



Ohio Bureau of Criminal Identification & Investigation
INVESTIGATIVE REPORT



12/19/2012 PTL. JIM HUMMEL SECOND INTERVIEW

Summary

On Wednesday, December 19, 2012, Cleveland Police Officer Jim Hummel came to the BCI Richfield Offices for a follow-up interview. Hummel was accompanied by Atty. Pat D'Angelo. BCI SA Eric Lehnhart and SA John Saraya conducted the interview.


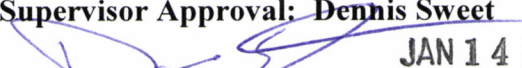
Hummel was advised of his "Miranda Rights" which he waived and consented to speak with agents.

The interview was video recorded and submitted to the case file as Exhibit #59.

Details

Hummel was asked to clarify some details that occurred in the pursuit. As the lead car for most of the pursuit, starting on the Detroit-Superior Bridge, Hummel and his partner had a unique perspective of the subject vehicle.

Hummel was asked to discuss the subject car and if it backfired during the pursuit and if so, how many times. While eastbound on the Detroit-Superior Bridge, Hummel and Siefer initially made contact with the subject car, as it was westbound on the bridge. The car was traveling possibly just over the speed limit. Hummel said that the subject car looked like it was going to slow down and stop around W. 25th St., but did not. Hummel pointed out that there was an unmarked car that ended up in front of the subject vehicle. The subject car tried to go around the unmarked but could not do so. Somewhere around 38th St. is where the subject car got around the unmarked car and accelerated. Hummel was asked if the car backfired at all up to this point. He replied that the first backfire that he observed was on the "Innerbelt" approaching "Deadman's Curve". This is the area of I-90 north of the Superior St. exit where it makes a right angle turn to parallel the lake shore. As they followed the car, it slowed to make the turn and, as they were under a bridge, Hummel described a "Pop" that they heard. Hummel asked his partner if the subjects had just

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| Case Agent: Mark Kollar | Authoring Agent: John Saraya  |
| Date of Report: 12/19/12 | Exhibit #: 59 |
| Investigative Activity: Hummel Follow-up Interview | Supervisor Approval: Dennis Sweet  JAN 14 2013 |

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shot at them. Siefer responded to him that he did not think it was a shot, but a tire blowing out. Siefer broadcast that the subject car had blown a tire.

The next time Hummel hears a backfire is near the power plant along I-90 eastbound. This time, Hummel said that he sees a flash from the tailpipe as well as hearing the backfire. Hummel said he identified it as a backfire to Siefer, thinking that the driver was "Pushing the car to the limit". Hummel expected to "start breaking things down" as they were traveling about 120-130 MPH.

As the subjects exited at E. 72nd St., the subject car left the pavement and went into some grass. As the car came back onto the street, the "car bogged down". Hummel demonstrated how he heard the subject car's engine slow, and then there was a "pop" from the car. After this backfire, the car took off. These were the only times Hummel heard the subject car backfire.

Hummel said that as they pulled into the school, he could see the subject car first start to the right and then begin a left turn. As they neared the upper part of the parking lot, near the island with a light pole on it, the subject had already gotten turned around and was heading back the way it had come. Hummel thought the pursuit was over and was about to get out of the car when he sees the subject car and Diaz fire at the car. Hummel heard Diaz fire one round.

During the pursuit, Hummel could not see the driver look around. Hummel described him as "steadfast" in his driving, just focused on the driving. Hummel did say that while they were relatively close to the car for most of the pursuit, there was a time that the subjects were a substantial distance from the cruisers as the cruisers were moving cautiously through the residential areas. At this point, the unmarked vice cars got in front of them and were leading the pursuit. Hummel can see the passenger in the car was "bouncing around" a lot in the car. Hummel then went on, that, there was the one time she turned around and "I thought they were pointing a gun at us." Hummel explained that the passenger had turned completely around and was kneeling on the seat, "hands up towards the top of the car". Hummel said that he did not know what she was doing, but he thought there was a gun. This occurs while on Quigley. Prior to this, Hummel said that he saw the passenger turn in the seat and look out the back window. Hummel said that she turned around again somewhere in the area of 72nd, 79th, or Addison.

In the school parking lot, Hummel said that his car, the subject vehicle, and another car were all around the island. Hummel saw Diaz, but not Diaz's car. Hummel said that he saw the subject car "lurch forward" and he heard the pop from Diaz's gun. The car went past them back down the driveway.

Hummel was asked why he reached out to Lt. Balli from East Cleveland. Hummel said that they were in East Cleveland and he wanted to know if Balli was there. Hummel described their relationship as friends, but not close. Hummel is acquainted with Balli via shared interest in cigars and flying. Hummel texted Balli from the scene but did not get a response. A review of Hummel's cellphone indicates a text sent on 11/30/12 at 07:31 UTC. The conversation (-5 hours) would indicate that the text was sent at 02:30 local time. Balli calls him back the next day.

While on the phone, they are discussing the pursuit. Hummel says that while talking, he is “putting the whole picture together in my mind” of what happened. Hummel thought that this conversation was “off the record” and expressed his idea that “this thing may have started with a backfire”. Balli recommends that Hummel talk to someone in his chain of command, and offers another officer, William “Billy” Traine. Balli expressed that Traine was someone who could offer some insight in this instance. Hummel did talk to Traine, who told him to express his ideas about what happened including the backfires. Hummel also said that he starts to get this idea about the backfires as he is “Monday morning quarterbacking” on the events of the pursuit. The night of the pursuit, he said that he “thought nothing of it” when the backfires occurred. After the fact, looking back at events, things started to “gel in his mind”. Hummel said that he did not know what to do with it, so he reached out for guidance. Hummel said it came to him while talking to Balli and he did not know what to do next. Balli told him that if he (Hummel) felt that strongly about what he was thinking, he should pass it on to someone. Hummel said that he reached out to Traine since Traine was partners with Hummel’s father 30 years ago. Hummel has grown up knowing Traine and looked to him for guidance.

