



Ohio Bureau of Criminal Identification & Investigation
INVESTIGATIVE REPORT



12/28/2012

**REPORTS RECEIVED SGT. JAMES RUTH –
BRYANT and RESCINA**

Summary

On December 17 and 18, 2012 Sgt. Scott Gardner and Sgt. James Ruth met officers of the Cleveland Police Department. This interview took place at 4055 Highlander Parkway Richfield, Ohio 44286.



Details

On December 17, 2012, Sgt. Gardner and Sgt. Ruth met with Ofc. James Bryant at the BCI Richfield Office. Bryant was interviewed in regard to his participation in the officer involved shooting that occurred on November 29, 2012.

On December 18, 2012, Sgt. Gardner and Sgt. Ruth met with Ofc. Daniel Rescina at the BCI Richfield Office. Rescina was interviewed in regard to his participation in the officer involved shooting that occurred on November 29, 2012. During the interview, Rescina documented his location on a provided diagram of the scene. Rescina also had taken pictures on his cell phone and signed a *Consent to Search* form for the retrieval of said images.

Sgt. Ruth reduced the interviews to writing for submission to the case file.

The interviews were video recorded. The recordings and any associated documentation were submitted to the case file as Exhibits #107 and 110.

File Number: SI-18-12-82-1493	File Title: Timothy R. Russell (S) Malissa A. Williams (S)
Case Agent: Mark Kollar	Authoring Agent: John Saraya 
Date of Report: 12/28/12	Exhibit #: 107 and 110
Investigative Activity: Report received from Sgt. Ruth - Rescina	Supervisor Approval: Dennis Sweet JAN 17 2013 

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EAST CLEVELAND POLICE DEPT
SUPPLEMENTARY REPORT

OFFENSE/INCIDENT: HOMICIDE/OFFICER INVOLVED SHOOTING

LOCATION: 14410 TERRACE ROAD, EAST CLEVELAND, OHIO 44112

Additional details of offense or accident program of investigation, etc.


PAGE 1 OF 3

12/17/2012 CLEVELAND POLICE OFFICER INVOLVED SHOOTING DOO: 11/29/12

On December 17, 2012 Detective Sgt. James Ruth (ECPD) and Detective Sgt. Scott Gardner (ECPD) met with Officer James Bryant (CPD) badge #2256 along with his attorney (Pat D'Angelo) and Union President (Jeff Follmer). Bryant was read his Miranda Warning which he acknowledged and stated he understood them. Bryant was asked that having his rights in mind would he speak with us concerning the officer involved shooting that took place on November 29, 2012 in the area of 14410 Terrace Rd. East Cleveland, Ohio 44112. Bryant stated yes he would speak with us.

Investigators asked Bryant to give us some general information about himself. Bryant stated he lives at [REDACTED] in Cleveland and his date of birth is 8/6/77. Bryant gave us his cell phone number as [REDACTED]. Bryant stated he has been with the Cleveland Police Department for 5 years and assigned to the 5th District and his Supervisor is Sgt. Saffo. Bryant stated he was not on any prescribed medication and does not wear any type of corrective lenses. Bryant states he was wearing the class B uniform and was carrying departmental issued equipment. Bryant stated his partner was Jared Durichko who was driving on this night. Bryant stated they had no type of recording device with them. Bryant stated on the night of this incident and they were in car 537 call sign 5B22 and radio was on channel #5. Investigators asked Bryant if he had been involved in any other officer involved shootings. Bryant stated no. Investigators ask Bryant to tell us how they first became involved in this incident and describe in detail their involvement in the pursuit.

Bryant stated he first heard of the pursuit over the radio that 2nd District was in a pursuit. Bryant stated they received a broadcast over the radio that 2nd District wanted assistance from a 5th District car. Bryant stated they went to the area of Eddy Rd and the freeway to wait for the pursuit to come their way. Bryant stated they heard the pursuit got off on E.72 which was behind them so they went to Lakeshore to 90 up to E.72nd but the pursuit was nowhere near them by then. Bryant stated they heard over the radio that the pursuit was in the 5th District and heard their Lieutenant (Brown) say they were to continue since it was in the 5th District. Bryant stated they were in the area of Wymore when they heard shots fired over the radio. Bryant stated they got out of the car with guns drawn because they felt it was a full out gun fight. Bryant stated that they began going up a hill but realized they were too far away so they returned to their unit and drove to Lee Rd to get a better position.

