



**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 [REDACTED]
Activity Date: November 22, 2023
Authoring Agent: Special Agent Cory Momchilov #64

Narrative:

On Wednesday, November 22, 2023, at 1404 hours, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Cory Momchilov (SA Momchilov) and SA Matt Armstrong (SA Armstrong) interviewed Garfield Heights Police [REDACTED] ([REDACTED]), 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.

Prior to the interview, [REDACTED] read, understood, and signed the BCI Criminal Investigation Notification form.

This report only summarizes the information deemed by the author to be of the most relevance to the investigation and does not purport to contain all questions and answers from the interview. Further, this report was placed in a chronology to aid the reader's overall understanding of the information elicited during the interview and may not be reflective of the actual sequencing of questions. It is suggested that the full recording be reviewed to clarify any content or contextual questions regarding the information from the interview.

Preliminary and Demographic Information:

Name: [REDACTED]	Rank: [REDACTED] ([REDACTED])
Badge Number: [REDACTED]	Cruiser/Vehicle Number: [REDACTED]
Radio Call Sign: [REDACTED]	Immediate Supervisor: Lieutenant Matthew Berdysz
Radio Channel Utilized: Garfield Ban-1	Mobile Data Terminal: Present & Utilized
Cruiser Description: Black Chevy Tahoe with Garfield Heights Police Markings	Occupants of Cruiser and Seating Positions: 1-[REDACTED] (Driver)
Assignment: [REDACTED]	Normal Shift: 06300-1830 hours
In-Car Camera: Not Present	Spotlight: Present; Not utilized
Emergency Lights: Present; Not Utilized	Siren: Present; Not Used
Shift Day of Incident: 06300-1830 hours	Duty Status: On-Duty
Days Off: Rotating days off-One week work Mon, Tues, Friday, Saturday Sunday-	Prior Overtime or Extra Details within Preceding 48 Hours: No

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Next week work Wednesday, Thursday	
Hours of Sleep Prior to Incident: 6-7 hours	Consider Self Well Rested?: Yes
Total Length as Officer: Over 28 years	Length at Current Agency: Over 28 years
Physical Disabilities (to include hearing aid): No	Corrective Lenses: Contact Lenses
Uniform Worn: Standard Garfield Heights Police Uniform	Equipment and Less-Lethal Options Carried on Person/Belt/Vest: On Vest- Radio Pouch, Trauma Sheers, Handcuffs and Extra Pistol Magazine. On Duty Belt- Firearm, Dump Pouch, Taser, Flashlight, Extra Pistol Magazine and Trauma Kit.
Ballistic Vest: External Armor	Body Worn Camera: Present & Used
Other Recording Devices: No	Partner: No
Injuries: No	Equipment Damage: No
Training or Areas of Specialty: Regional SWAT Team Member for 15 years, CIT Training	OPOTC Certification: Yes-Shaker Heights Police Academy 1995
Military Experience/Training: No	Use-of-Force Training: Routinely Reviews Use-of Force Policy
Prior Shooting Incidents: No	Prior Discipline or Use-of-Force Complaints: No
Medications, Prescriptions, or Drugs that might Impair Your Duties at Time of Incident: No	Medications, Prescriptions, or Drugs that might Impair You Now for Interview: No
	Last Consumed Alcohol Prior to Incident: Did not recall-but no alcohol in the days prior to the incident.

Officer's Firearm(s):

Weapon #1

Make: Smith & Wesson	Model: M&P
Caliber/Gauge: 9 mm	Serial: [REDACTED]
Type: Semi-Auto Handgun	Method of Carry: Round in Chamber
Magazine Capacity: 17	Total Rounds as Carried (including chamber): *Agents later learned a total of

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	17 rounds were in ██████'s firearm, 16 in the magazine and 1 in the chamber.
Extra Magazines: 2	Number of Rounds in Extra Magazines: 17
Discharged During Incident? Yes	Primary or Backup Weapon: Primary
Rounds Remaining After Incident: 13 in firearm- 17 in each of the spare magazines-47 total.	Number of Rounds Fired: ██████. ██████ stated he believed he fired 3 or 4 rounds. Agents later determined through the investigation that ██████. ██████ fired 4 rounds.
Right/Left-Handed Carry: Right-Handed	Ownership: Department Owned
Last Qualification Date: January 2023	Type of Holster, if any: Alien Gear-Triple Retention

