



Ohio Attorney General's Office
Bureau of Criminal Investigation
Investigative Report



2023-3023

Officer Involved Critical Incident - 6235 Hathaway Rd.,
Garfield Heights, Cuyahoga County, Ohio 44125

Investigative Activity: Interview with Lieutenant Berdysz

Activity Date: November 22, 2023

Authoring Agent: Special Agent Cory Momchilov #64

Narrative:

On Wednesday, November 22, 2023, at 1452 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Cory Momchilov (SA Momchilov) and SA Matt Armstrong (SA Armstrong) interviewed Garfield Heights Police Lieutenant Matthew Berdysz (Lieutenant Berdysz), who was accompanied by his attorney, Joseph Mando, from the Law Offices of Faulkner, Hoffman, and Phillips. The interview took place at 20445 Emerald Parkway, Suite 210, Cleveland Ohio 44135. The interview was audio and video recorded.

Lieutenant Berdysz was identified as being a police officer who witnessed and/or had some level of involvement in the November 14, 2023, officer-involved shooting which occurred in the area of 6235 Hathaway Road, Garfield Heights, Ohio. Reportedly, Lieutenant Berdysz did not discharge a firearm during the course of the incident. The purpose of the interview was to obtain all relevant information of the incident known or observed by this officer.

Lieutenant Berdysz stated his radio call sign on November 14, 2023, was L-14. He has been employed by the Garfield Heights Police Department for about 19 years. Prior to that, Lieutenant Berdysz was briefly a seasonal police officer for Ocean City, Maryland. During the incident, Lieutenant Berdysz wore his standard police uniform with a metal police badge affixed to it. He also wore an external ballistic vest and duty belt. He drove Garfield Police vehicle #34-12, which is a standard, marked with police cruiser with emblems and emergency lights. He considered himself to be well-represented as a police officer during the incident. He stated was not under the influence of any substance that would impair his memory or judgment during the incident or during the interview with BCI. He does wear corrective lenses and was wearing them at the time of the incident.

SA Momchilov asked Lieutenant Berdysz if he could explain how he became involved in the incident and what actions he took.

Lieutenant Berdysz advised that he was on station and did not hear the initial call that [REDACTED] [REDACTED] and [REDACTED] [REDACTED] were dispatched to. However, as Lieutenant Berdysz was dealing with other matters, he did hear [REDACTED] [REDACTED] "Call for more units, that

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the male was armed with a gun." Lieutenant Berdysz then began responding to the scene.

As Lieutenant Berdysz was exiting the station, he recalled that he heard [REDACTED] [REDACTED] specifically asking him to respond to the scene. Lieutenant Berdysz speculated this was likely due to him being a former negotiator. Lieutenant Berdysz began responding to the scene with his lights and sirens activated. While enroute, Lieutenant Berdysz recalled that he requested for a shield. Lieutenant Berdysz stated as he continued to approach the scene, he believed he heard [REDACTED] [REDACTED] broadcast that he needed a less-lethal shotgun.

Lieutenant Berdysz explained as he approached Hathaway Road there was a brief instance of confusion about the exact location of the residence. This was due to the initial call being a 911 call with an approximate address. Lieutenant Berdysz further explained that [REDACTED] [REDACTED] and [REDACTED] [REDACTED] had parked their cruisers a few houses away from the residence, on a side street, east of the house. Lieutenant Berdysz then confirmed with dispatch the exact location of the residence. Lieutenant Berdysz stated once he "got his bearings" he immediately ran from his cruiser, west, towards the residence.

Lieutenant Berdysz advised that once he reached the residence, he remembered seeing a FedEx driver approaching the house. Lieutenant Berdysz further advised that he requested the FedEx driver to leave. Lieutenant Berdysz and another officer, Detective Mark Lee (Detective Lee) then began walking down the driveway toward the rear of the residence. Lieutenant Berdysz went to the "main back entrance" that led into a kitchen where Lieutenant Berdysz was "Greeted by the subject's wife." The wife was later identified as Wilma Russell (Wilma).