 #0173
APPROVED BY

Detective Sgt. J. Ruth ECPD/Detective Sgt. S. Gardner ECPD

Monday, December 17, 2012


INVESTIGATING OFFICER

EAST CLEVELAND POLICE DEPT
SUPPLEMENTARY REPORT

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Additional details of offense or accident program of investigation, etc.

PAGE 2 OF 3

12/17/2012 CLEVELAND POLICE OFFICER INVOLVED SHOOTING DOO: 11/29/12

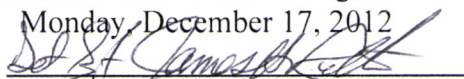
Bryant stated after parking on Lee Rd they exited their unit and went over to the officers. Bryant stated all the officers were standing with a stunned look on their faces.

Investigators asked Bryant if he stayed on channel 5. Bryant stated he may have switched over to another channel but could not remember. Investigators asked Bryant if he ever used the radio during the pursuit. Bryant stated the only time he was on the radio was to acknowledge the broadcast concerning the pursuit into 5th District and when his District asked if all 5th District officers were okay. Investigators asked Bryant when the first time he saw the suspect car was. Bryant stated he saw the car for the first time after everything was over. Investigators asked Bryant what type of speeds they reached during the pursuit. Bryant stated he could not remember. Investigators asked Bryant if he was aware of the suspects' description. Bryant stated they were aware of the car's description the high rate of speed and heard over the radio that there were two black males in the car. Bryant stated he also heard over the radio that they were reaching and somebody had something in their hand and may be loading a gun. Investigators asked Bryant if he ever saw a gun or if he ever saw someone loading a gun. Bryant stated no. Investigators asked Bryant if he knew the names Timothy Russell or Malissa Williams. Bryant stated no. Investigators asked Bryant if he ever had any type of interaction with these two people and he stated no. Investigators asked Bryant how he could describe the lighting in the parking lot. Bryant stated it was the lighting of a normal parking lot with shadows. Investigators asked Bryant if he heard anyone give out any type of verbal commands. Bryant stated no. Investigators asked Bryant if he saw the positions of any of the officers. Bryant stated when he got there all the officers were standing in the area of the playground. Investigators asked Bryant if he knew who called for medical assistance. Bryant stated he did not but did hear over the radio that someone called. Investigators asked Bryant again if he could tell us what the officers were doing when he walked up to the scene. Bryant stated the officers were just standing around until Lt. Brown came up and started to give orders. Investigators asked Bryant if he heard any of the officers talking. Bryant stated no and that he asked Lt. Brown if there was anything they could do and was told no. Bryant stated he and his partner then got back into their unit and left. Investigators asked Bryant who he had discussed the case with. Bryant stated his union rep., attorney his partner and people at work. Investigators asked Bryant what he talked about with the people at work. Bryant stated he talked about who was there and who was involved. Investigators asked Bryant if he felt his actions and the actions of his fellow officers were consistent with training. Bryant


#0193
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Monday, December 17, 2012


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PAGE 3 OF 3

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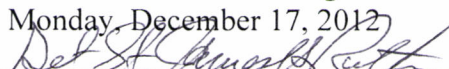
stated yes. Investigators asked Bryant if he ever used his cell phone while on scene to call or take pictures. Bryant stated no. Investigators asked Bryant if he ever received any texts or pictures from any other officers from the crime scene. Bryant stated no. Investigators asked Bryant if anyone has asked him to lie or otherwise try to influence his statement to us. Investigators asked Bryant if there was anything else he would like to add to his statement. Bryant stated it was like a war zone and it was just crazy.

Investigation Continues...