*██████ ██████ stated that he carries 1 less round in his magazine than the magazine's capacity. However, each of ██████ ██████'s spare magazines were filled to capacity (17). During the interview SA Momchilov stated, "Let's say hypothetically, if it's a 17 (Magazine Round Capacity) you put 17 in the gun (Magazine), rack one in your chamber and then keep 16 in the magazine. ██████ ██████ replied, "I don't recall, I typically, I usually just, I got 16 in all the mags and there's probably 15 in the one that's in the gun because I keep it chambered. Unless, I was on the range and I added 1, I don't remember." Agents were able to determine that ██████ ██████ fired a total of 4 rounds. After the incident ██████ ██████ had 13 total rounds remaining in his firearm. Agents concluded that ██████ ██████ was carrying 16 rounds in the magazine that was inserted into his firearm and 1 round in the chamber.

SA Momchilov asked ██████ ██████ if he had viewed his body-worn camera footage prior to this interview. ██████ ██████ stated that he had not. SA Momchilov then asked ██████ ██████ if he had viewed any other officers' body-worn camera footage from the incident. ██████ ██████ advised that he has not viewed anyone's body-worn camera footage from the incident.

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

██████ ██████ explained he was in the parking lot, Garfield Height Police Department, sitting in his cruiser. While in the parking lot, ██████ ██████ advised he was assigned a welfare check call from dispatch. ██████ ██████ was informed that dispatch had received a call, from a male, who wanted the phone number to the suicide hotline. The male then hung up the phone.

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██████████ advised that he and Unit ██████████ (██████████ ██████████) were assigned the call. ██████████ stated he left the police department and proceeded to the scene (6235 Hathaway Road). ██████████ stated, "I looked at my CAD (Computer-Aided Dispatch) map where the house was situated and it was between two side streets and right in the middle and I think there was like 6 or 7 houses between those side streets. I parked, we haven't been there, it was just a weird call, the way the call came in and then the, I asked radio (Dispatch) if we had any history at the house and they said, 'not since 2009' like barking dog complaints but there might be a person there with a lot of weapons and that's all I got."

██████████ advised when he arrived, he parked his cruiser either to the north or east of the house on the side street. ██████████ approached the residence by walking through the backyard of the residence at which point he observed ██████████'s cruiser driving past him. ██████████ then parked her cruiser a few houses away from "the target" house.

Officers then approached the house and ██████████ was able to make contact with someone inside the residence by knocking on the front door. ██████████ then approached ██████████'s location and met with a female, who ██████████ described as the wife of the "person." The female was later identified as Wilma Russell (Wilma).

██████████ explained that officers told Wilma that they had received a 911 call from a cellular phone that traced back to the residence. ██████████ advised that Wilma seemed surprised and stated, "Well I didn't call you." ██████████ informed Wilma that it was a male caller and asked if anyone else was home. According to ██████████ Wilma replied, "My husband, he called?" ██████████ advised that Wilma seemed "a little frustrated" that her husband would have called. Wilma then informed officers that her husband, later identified as Benard Russell (Benard), was in the basement.

██████████ explained that Wilma "guided" officers through the house, past the kitchen. ██████████ stated he asked Wilma if she and Benard had some sort of fight. ██████████ advised that Wilma replied, "We had a discussion about divorce." ██████████ stated that ██████████ went to the basement door and discovered it was locked. ██████████ then asked Wilma if Benard had any weapons and she replied, "I don't think so." Wilma then handed ██████████ a key that was to the outside entrance to the basement and stated, "This is the key to the basement door that's outside, you have to go outside, I don't know why he's locking the door."

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██████████ stated before they went outside, he again asked Wilma, "Are you sure he doesn't have any weapons?" According to ██████████ ██████████ Wilma replied, "I don't think so." ██████████ ██████████ approached the outside basement door and rang the doorbell, while calling out Benard's name and also knocking on the door.

██████████ ██████████ unlocked the basement door and officers entered. ██████████ ██████████ stated, "We get into this rec room, it's like this dark paneled, just spooky looking room." ██████████ ██████████ explained that straight ahead and off to his right he observed a threshold which appeared to lead into a room." Off to ██████████ ██████████'s left, he observed another threshold which led into a "small, really dark room." Through that room, ██████████ ██████████ stated he observed another threshold that "with a little bit more light in it but all in all it was kind of dim."

██████████ ██████████ stated that he started to walk with ██████████ ██████████ towards the first threshold and that he observed ██████████ ██████████ lean in and say, "Hey Benard, hey why don't you put that gun down." ██████████ ██████████ explained that he immediately went to the left, towards the darkened room and he believed that he already had his firearm out.