Lieutenant Berdysz stated, "And I remember her kind of indifferent to the matter. I said, 'ma'am how do we get downstairs, how do we get downstairs?' and I don't remember exactly what she said but she said 'you're gonna have to go outside, they're down there,' something along those lines." Lieutenant Berdysz advised that he then instructed the female to leave the house. Lieutenant Berdysz described the female as being "a tiny bit hesitant" at which point Lieutenant Berdysz reiterated that she needed to leave the house. According to Lieutenant Berdysz the female responded, something along the lines of "Okay, I guess it's pretty nice outside." Lieutenant Berdysz then directed the female to another officer who escorted her down the driveway.

Lieutenant Berdysz and Detective Lee then entered the basement. Lieutenant Berdysz entered the stated, "Upon my arrival into the basement, it struck me, and again, Detective Lee was right behind me, we needed the shield and the less than lethal from, This document is the property of the Ohio Bureau of Criminal Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency except as provided by law - a statute, an administrative rule, or any rule of procedure.



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we had determined that it was in [REDACTED] [REDACTED] s car.” Lieutenant Berdysz then explained that prior to entering the basement, officers attempted to get into [REDACTED] [REDACTED] s car to obtain the equipment, but [REDACTED] [REDACTED] s vehicle was locked. Lieutenant Berdysz further explained that when he entered the basement he remembered it being “very dark” and that he initially did not see [REDACTED] [REDACTED] to his left in a “utility” type room. Lieutenant Berdysz informed [REDACTED] [REDACTED] that they needed the keys to his vehicle, at which point [REDACTED] [REDACTED] threw the keys onto the ground. Lieutenant Berdysz picked up the keys and then directed Detective Lee to retrieve the equipment from [REDACTED] [REDACTED] s vehicle.

Lieutenant Berdysz stated he was also joined by Officer Bryan Cwiklinski in the basement area. Lieutenant Berdysz also stated that Officer Bryon Fox attempted to enter the basement as well, however, Lieutenant Berdysz directed Officer Fox to stay outside because “I said, no, we have enough in here. I wanted him to make sure the perimeter was secure. I had ordered him to go and make sure nobody else was coming down the side street.”

Lieutenant Berdysz explained as he was assessing the scene, he heard [REDACTED] [REDACTED] talking to Bernard. Lieutenant Berdysz further explained that he could not hear everything that [REDACTED] [REDACTED] said but did state, “But in my experience as a negotiator, the crisis wise, it was absolutely excellent. I just remember it striking me like ‘man, is she’s doing a great job.’ She’s telling him, I do remember her saying, ‘please drop the gun, drop the gun, we can talk about this, we just want to get you some help.’ Also, that ‘we cannot leave.’ Because he (Benard Russell) was requesting ‘just go away and we’ll drop the gun.’”

Lieutenant Berdysz advised that as [REDACTED] [REDACTED] was talking, Lieutenant Berdysz stated, “Gentleman, I can just say, as a police officer doing this that long, I had never had that feeling. It was a very dark feeling, very heavy. I did not feel good about this, the situation, tactically, it was very dark.”

Lieutenant Berdysz stated that when he entered the basement he could not “see the male” and that [REDACTED] [REDACTED] was “holding cover” next to a refrigerator. Lieutenant Berdysz also stated from [REDACTED] [REDACTED] s position she could see Benard.

Lieutenant Berdysz advised that based on the circumstances he wanted to treat this incident as barricaded situation stating, “I knew that the wife was out of the home, and I wanted to have us gain the advantage from the standpoint of talking to him from the outside, giving us more time.”

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Lieutenant Berdysz stated he remembered making the decision and stated to [REDACTED] [REDACTED] "We're going to get out of here. I wanna pull back." According to Lieutenant Berdysz, [REDACTED] [REDACTED] replied, "I'm not leaving her, I'm not leaving [REDACTED] ([REDACTED] [REDACTED])." Lieutenant Berdysz advised [REDACTED] [REDACTED] that they were not going to leave [REDACTED] [REDACTED] alone.