#0173
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Detective Sgt. J. Ruth ECPD/Detective Sgt. S. Gardner ECPD

Monday, December 17, 2012


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PAGE 1 OF 4

12/18/2012 CLEVELAND POLICE OFFICER INVOLVED SHOOTING DOO: 11/29/12

On December 18, 2012 Detective Sgt. James Ruth (ECPD) and Detective Sgt. Scott Gardner (ECPD) met with Officer Daniel Rescina (CPD) badge #314 along with his attorney (Pat D'Angelo) and Union Representative (Steve Kinas). Rescina was read his Miranda Warning which he acknowledged and stated he understood them. Rescina was asked that having his rights in mind would he speak with us concerning the officer involved shooting that took place on November 29, 2012 in the area of 14410 Terrace Rd. East Cleveland, Ohio 44112. Rescina stated yes he would speak with us.

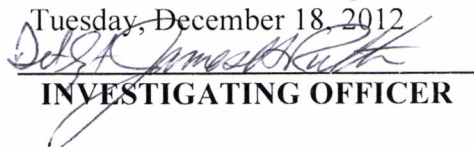
Investigators asked Rescina to give us some general information about himself. Rescina stated he lives at [REDACTED] in Brookpark, Ohio and his date of birth is 5/23/85. Rescina gave us his cell phone number as [REDACTED]. Rescina stated he has been with the Cleveland Police Department for 5 years and assigned to the 3rd District and his Supervisor is Sgt. Shepard. Rescina stated he is not on any medication and does not wear any type of corrective lenses. Rescina states he was wearing the class B uniform and was carrying departmental issued equipment. Rescina stated his partner was Kevin Mateo. Rescina stated he was driving on this night. Rescina stated they had no type of recording device with them. Rescina stated on the night of this incident they were in car 326 call sign 3A26, their car radio was on channel #2 and their portable was on channel #3. Investigators asked Rescina if he had been involved in any other officer involved shootings. Rescina stated yes in 2009 when his partner shot a suspect. Investigators asked Rescina if he has any type of specialized training. Rescina stated he has prior military (Marine) experience from 2004-2010. Investigators asked Rescina if he had any prior discipline. Rescina stated he had a harassment complaint dismissed earlier this year involving a drug dealer. Investigators asked Rescina to tell us how they first became involved in this incident and describe in detail their involvement in the pursuit.

Rescina stated they heard a radio broadcast concerning the pursuit while in the area of E74th and Cedar. Rescina stated they heard the pursuit was headed into the 2nd District so they thought nothing about it. Rescina stated they heard the pursuit was now coming back towards them so they parallel it down St. Clair while the pursuit was on 90 eastbound. Rescina stated they got into the pursuit at E.72nd and St. Clair and got into the back of the pursuit. Rescina stated once the pursuit got into the Wade Park area they were in the middle of the pursuit. Rescina stated he was unsure of exact route they went on but remembers going near E.118th. Rescina stated they went south onto E.115th and parallel the pursuit. Rescina stated once the pursuit got onto Euclid Ave they went eastbound on


#0123
APPROVED BY

Detective Sgt. J. Ruth ECPD/Detective Sgt. S. Gardner ECPD

Tuesday, December 18, 2012


INVESTIGATING OFFICER

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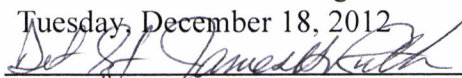
Euclid and became a little closer to the pursuit. Rescina stated once the pursuit turned up towards Terrace they became maybe the fifth car in the pursuit. Investigators asked Rescina if he could show us on a map the street they turned onto to get towards Terrace. Rescina stated it was Wymore after reviewing the map. Rescina stated they ended up in a school parking lot and when they got near the school he heard two shots. Rescina stated there is a small island in the parking lot and that is where he heard the shots come from. Rescina stated they were in the opening of the driveway leading into the parking lot. Rescina stated they were stopped and he saw the suspect car's front end pick up and head toward them at about 25mph. Rescina stated his partner (Mateo) yelled "go go go" at which time he pulled forward so the suspect car would not hit them. Rescina stated he hit the gas and pulled to the left and ended up near a retaining wall. Investigators asked Rescina to draw on a map (attached) where his zone car ended up which he did. Rescina stated there were a couple of zone cars behind them. Rescina stated after the suspect car passed them, they exited their zone car and ran toward the suspect car. Rescina stated as he got out of the zone car he did have his service weapon out. Rescina stated at this time he heard gun shots. Rescina stated he went into survival mode based on this combat experience from the Marine Corp. Rescina stated he ducked behind a black colored Dodge Charger (Vice Unit) that was parked in the same area.

