



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



2024-1376

Officer Involved Critical Incident - Interstate 77 Southbound  
at Exit 85 , New Philadelphia, OH 44663

**Investigative Activity:** Case Opening  
**Involves:** Ohio State Highway Patrol (O)  
**Activity Date:** 05/03/2024  
**Activity Location:** BCI - Richfield  
**Authoring Agent:** Special Agent Joseph Goudy #83

**Narrative:**

On Friday, May 3, 2024, at approximately 0630 hours, Ohio Bureau of Criminal Investigation (BCI) was requested by the Ohio State Highway Patrol (OSHP) for assistance to conduct an independent investigation surrounding an officer-involved shooting which occurred on Interstate 77 Southbound at Exit ramp 85 in the City of New Philadelphia, Tuscarawas County, Ohio. BCI Special Investigations Unit (SIU) Special Agent (SA) Joseph Goudy (Goudy) responded to assist. Special Agent Supervisor (SAS) Chuck Moran, SA Andy Harasimchuk, SA Charlie Snyder, and SA Cory Momchilov also responded from SIU to assist.

Additionally, the BCI Crime Scene Unit was requested to process the scene by documenting and collecting pertinent evidence. The shooting incident involved a subject, Kendall Floyd Woodard (Woodard), three OSHP troopers, and one Tuscarawas County Sheriff's Office (TCSO) deputy. The incident resulted in the death of Woodard. He was eventually transported to the Cuyahoga County Medical Examiner's Office (CCMEO) for an autopsy.

For additional information, please refer to the attached copy of the "MOU" agreement between the OSHP and BCI, which was provided by the Ohio State Highway Patrol. This was provided by OSHP as opposed to a request for assistance letter.

**Attachments:**

1. BCI ODPS Critical Incident MOU (DPS Signatures) 03.16.23

**References:**

-None

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.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE OHIO ATTORNEY GENERAL  
AND  
OHIO DEPARTMENT OF PUBLIC SAFETY**

WHEREAS, it is the desire of the Ohio Department of Public Safety ("ODPS") to assure that an independent, professional, unbiased and prompt investigation (which shall be criminal in nature, not administrative or internal) is performed after sworn personnel of the Ohio State Highway Patrol ("OSHP") and/or Ohio Investigative Unit ("OIU") are involved in a discharge of a firearm resulting in life-threatening injury or death (not including the shooting of an animal, training accidents, or accidental discharges where no injuries occur); a use of force resulting in life-threatening injury or death that occurs as a result of persons being taken into custody, while in custody, or while being detained by sworn personnel (not including vehicle collisions or crashes, whether as the result of a pursuit or otherwise) of OSHP or OIU (hereinafter collectively referred to as a "Critical Incident"); and

WHEREAS, the Ohio Attorney General's Office, Bureau of Criminal Investigation ("BCI"), in certain circumstances, provides such investigative services related to Critical Incidents to law enforcement agencies; and

WHEREAS, to maintain transparency, engender public trust, and avoid even the appearance of internal bias, ODPS desires that BCI perform an independent, professional, unbiased and prompt investigation of all Critical Incidents involving OSHP or OIU sworn personnel who are duly authorized to carry a firearm; and

WHEREAS, it is thus the desire of ODPS and BCI to set forth the terms under which BCI will perform such an investigation for ODPS; and

NOW, THEREFORE, be it agreed by the parties hereto, each in consideration of the mutual promises and obligations set forth herein, that:

**I. PURPOSE**

ODPS seeks to ensure that Critical Incident investigations are impartial, unbiased, timely, and transparent. Accordingly, ODPS desires that BCI perform all investigations of Critical Incidents involving OSHP or OIU personnel who are duly authorized to carry a firearm.

**II. AUTHORITY**

A. BCI has the authority to conduct investigations of criminal activity in the state that is of statewide or intercounty concern, when requested by local authorities pursuant to Ohio Revised Code (R.C.) 109.54 *et seq.*

B. The superintendent of BCI has the authority to recommend cooperative policies for the coordination of the law enforcement work and crime prevention activities pursuant R.C.109.55.