██████████ ██████████ stated, "I go only into that threshold and there is a pillar, a load bearing pillar that hold up, you know, and I see Benard sitting in a chair or something and he's got, he's got a pistol, he's got a revolver to his head like this."

██████████ ██████████ then made the following demonstration:

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Figure 1: Demonstration made by [REDACTED]

[REDACTED] continued, "So I have visual on the gun, his head and a little bit of his shoulder and that's about it, so I can see his side and I can see the gun. I immediately get on the air. [REDACTED] is talking, [REDACTED] is talking to him trying to talk him down, she's doing a fabulous job. I get on the air and said, 'I need everybody down here, I got a male with a pistol to his head, I need everybody available, I need less-lethal, and I need a body-bunker or a shield, um get down here now.'" [REDACTED] stated that he had his radio turned down and was unsure if any other officers heard him, so he broadcasted, "Radio, did you copy any of that?" [REDACTED] advised that his request was acknowledged, and officers were on their way.

[REDACTED] also stated he requested a squad to respond and to stage. [REDACTED] stated he continued to watch Benard and Benard never took the "gun away."

[REDACTED] stated, "I have a pretty good visual, and [REDACTED] is still talking to him and she's doing her CIT thing, de-escalating, trying to get him to put the weapon down, she asks him to put the weapon down, you need help, we'll get you some help, this type of thing. I'm hearing all of this but right now I'm just making sure he doesn't hurt my partner."

At some point, backup units began arriving. [REDACTED] explained there was some confusion with the back up units on where exactly to go to get into the residence.

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██████████ advised that he informed the other units that there was a sub-level basement door that was open.

██████████ stated, "So, I hear officers coming in and it just feels like forever, I'm making sure that I don't take my eyes off him but the officers that arrive, they don't have less-lethal or the shield with them because it's in my car, which is locked."

██████████ advised that he gave his cruiser keys to the responding officers by tossing the keys on the ground.

██████████ continued, "Officers leave to retrieve the less-lethal stuff because if he puts the gun down the chances that we're going to use less-lethal, well, well, it's a possibility that we might not have to do that, but only if he puts the gun down. My lieutenant (Lieutenant Matthew Berdysz) comes in and he's kind of like taking control of the situation, all the while ██████████ is still talking to him, she never stopped talking to him. He made statements like 'this is very hard for me' and he is kind of leaning over like this and I'm waiting for him to just whack off a round..."

██████████ advised that ██████████ told Benard, "Benard I need you to put that gun down, just, can you do that for me?" According to ██████████ Benard responded, "No, I want you to leave." ██████████ responded, "Well I can't do that, I wanna get you some help." Benard then responded, "Well then come on in here and watch the show."

██████████ explained that ██████████ continued to talk to Benard. According to ██████████ Lieutenant Berdysz made the decision to "pull out" and treat the situation as a barricaded individual.

██████████ stated, "We didn't start that, that was just what we were about to do. At some point in time, after that, I just, I just, I felt Lieutenant Berdysz leave my area and head back over there and at another, at some point in time he said again, Benard said it again 'come on in here, watch the show, if you're not going to leave, come in here watch the show.'"

██████████ continues, "The next thing I know, I'm watching him, and I see him go like this to this."

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Figure 2: Demonstration [REDACTED] [REDACTED] made when his stated "I see him go like this."



Figure 3: Demonstration [REDACTED] [REDACTED] made when he stated, "to this."

[REDACTED] [REDACTED] continued, "I immediately hear shots. I thought he was shooting at [REDACTED] [REDACTED] I, I advance on Benard about 2 or 3 steps and I fire, either 2 or 3 rounds, I don't remember what it was, 2 or 3 rounds, I had him in my sight picture and I fired, 2 or 3 rounds. He, he falls but he's, he's out of the chair now but he is like 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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alert, I mean he's conscious and alert, I can tell that he's in pain that he's been hit but he still has the gun up like this."



Figure 4: Demonstration [REDACTED] [REDACTED] made when he stated, "but he still has the gun up like this."

[REDACTED] [REDACTED] continued, "I move back to my original position, and I hear officers on the other side of the room yelling, 'Bernard drop that gun, Bernard drop that gun, drop the gun, drop the gun' just, and he's just not doing it. He's, he's kind of like in a crunching position and the gun is up, I can see the gun up, or like, just angled in a way that's not good. So, I can now see from cover now, I didn't have to advance on him, I can see him, I have a good picture on him. I decide to level my gun, see the red dot and I squeeze, because I had this area right here, open because he had the gun up like this, I can this."