Investigators asked Rescina if he remembers any zone cars parked in front of him. Rescina stated he could not recall. Investigators asked Rescina if he was still in the area while the scene was being processed. Rescina stated they left the area before the scene was being processed. Investigators asked Rescina why he didn't shoot while he was behind the Dodge Charger. Rescina stated he did not have a tactical advantage to shoot and did not want to put officers in danger with his shots. Investigators asked Rescina if he had tactical advantage would he have felt justified to shoot. Rescina stated if he had tactical advantage he would have felt justified to shoot. Investigators asked Rescina if he could recall how long the shooting took place. Rescina stated he could not remember but thought it lasted about 5-10 seconds. Rescina stated he was ducked down and went into tunnel vision mode. Investigators asked Rescina if he could recall any of the officers' positions or what they were doing. Rescina stated he could not remember. Investigators asked Rescina if could tell us where his partner was during this time. Rescina stated when he got out of the vehicle he went to the right and his partner went left and he lost sight of him. Investigators asked

 #0133
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Tuesday, December 18, 2012


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PAGE 3 OF 4

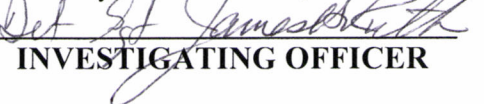
12/18/2012 CLEVELAND POLICE OFFICER INVOLVED SHOOTING DOO: 11/29/12

Rescina if he heard any verbal commands given while out of the vehicle. Rescina stated he couldn't hear anything. Investigators asked Rescina why he could not hear anything. Rescina stated because of the gun shots and his tunnel vision. Investigators asked Rescina if he heard or saw gun fire coming from the suspect vehicle. Rescina stated he could not remember. Investigators asked Rescina if during the pursuit they ever saw the suspect vehicle. Rescina stated yes when they picked up the pursuit at 72nd and St. Clair. Investigators asked Rescina if they knew where the suspect vehicle was once they turned into the school lot. Rescina stated he knew the suspect car was in the back lot because of the other zone cars that were there. Investigators asked Rescina how many zone cars did he see in the lot. Rescina stated he saw about 3-4 zone cars. Investigators asked Rescina if he heard shots from the back lot. Rescina stated he heard two shots come from this area. Investigators asked Rescina if he saw any movements from the suspects. Rescina stated he could not recall but remembers that after the two shots the suspect car came at them. Investigators asked Rescina if he called for medical assistance or if someone else called. Rescina stated he did not call but does remember someone calling but could not remember who did. Investigators asked Rescina what he saw happen after the shooting stopped. Rescina stated he saw Officer Diaz go up to the suspect car so he went with him. Rescina stated they both got onto the hood of car 238 and Diaz checked the pulse of the passenger and then they both got off the car. Rescina stated after getting off of the hood he observed other officers just standing there. Investigators asked Rescina why he got onto the hood of car 238. Rescina stated because there was not enough space to walk between the cars and he wanted to make sure Diaz was okay because he wasn't sure what he was doing so he did it to cover him. Investigators asked Rescina if he or anyone else was injured. Rescina stated no. Investigators asked Rescina if he could recall any statements made by any of the officers. Rescina stated no. Investigators asked Rescina if he has spoken to anyone besides his union representative or attorney about this incident. Rescina stated yes he has spoken to other officers in his district and it was about the tactics. Investigators asked Rescina if he was in fear of his safety and the safety of the other officers. Rescina stated yes. Investigators asked Rescina if he felt his and his fellow officers' actions were consistent with training. Rescina stated yes. Investigators asked Rescina if he used his phone to make any phone calls, text messages or take pictures while on scene. Rescina stated he called his wife and took one photo of the scene. Investigators asked Rescina if he would sign consent to search form regarding the picture on his phone. Rescina stated yes and signed the form.