### **III. ODPS RESPONSIBILITIES**

Upon the occurrence of a Critical Incident as described in this Memorandum of Understanding (the "MOU") ODPS shall:

- A. Immediately submit an official request for investigation of the Critical Incident investigation to BCI by calling BCI's communications center, at 855-BCI-OHIO (855-224-6446).
- B. Provide the following information:
  - 1) An overview of the incident, including the number of involved employees and witnesses.
  - 2) An agency contact name and that contact's direct phone number. The contact person shall be an individual who has been at the scene or one with the most knowledge about the incident and shall perform this function until an Investigations Supervisor from
  - 3) is assigned to the Critical Incident.
  - 4) The number and location of scenes; GPS-recognizable addresses are preferred.
  - 5) The current location and status of the individuals involved, whether those involved are deceased, at the hospital, in custody or at large.
  - 6) Environmental details, i.e., indoors or outdoors, any hazards or special circumstances such as weather conditions that could alter evidence, multiple scenes or a large volume of evidence.
- C. Provide the following assistance:
  - 1) Ensure that the safety and well-being of the public, employees, subjects and investigators are maintained. Summon medical assistance for the injured.
  - 2) If OSHP or OIU are the lead agency responsible for the scene prior to BCI arrival:
    - a) Preserve the crime scene. Establish and maintain an adequate perimeter with physical barriers (crime scene tape, for example) and preserve all evidence without disturbing or moving it. Remove nonessential personnel from the scene.
    - b) Maintain a crime scene access-control log. Document the people who were within the scene during or after the incident, including all police, fire and EMS personnel.
    - c) Provide personnel (uninvolved in the incident), if available, to control traffic, crowds and the scene.
    - d) Determine whether any photographs or recordings (including photos or videos from civilian and employee cellphones) were taken prior to BCI's arrival and, if so, notify BCI of their existence and who is in possession of them so that BCI can either collect them or obtain the necessary warrants to do so, if warrants are required.
    - e) Determine whether any additional physical evidence exists outside of the scene and, if so, notify BCI of its existence and who is in possession of it so that BCI can either collect it or obtain the necessary warrants to do so, if warrants are required.

- f) Should exigent circumstances arise which could lead to the potential destruction of evidence, assist BCI by collecting and preserving said evidence if legally permissible.
  - g) Identify all witnesses and request that they remain available for interviews with BCI. OSHP/OIU personnel will not question involved ODPS employee(s) regarding the incident except as directed in the "Involved-Employee Statements" section of the BCI Law Enforcement Guide to Requesting BCI Investigative Services for an Officer- Involved Critical Incident ("BCI Booklet").
  - h) If necessary, notify the county Coroner.
  - i) Notify the county Prosecutor.
  - j) If necessary, make notifications to next of kin.
- 3) If necessary, provide uniformed employees to accompany BCI agents when conducting interviews related to the critical incident (except for interviews with the involved employee(s); See IV B below).
  - 4) ODPS agrees not to conduct any *Garrity* interviews of involved employees until notified by BCI that doing so would not hamper the criminal investigation.
  - 5) Provide a briefing to BCI personnel that omits any *Garrity*-derived statements or evidence.
  - 6) To the extent practical, transport the involved employee(s) to a single, safe location (such as a hospital or police facility) to await contact by BCI and ensure all witnesses and/or the involved employee(s) are kept apart (though not necessarily alone) and remain available until BCI investigators release them.
- 7)
    - a) Direct the employee(s) to remain clothed as the employee was at the time of the incident until the employee is photographed by BCI, unless clothing needs to be removed to render medical aid.
    - b) If the Critical Incident involved the discharge of a firearm, direct the employee(s) who discharged their firearm(s) to keep the firearm(s) holstered until inspected/collected by BCI. The weapon shall remain holstered, no rounds shall be removed or magazines changed, however an ODPS investigator may take possession of the involved firearm and issue the employee a replacement firearm if appropriate.
  - 8) Make involved employees reasonably available to BCI investigators for interviews when requested.
  - 9) Assign an Investigations Supervisor to serve as a liaison for the investigation in order to facilitate communication.