Hummel said that he had nothing to hide; he just wanted to “do this the right way”. Hummel said that he called the Union about his thoughts. When asked what the union did, Hummel said that Jeff Follmer told him to keep it to himself until interviewed. This was frustrating to Hummel since officers and the agency were “getting beat up in the media”.

Hummel was asked about some of the text messages that were found on his phone. Specific messages that were found were reviewed for clarification.

1. “They were going head on into the car in front of it. They shot a bunch of rounds from inside the car through the windshield.” Hummel said this was in regards to Brelo and Moore.
2. In regard to the subjects having a gun. “They did for sure at one point”. Based on what was known by Hummel during the pursuit, radio traffic and observations of actions, the subjects were armed.
3. Messages from Ray O’Connor. O’Connor is another CPD officer who was working in the office. O’Connor asked for pictures. Hummel said that the pictures were what he took at the scene and sent to O’Connor. Hummel said that O’Connor and others were not in the chase and wanted to see what was going on.
4. “Who was driving 224a?” was a message sent by Hummel. Car 224A was in the pursuit and kept “popping up on my left side”. This was aggravating to Hummel. He characterized it as “Cowboys and Indians. Horses everywhere.” Hummel also said that the vice cars were also present. Hummel mentioned that the policy is that a marked car leads the pursuit and an unmarked car is to let a marked car pass it. In this case, the unmarked ended up ahead and leading the pursuit.
5. In a lengthy message, “Some people have lied do protect themselves and its gonna come out.” Hummel was asked who was lying. He said that he had heard rumors that there were officers who were in the chase that did not report being in the chase. These officers did not put the chase in the duty logs. That there were officers at the scene that left and did not report that they were there. Hummel said that he had only heard this information and did not have any specific knowledge of names. He did not think it was right for

officer to have participated in the pursuit but not be responsible for their actions afterward.

6. In the same message, "...and I was told to keep my mouth shut by the union." Hummel said he was upset that the union told him to wait while the media was carrying on about the pursuit. He took the union's position to wait until he was interviewed that he should keep his mouth shut.
7. "Because the rookie fired a shot on the parking lot when we thought it was over in the back of the parking lot. It was one shot. I seem it but I was not on the mic. The other parts I have to tell you on person." The rookie he identified as Diaz. Hummel said you have to have 8-10 years on the job to not be considered a rookie. Hummel was then asked if he saw anyone else in that part of the parking lot shoot besides Diaz. Hummel replied "no".
8. "Brelo is not gonna fair well in my opinion." Hummel said that he was hearing about Brelo. Hummel continued that, "Deadly force is deadly force. If you use one or you use fifty, you shoot to kill somebody." "I was just like wow. To reload twice was, you know, do that just to, it's adding...." Hummel then expressed his dislike for how the media was portraying the chase and shooting. "If you take 50 rounds out of this and it drops below a hundred, you take Diaz's round out of there. Then you take two people out of it and you down to 11 people. And 11 people with less than one magazine, easily equals that number." Hummel emphasized that he did not see what Brelo did, only what he had heard. The only officers that Hummel saw were the vice officers coming down the hill. Hummel did remember helping an officer off of car 238. The officer was in the passenger window of the subject car. Hummel did not realize who the officer was (Diaz).
9. "Dispatchers r saying someones in trouble". Hummel said that that is why he is such good friends with Diane. The dispatchers were hearing rumors, 'the paraffin test is back' and it was negative.

Hummel also discussed how he had seen officers on the hill at the school firing when there were other officers in the line of fire. There was a crossfire issue present but no one was watching. When Hummel got out of his cruiser at the school, he said it sounded like "a machine gun". Hummel said that he, "Pictured in my mind, somebody sweeping with a Mac-10 or something." Hummel went on that he heard the shooting and ducked down and heard something impact his car. He thought a bullet had struck his car. This caused him to move further away from the scene and put more of his cruiser between him and the shooting. Hummel did inspect his car and did not find any damage.

Hummel was asked who his supervisor was that night. He said that Sgt. Martinez showed up that night and another supervisor that Hummel was not sure of were on scene, but he could not remember who gave roll call.

Hummel was asked if he had ever received training on how to execute the PIT maneuver. His response was, "Not allowed". He began going over the policy as far as position in the pursuit, guidelines during the pursuit and what is allowed and not allowed. Hummel was asked, if he had been trained, was there ever an opportunity to execute the maneuver. "Probably" was his response. Hummel said you could not do an exercise like that without a supervisor's permission.

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He was asked what supervisors were on the air the night of the chase. Hummel said that Capt. Zouhar heard it because he showed up at the scene with Sgt. Martinez. Sgt. Coleman was also present and was involved in the pursuit. Atty. D'Angelo asked where Hummel could have executed the PIT. Hummel said that on Quigley coming off of Clark, and in the 5th District on the city streets, Euclid and St. Clair. Hummel said that did not want to do anything not allowed.

When the pursuit got to the school, Hummel thought it was over. When asked to clarify the statement, he said that subject car was boxed in with other cruisers against the island with the high curb. He was preparing to exit his car, draw his gun and move in to arrest the occupants. Then the car jumped the curb and drove past them.

Hummel was asked, from his position and view, did the subject car go towards Diaz. From his vantage point, Hummel saw the subject car head straight towards Diaz. Hummel said it was no shock to him that Diaz fired at the car.