Lieutenant Berdysz approached [REDACTED] [REDACTED] and advised her that officers were going to be pulling out. Lieutenant Berdysz stated, "As I begin to do that (speak to [REDACTED] [REDACTED]) I just remember somehow, if she like pushed off me, she then spun, downrange, towards where Benard was, I remember her saying, 'No, no, no' and shots opened up. I do not remember how many, I remember seeing smoke, I don't remember in that initial round of shots how many were fired. Then, I remember dropping, I don't know if I dropped a magazine from my belt, I don't know how that happened, but I remember picking my magazine up, joining [REDACTED] [REDACTED] and Officer Cwiklinski as they were looking again, downrange towards where Benard was. I also don't recall who was saying 'drop the gun, drop the gun,' I still did not see the male with the gun, I never saw him with it to his head and I never saw it as it was lowered toward [REDACTED] [REDACTED]. But I did join them, I couldn't get a clear picture of him. Gentleman, I don't even recall if I had my weapon drawn at that point."

Lieutenant Berdysz also advised at some point he broadcasted that shots had been fired.

Lieutenant Berdysz continued, "Numerous commands were saying 'drop the gun, drop the gun' then I heard one more shot fired, from [REDACTED] [REDACTED] s directions. I knew at that point that was not myself, [REDACTED] [REDACTED] or Officer Cwiklinski. I believe I heard 'he's down' and at that point I immediately told officers 'Lets go, render aid, render aid' we then approached Benard. At that point I saw him laying on his back, the firearm, I remember it being a brown handled revolver, was still in his hand. I remember Officer Cwiklinski stepping on his hand, that's all I remember in regards to the gun. I then come down, on a knee and he had his left hand up in the air and he was either under a desk or some type of table and I remember thinking, what is in his hand, what is in his hand and he would not move his hand down. So, I remember saying, 'Give me your fucking hand' because I didn't know what was in his hand and I didn't know if he had been reaching for anything else that may have been under that table or desk. We were able to bring those hands down, I don't remember who secured him in handcuffs."

Lieutenant Berdysz also advised that as officers were approaching Benard, he broadcasted that "I need a squad in here."

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Officers began rendering aid by placing a tourniquet on Benard's leg and chest seal on his torso area. Lieutenant Berdysz stated he also assisted the paramedics in carrying Benard out of the basement.

At this point in the interview, agents began asking Lieutenant Berdysz follow-up questions.

SA Momchilov asked Lieutenant Berdysz if he had his body-worn camera activated during the incident. Lieutenant Berdysz advised that he did and that he has not viewed his body-worn camera footage from the incident. Lieutenant Berdysz also advised that he has not viewed any other officers' body-worn camera footage from the incident.

SA Momchilov stated, "I believe you answered this, but I just want to make sure I'm clear. At any point in the basement, prior to shots being fired, did you see him (Benard) at all?" Lieutenant Berdysz responded, "I did not." SA Momchilov replied, "You made a comment that he had the gun to his head, how did you know that?"

Lieutenant Berdysz replied, "That was based on what [REDACTED] [REDACTED] had told me?" SA Momchilov asked, "At the time of the incident, or afterwards?" Lieutenant Berdysz replied, "Afterwards."

SA Momchilov asked Lieutenant Berdysz if he could hear what Benard was saying at any point. Lieutenant Berdysz replied, "No sir, I can't recall what he was saying. I'm sorry, I do remember him saying, 'just leave, just leave, I'll put the gun down when you leave.'"

SA Momchilov stated, "You made comment that you talked to the other officer about the incident afterwards. Did you guys, I don't know, for a lack of better terms, did you guys come together, get your stories straight, do you say, 'hey make sure you say this', or did she ask you to say anything to us?" Lieutenant Berdysz responded, "Absolutely not."

SA Armstrong stated, "Those first gunshots that you heard, did you know who's they were, in that moment?" Lieutenant Berdysz replied, "I did not, I did not."

SA Armstrong then asked if Lieutenant Berdysz saw anything that would lead him to believe who was firing. Lieutenant Berdysz stated he did not. Lieutenant Berdysz stated, "I saw smoke but I still, I didn't register that the smoke was coming from, like, from our weapons, I just saw smoke and I didn't know."

The interview with Lieutenant Berdysz was audio and video recorded. The audio recording is attached to this Investigative Report. The video interview was placed onto

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a DVD; the DVD was placed into the item section of the physical case file labeled as Item G.

Attachments:

Audio Interview of Lieutenant Berdysz

Items:

Item G-Video Interview of Lieutenant Berdysz

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