D. If in the possession of ODPS, provide the following records:

- 1) Audio and video recordings, including dashcam, bodycam, surveillance footage, etc.
- 2) Incident reports, including any witness statements or use-of-force reports (excluding any *Garrity*- derived reports).
- 3) Dispatch logs, radio logs, CAD reports.
- 4) Audio recordings from 911 or other phone calls related to the incident.

- 5) Photographs, videos (including personal cellphone videos) or other recordings taken by ODPS employees.
- 6) Radio recordings for the time frame in question.
- 7) Crime scene log (see BCI Booklet, Page 4 for a sample log).
- 8) The involved employee's personnel file (including disciplinary or internal affairs records for previous incidents), if requested by BCI, but excluding copies of any internal affairs investigation or *Garrity* statements related to the current incident under investigation.
- 9) The involved employee's training records, if requested by BCI.
- 10) Ohio Peace Employee Training Commission (OPOTC) certification records, or other relevant certification records, for any involved employee.
- 11) If relevant, firearm qualification records for the involved employee(s).
- 12) Copy of agency's use-of-force policy (This does not need to be provided in each investigation. Rather, it will be provided to BCI initially under this MOU and then BCI will be advised of any updates or changes to the policy moving forward).
- 13) If relevant, mobile data terminal entries and instant messages from the vehicle of the involved employee(s), if requested by BCI.
- 14) Police reports/recordings of any relevant previous law enforcement encounters between the involved employee(s) and the subject(s), if known.
- 15) Any other pertinent records or recordings, requested by BCI, that would help provide a complete and accurate understanding of the incident under investigation.

#### IV. BCI RESPONSIBILITIES

Upon receiving a request from ODPS as described herein, BCI shall:

- A. Contact a BCI special agent supervisor, who will contact ODPS's point of contact to gather further details to assist in the dispatching of appropriate personnel. The special agent supervisor shall provide the ODPS point of contact an estimated time of arrival and at that time shall provide ODPS with the name and contact information of who the BCI supervisor on scene will be so that ODPS can have direct contact with that individual if direction or information is needed prior to their arrival. A team of BCI special agents from multiple disciplines, to include agents from BCI's Crime Scene Unit and Special Investigations Unit, as determined by the situation, shall respond. The time of day and the agents' physical proximity to the incident location are the primary factors affecting response time. BCI will make every effort to ensure the agents assigned are free of any real or perceived conflict of interest regarding the investigation.
- B. Conduct the investigation as a criminal investigation, not internal or administrative, hereinafter called "the investigation." One Investigations Supervisor from OSHP shall be permitted to accompany BCI special agents during most activities to the extent that his/her participation does not hamper the investigation, that independence is maintained, and that *Garrity* information does not impact the criminal investigation. Regardless, no employee of ODPS will be permitted to be present during interviews with the involved employee(s).

