and requires that members use sound tactics and good decision-making during a confrontation and work diligently toward applying, when practical, less force than the maximum allowed by the constitutional standard and minimizing or avoiding force when possible. This subsection also requires members to develop and display over the course of their practice of law enforcement good confrontation and force management skills;

2.2. The Bureau requires that members be capable of using effective force on behalf of the public, when appropriate, to manage the risks of confrontations;

2.3. It is the intention of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical;

2.5. When managing a confrontation, members must make confrontation management decisions based on available options reasonably calculated to resolve the confrontation safely and effectively, with as little reliance on force as practical;

2.6. In applying this standard to a member’s performance, the Bureau shall evaluate the member’s decision making from the perspective of the member at the moment the decisions were made. This confrontation management standard is separate from and does not modify the use-of-force standard in Directive 1010.00, Use of Force. The relevant inquiry for this confrontation management standard is whether the member pursued the Bureau’s goal of resolving a confrontation safely and effectively with as little reliance on force as practical and whether there is a valid reasoning in the member’s confrontation management decision-making.

Although Officer SATHOFF was in a high stress encounter and had to make split-second decisions, his decision to use deadly force did not meet the standard outlined above in the Graham Standard. Officer SATHOFF did not fulfill the requirements of his position and accomplish his functions at the scene in a satisfactory manner. This review concluded Officer SATHOFF violated Bureau Directives when he shot three times, hitting Mr. CLARK JOHNSON once. Each application of deadly force was out of policy. Other than reciting parts of the Directive, Officer SATHOFF gave vague reasonings for firing the three rifle rounds; except to say he continued to shoot until CLARK JOHNSON’s behavior changed.

For the above reasons, this review concluded Officers SATHOFF’s use of deadly force was out of policy.

Investigator Recommended Findings: Officer Christopher SATHOFF: **Out of Policy**

Area of Review 2: Operational Planning and Supervision (PROCEDURE) (Sergeant Adam SPEER and Sergeant Jason WOLF) (Directive 315.30 - Satisfactory Performance)

Operational Planning and Supervision: Sergeant Adam SPEER
Sergeant Jason WOLF

Area of Review 3: Post Shooting Procedures (PROCEDURE) (Sergeant Adam SPEER, Sergeant

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Richard STEINBRONN, Sergeant Jason WOLF) (Directives 1010.10 – Deadly Force and In-Custody Death Reporting and Investigation Procedures; 640.10 – Crime Scene Procedures; 315.30 – Satisfactory Performance)

Post Shooting Procedures: Sergeant Adam SPEER
Sergeant Richard STEINBRONN
Sergeant Jason WOLF

Analysis:

Sgt. SPEER was on scene prior to the approach and deadly force incident. He formulated a plan with the officers/tools that were available to him. He planned to approach the suspect vehicle with two teams to conduct a high-risk vehicle/person stop. Sgt. SPEER utilized many resources prior to approach to include: The Air Support Unit, K9, a rifle operator, a 40mm less lethal operator, and extra members to go hands on. There does not appear to have been any contingency plans discussed.

Sgt. SPEER said his plan to approach the suspect vehicle was sped up due one of the occupants possibly seeing the officers assemble at the front of the church. He decided to approach the suspect vehicle sooner than planned to keep the vehicle contained in the parking lot. Sgt. SPEER did not want this vehicle back on public roadways, which he believed would have caused a significant threat to officers/community members. It is unknown if their approach would have changed had they given it more time and were able to gather more information about the armed robbery. This is something to be considered.

Sgt. WOLF responded to the scene and took over incident command once Sgt. SPEER informed him that he was a witness to the deadly force.

Sgt. SPEER heard someone yelling for help approximately two minutes after shots were fired. He made a plan to get other occupants into custody first. These occupants were in-between them and Mr. CLARK JOHNSON. He said this needed to be completed prior to approaching Mr. CLARK JOHNSON. He said to approach Mr. CLARK JOHNSON before securing the other occupants would have created a serious officer safety situation. Once Sgt. STEINBRONN arrived on scene, Sgt. SPEER communicated his plan to him, and he took over the custody team.

Once the other occupants were secure, the custody team contacted Mr. CLARK JOHNSON, secured him, and rendered medical aid.

After a deadly force incident, the directives require that medical aid is rendered as soon as it is safe to do so. As soon as the scene was safe, officers immediately rendered medical aid to Mr. CLARK JOHNSON. Medical units were already staged and quickly came to the OIS site and took over his medical care/needs.

Sgt. WOLF briefed the Chain of Command about the details of the incident and what steps were

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being done to control the scene and preserve evidence. Sgt. WOLF ensured all the other notifications were made.

All supervisors worked collaboratively to ensure the crime scene was handled and documented appropriately; evidence was preserved, witness and involved members were separated and civilian witnesses were located.

The plan to approach Mr. CLARK JOHNSON is somewhat concerning as there was a minimal amount of space between the two vehicles. Officer POSTULA and Sgt. LLOYD were unable to get into advantageous positions as they approached in a stack formation. They both needed to step out of the stack to get better vantage points. Knowing this was a dynamic event with limited visibility of Mr. CLARK JOHNSON who was behind parked cars, a different approach might have been safer for all involved. A recommendation would include consulting with the ASU for a safer approach. The ASU attempted to send a picture of the downed subject to Officer JACKSON, but he did not receive it.

Directive 0315.30, Satisfactory Performance, states in part,

- 1.1.** Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions.
- 2.1.** This subsection sets performance standards for decision-making during confrontations, and requires that members use sound tactics and good decision-making during a confrontation and work diligently toward applying, when practical, less force than the maximum allowed by the constitutional standard and minimizing or avoiding force when possible. This subsection also requires members to develop and display over the course of their practice of law enforcement good confrontation and force management skills.
- 3.1.** Supervisors at any rank should prioritize their supervisory perspective and avoid tactical involvement in incidents to the extent possible, under the totality of the circumstances, if there are a sufficient number of officers available and capable of fulfilling a particular tactical role. Supervisors who are not serving as the incident commander may take a tactical role at the direction of the incident commander. Nothing herein prohibits supervisors from taking immediate law enforcement action when objectively reasonable under the totality of the circumstances. In applying this standard to a supervisor's performance, the Bureau shall evaluate the member's decision-making from the perspective of the supervisor at the moment the decisions were made.

Sergeant Adam SPEER, Sergeant Richard STEINBRONN, and Sergeant Jason WOLF fulfilled the requirements of their positions, and accomplished their functions at the scene in a satisfactory manner.

Area of Review 2: Operational Planning and Supervision:

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Recommended Findings: Sergeant Adam SPEER: *In Policy*
Sergeant Jason WOLF: *In Policy*

Area of Review 3: Post Shooting

Procedures: Recommended Findings: Sergeant Adam SPEER: *In Policy*
Sergeant Richard STEINBRONN: *In Policy*
Sergeant Jason WOLF: *In Policy*

Exhibits:

- 1: LEICA aerial scan (1 page)**
- 2: LEICA shooting distance (1 Page)**

(End of Report)

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Investigation Submitted: October 26, 2023

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