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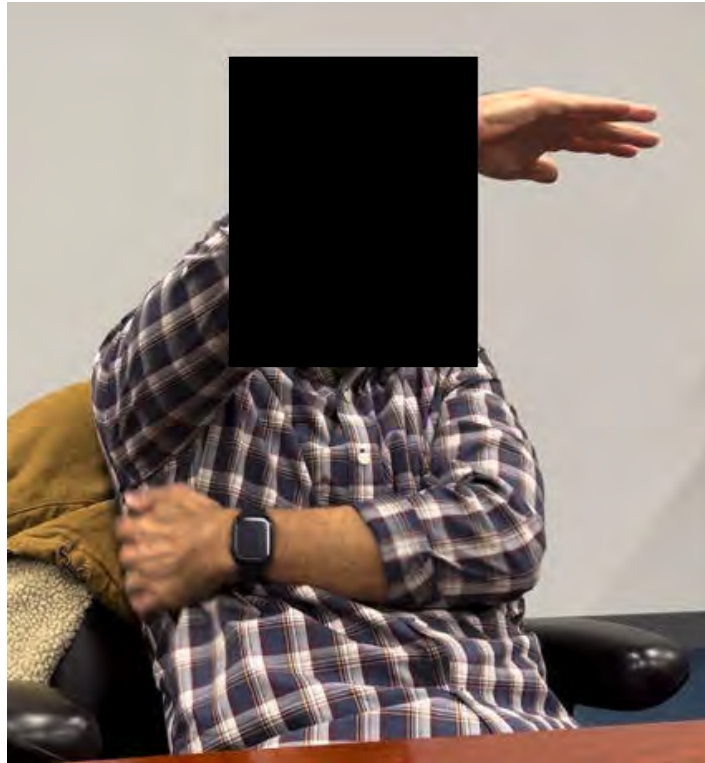


Figure 5: Demonstration [REDACTED] made when he stated, "because I had this area right here."



Figure 6: Demonstration [REDACTED] made when he stated, "because he had the gun up like this."

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██████████ continued, "And I fired off 1 round. He, I can hear like him kind of like gasp, collapse and then officers moved in and I moved in with them, um, I saw another officer, Officer Cwiklinski put his hand, his foot on Benard's right hand, where the gun was and he couldn't get it out, he still had the gun in his hand and then I saw Lieutenant Berdysz grasping Benard's left hand because he had it like this..."



Figure 7: Demonstration ██████████ ██████████ made when he stated, "I saw Lieutenant Berdysz grasping Benard's left hand because he had it like this."

██████████ continued, "And Lieutenant Berdysz is saying like 'open your hand, open your hand.'"

██████████ advised that officers began rendering aid to Benard. ██████████ further advised that another ██████████ arrived on scene and asked if he fired. ██████████ stated that he did and was taken out of the house.

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

SA Momchilov stated to ██████████ ██████████ that he had previously stated that this was a "weird call." SA Momchilov asked ██████████ ██████████ if he could elaborate.

██████████ responded, "Never, I haven't received call saying need the suicide hotline and somebody hangs up. Never been to the house before, that part of the neighborhood is just like, dead quiet and we never go there. It's just, I don't know, it was just a strange call to go on. I just expected, I just expected when we made initial entry into the basement, I thought we would just see the dude hanging. Just the way the wife was kind of indifferent, but she wasn't too concerned and the door was locked

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and then she said, 'I don't think so' about any guns and just like, when people know that there aren't any guns in the house they distinctly tell you 'no there are no guns in here,' it's just, and then when we opened that door, I just, it was just, something wasn't right. Because I've been on, I've been on dozens of calls like that, I walked into people hanging, people with, you know, their brains blown out all this kind of stuff, it's just, you know, that one kind of made the hair on my neck stand up a little bit."

SA Momchilov stated, "When you initially see him, you said you could see half his body and he was kind of conversing with the other officer, did he acknowledge you at any point, did he see you, do you know?"

██████████ replied, "At some point in time, I accidentally triggered my gun light on the pillar, I kind of rested my gun on the pillar and it triggered my flashlight, which kind of caught him on the side. He looked, I don't know if he saw me or not."

SA Momchilov responded, "That goes to my next question, did you have your gun pointed at him?" ██████████ replied, "Yeah, I was trained on him because it was just from this to this or this to that..."