- C. Coordinate and lead the investigation. Allowing the presence of a representative from the OSHP is a courtesy that can be revoked. The investigation takes precedence over any internal or administrative investigation. BCI does and will work independently of ODPS's policies, procedures and chain of command in the investigation. In order to preserve BCI's independence, professionalism, lack of bias and promptness, BCI is not and will not be bound by any collective bargaining agreement between OSHP or OIU and the union(s) representing their sworn personnel.
- D. Collect all evidence secured by ODPS that relates solely to the Critical Incident and maintain all evidence gathered during the course of the investigation at a facility controlled by BCI. Evidence relating to other potential crimes leading up to, contemporaneous with, or subsequent to the employee-involved Critical Incident shall be maintained by ODPS. If BCI takes possession of evidence in relation to the Critical Incident but which is also necessary for the criminal prosecution of a subject relative to the underlying stop, incident, or investigation out of which the Critical Incident arose, BCI shall release the evidence to ODPS and the parties shall work together regarding the details of maintaining the chain of custody.
- E. If, during the course of the investigation, BCI learns of any issues of an exigent/emergent nature which could pose a danger to law enforcement or public safety, BCI shall inform the OSHP Superintendent or his/her designee of their concerns. This would include provision to the Superintendent of a copy of any additional video footage of the incident discovered during the course of the investigation. Additional video footage will be provided only after the BCI investigation has been completed.
- F. Prior to releasing the scene, but at the conclusion of the on-scene investigation, BCI will notify ODPS and allow the assigned Investigations Supervisor and the OSHP Superintendent or his/her designee to conduct a walk-through of the scene. BCI will also brief ODPS on the incident at this time.
- G. Make no determination or provide any opinion on whether a use of force was legally justified. After the investigation is completed, BCI will provide the completed investigative report to the appropriate prosecutor's office and, with the prosecutor's approval, to ODPS.
- H. Investigate potentially related crimes only when the investigation into the employee-involved critical incident leads to evidence of other potential criminal conduct by the employee(s) involved in the Critical Incident, or upon request by ODPS, and with approval by BCI, when the employee involved Critical Incident and related crimes are inextricably intertwined with the employee involved Critical Incident, OSHP or OIU, as appropriate, upon request from BCI will assist with the investigation of these potential related crimes. Otherwise, OSHP or OIU, as appropriate, is responsible for any investigation, filing of charges and prosecution of other potential crimes leading up to, contemporaneous with or subsequent to the employee-involved Critical Incident.
- I. When relevant, BCI, with the assistance of ODPS, will coordinate with the union(s) representing OSHP and/or OIU's sworn officers to arrange the formal interview of any involved employee(s). As part of the interview process, BCI at a minimum will provide the employee with an admonition (Criminal Investigation Notification – BCI-INVEST-

34) informing the employee that the investigation is criminal, not internal; that the employee's participation in the interview is voluntary; that the employee has the right to refuse to answer any questions; and that, the employee is not compelled to cooperate. At the investigating agent's discretion, the *Miranda* warning may also be read to involved individuals. The interview shall be recorded, and the employee(s) shall be afforded his/her right to legal counsel should the employee express such desire verbally or in writing.

## V. EVIDENCE

A. All evidence pertinent to the Critical Incident investigation shall generally be stored under the control of the BCI's property room in accordance with established evidence collection, preservation, and storage procedures. In the event BCI is unable to store, transport, or handle evidence that DPS has the capability of storing, transporting, or handling, DPS shall store, transport, or handle it and work with BCI to maintain the appropriate chain of custody.

B. No evidence pertinent to the Critical Incident investigation shall be released or destroyed without consent of the prosecutor charged with reviewing or prosecuting the case. Once the criminal review or prosecution is complete, all property will be returned to DPS for proper storage, return, or disposal.

## VI. CUSTODIAN OF RECORDS

BCI shall be designated as the custodian for all records for Critical Incident investigations. All original reports, statements, and other documentation shall be filed and maintained by BCI.

## VII. CONFIDENTIALITY

A. To maintain the integrity of the investigations, ODPS shall not discuss or disclose any information or material outside its obligations under this MOU, state law, court order, or other legal requirement, without the prior written consent of BCI, unless and until the investigation is complete and the prosecutor has completed their review. This does not apply to media releases permitted under section X.

B. Any information gathered and/or report(s) generated by ODPS during the course of its investigations that are maintained by the BCI, ODPS, a prosecutor, the Attorney General, or a special prosecutor, except those designated as public records under applicable law, shall be deemed a confidential law enforcement investigatory record for purposes of Ohio Revised Code Section 149.43.

C. This Confidentiality Section does not, however, affect or limit the right of discovery granted under the Ohio Revised Code, the Rules of Criminal Procedure, and/or the Rules of Juvenile Procedure.

D. BCI prefers that ODPS employees not review videos of the Critical Incident prior to their formal interview with BCI investigators. Nothing in this agreement shall be construed as

prohibiting an ODPS employee from reviewing their own video of the Critical Incident nor from reviewing the reports authored or statements (written or recorded) provided by that particular employee, excluding any reports or statements made to BCI as part of BCI's investigation into the Critical Incident.