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PAGE 4 OF 4

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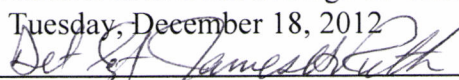
Investigators asked Rescina if he sent the picture to anyone. Rescina stated he may have sent the picture to his wife and another officer. Investigators asked Rescina if he heard any racial comments after the shooting. Rescina stated no. Investigators asked Rescina if anyone has asked him to lie or otherwise influence his statement to investigators. Rescina stated no. Investigators asked Rescina if there were any other questions that we did not ask that he felt were important. Rescina stated no. Investigators asked Rescina what type of phone he has and how much did he have on it. Rescina stated a lot. Investigators asked Rescina if he could e-mail the picture he took of the scene to investigators. Rescina stated he would and then showed investigators his phone with the picture still on it. Rescina was asked by his attorney what time he left the scene and why. Rescina stated it was around midnight and Sgt. Bickerstaff advised them since they were not involved in the shooting to take off. Investigators asked Rescina if he was asked to move his zone car. Rescina stated he was told to move his zone car because there was a shell casing under the car. Rescina stated he does not remember who told him to move the car but it was a plain clothes Cleveland Officer. Investigators had Rescina date and initial a map showing where his zone car was located during this incident and the interview ended.

Investigation Continues...


APPROVED BY

Detective Sgt. J. Ruth ECPD/Detective Sgt. S. Gardner ECPD

Tuesday, December 18, 2012


INVESTIGATING OFFICER

CONSENT TO SEARCH

DATE/TIME: 12/7/2012

I, Daniel Rescuma having been informed by Det. Sgt. S. Garchur and Det. Sgt. J. Roth who has identified him/herself as a Peace Officer and or a Law Enforcement Officer, of my Constitutional right to not have a search made, exemplars taken, or evidence seized from me without a search warrant, and having been told of my right to refuse such a search or seizure, hereby authorize the above identified law enforcement officer, with the assistance as needed of the Ohio Bureau of Criminal Investigation Cyber Crimes Unit, to:

I. Conduct a search of my computer, cell phone or other digital media, further identified as:

II.

- a. Iphone for picture taken at 14410 Terrace Road.
- b. Said search may include all data contained on the referenced Hard Disk Drive or other storage media contained in the referenced computer and any other storage media which may be located such as but not necessarily limited to floppy disk, zip disk, Personal Data Assistant (PDA), secure media cards, smart cards, CD, CDR/W, digital camera media such as compact flash cards, magnetic tape or optical storage devices all other devices, in any format and, whether the data is stored in files, tables, other data structures, or unallocated space;
- c. Said search may include production and examination of a duplicate Hard Disk Drive or analysis files which contain all the data on the referenced Hard Disk Drive and or storage media, said duplicates, files, and data becoming the sole property of Ohio Attorney General's Office – Ohio Bureau of Criminal Identification and Investigation.

The above individuals are further authorized by me to take possession of any stolen property, implements of a crime, instrumentalities, or other property or data which may have been used, obtained, or possessed in violation of the laws of Ohio, any other States, or of the United States; and any physical evidence which is believed to be evidence of a suspected criminal offense known or unknown at the time; or any items that are believed to be relevant to the investigation of a suspected criminal offense.

This written permission is being given by me to the above named law enforcement officer voluntarily and without threats or promises of any kind, and is given with my full and free consent.

DANIEL RESCUMA 314
Person Granting Consent (name / printed)

[Signature]
Person Granting Consent (signature)

Person Granting Consent (phone number)

Person Granting Consent Address

Person Granting Consent (date of birth)
PATRICK D'ONOFRIO
Witness / Title (name / printed)

[Signature]
Witness / Title (signature)

Witness / Title (name / printed)

Witness / Title (signature)



Case notes: work product, unofficial diagram - East Cleveland, Ohio - 11/30/12

pic # 28