Figure 8: Demonstration ██████████ made when he stated "Yeah, I was trained on him because it was just from this to this or this to that."

██████████ continued, "I had, I don't know how much cover I had but I had concealment, um, but I had my gun trained on him because the way the conversation was going which seemed like forever it just wasn't going anywhere. I was hoping that he would just put the gun down because ██████████ was doing a fantastic job, I just thought he was going to put it down."

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SA Momchilov asked [REDACTED] [REDACTED] if he could describe what the lighting conditions were like. [REDACTED] [REDACTED] explained that he could see Benard "sitting there" and that Benard had "backlight" in him from a basement window.

SA Momchilov stated, "You mentioned that he made a statement a couple times about 'watch the show, come in and watch the show how do you interpret that, what do you think he meant?'" [REDACTED] [REDACTED] replied, "I interpreted that he wanted, he wanted us to watch us to watch him kill himself."

SA Momchilov stated, "You mentioned when he leveled the gun initially, you heard gunfire and you said you couldn't tell, or you thought he was firing." [REDACTED] [REDACTED] replied, "Yeah." SA Momchilov then asked, "Could you tell if any other officers were firing?" [REDACTED] [REDACTED] replied, "No, I couldn't see anything." [REDACTED] [REDACTED] also advised that he believed he was the only officer firing. [REDACTED] [REDACTED] stated, "I didn't know what type of cover, or if they could see him, I thought they were just talking to him. I asked at some point in time during the conversation before the shooting started, um, I asked [REDACTED] if she had cover when she was talking to him, I go [REDACTED] do you have cover?' And she says yes. So, I don't know what they saw."

SA Momchilov stated, "You made the conscious effort to fire based on what you observed, not what other officers were doing, is that fair to say?" [REDACTED] [REDACTED] replied, "Yes. I was firing to protect my officers on the other side of the wall."

SA Momchilov asked [REDACTED] [REDACTED] if he had any prior contact with Benard Russell. [REDACTED] [REDACTED] advised that he did not.

SA Momchilov asked [REDACTED] [REDACTED] if he had spoken about the incident with other involved officers. [REDACTED] [REDACTED] stated they there was a crisis de-briefing after the shooting which was standard procedure. [REDACTED] [REDACTED] also advised that he believed his actions were consistent with his training.

SA Momchilov asked [REDACTED] [REDACTED] if he had heard the term "suicide by cop." [REDACTED] [REDACTED] stated that he has. SA Momchilov then asked, "Do you think this was a situation like that?" [REDACTED] [REDACTED] replied, "Just based on what he was saying to me, I think that it probably was, he put us in that position, it's unfortunate."

[REDACTED] [REDACTED] advised at this point he has not completed any kind of written report or supplement that documented the event. [REDACTED] [REDACTED] further advised that he anticipates that the department will make him complete a supplement regarding this event. SA Momchilov asked [REDACTED] [REDACTED] if agents would be able to obtain that

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report. [REDACTED] [REDACTED] gave permission for agents to obtain and review the report/supplement once it is completed.

[REDACTED] [REDACTED] advised that he did not have to submit to a drug test after the incident.

The interview with [REDACTED] [REDACTED] was audio and video recorded. The audio recording is attached to this Investigative Report. The video interview was placed onto a DVD; the DVD was placed into the item section of the physical case file labeled as Item F.

Attachments:

Audio Interview of [REDACTED] [REDACTED]

Ohio BCI Criminal Investigation Notification Form-Signed by [REDACTED] [REDACTED]

Items:

Item F-Video Interview of [REDACTED] [REDACTED]

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Criminal Investigation Notification

1. This investigation is being conducted in order to determine whether any criminal laws have been violated on the part of those involved in this incident. Specifically, to collect facts and information to be provided to the prosecutor and/or grand jury in order for them to determine whether the conduct involved is authorized or prohibited by criminal statutes.
2. Your participation in this interview is voluntary and you may decline to answer or cease the interview at any time. You are entitled to have an attorney present if you wish.
3. The criminal investigation is separate from any internal, administrative investigation which your employer may or may not be independently conducting. You are not being compelled to give any statement or answer any questions. This is not a "Garrity" interview (where you could be required to answer).

[Redacted] _____
Printed Name of Interviewee

11/22/23 1400
Date / Time

[Redacted] _____

Cory Momchilov #64
BCI Agent (Printed)

[Signature] #64
BCI Agent (Signature)