#### **VIII. CASE ASSIGNMENTS**

A. The BCI supervisor with designated oversight for operational and investigative matters will be responsible for opening, monitoring, directing, and closing Critical Incident investigations in accordance with existing BCI policy and the applicable Ohio Attorney General guidelines.

B. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the BCI supervisor with designated oversight for operational and investigative matters. For BCI administrative purposes, Critical Incident investigations will be entered into the relevant BCI computer or case management system.

#### **IX. CONFLICT OF INTEREST**

It is of vital importance that ODPS and BCI maintain the integrity of all Critical Incident investigations by only including professional, independent, unbiased, and conflict-free investigators on each investigation. While it is understood that conflicts will periodically arise, it is imperative that any conflicted personnel be excluded from any significant investigative activity or privileged information regarding the conflicted matter. As the manner in which any conflicts or perceived conflicts are addressed can have serious implications for the Critical Incident investigations, the recusal of a personnel shall be documented by ODPS and/or BCI.

#### **X. MISCELLANEOUS**

A. Liability. Each Party to this MOU shall be responsible for its own acts and omissions and those of its officers, employees and agents. In no event shall any Party be liable to any other Party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

B. Media. Media releases regarding any of the Critical Incident investigations will be coordinated through the Ohio Attorney General's Office public information officer and the Ohio State Highway Patrol's public information officer. This MOU does not preclude the right of ODPS or BCI to prepare and issue their own media releases, however, it is requested that the parties consult with each other, through the above-outlined channels, prior to any substantive release of information regarding the Critical Incident.

C. Entire Agreement. This MOU constitutes the entire understanding between the parties. Neither party may further modify or amend the terms of this MOU except by a written agreement signed by both parties. Neither this MOU, nor any rights, duties, or obligations described herein, shall be assigned by either party hereto without the prior written consent of the other party. No modification, amendment, alteration, addition or waiver of any



section or condition of this MOU shall be effective or binding unless it is in writing and signed by an authorized representative of the ODPS and BCI.

- D. Expenses. ODPS and BCI shall be responsible for any necessary and actual expenses incurred by their respective employees, including, but not limited to wages, overtime, insurance of every type and description, expenses incurred for food, lodging, or travel, and any other necessary and actual employee associated expenses during the course of Critical Incident investigations. Except as expressly provided herein, no Party shall have the right to bind or obligate another Party in any manner without the other Party's prior written consent.
- E. Headings. The headings in this MOU have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this MOU.
- F. Term and Termination. This MOU is made effective as of the latest date of signature below, and shall continue in effect for three (3) years from such date. Either party may terminate this MOU upon sixty (60) days prior written notice to the other party for any reason whatsoever.
- G. Applicable Law. This MOU is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. This MOU is not intended to confer any rights, privileges, or benefits upon individuals or entities in excess of those conferred and permitted by law.

*(signature page follows)*

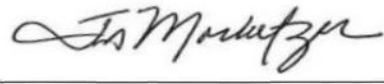
IN WITNESS WHEREOF, the parties have executed this MOU as of latest day and year written below.

AGREED:

Ohio Department of Public Safety

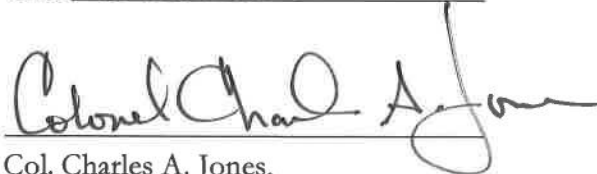
Ohio Attorney General

  
D. Andrew Wilson  
Director, Ohio Department of Public Safety

  
Joseph A. Morbitzer  
Superintendent, BCI the Ohio

Date: 3-16-2023

Date: March 27, 2023

  
Col. Charles A. Jones,  
Superintendent, Ohio State Highway Patrol

Date: 3-16-23