

3-24-10

DATE: February 16, 2010
TO: Assistant Chief Brian Martinek
Operations Branch
(Through Channels)

DRAFT



FROM: Sergeant Liani Reyna
North Precinct, Afternoon Relief
SUBJ: Officer Involved Shooting/ SERT-HNT Callout

INITIALS AND DATE:
Sergeant: LMR 3/4/2010 3/4/2010
Lieutenant: OK 03/08/2010
Commander: _____
Training Captain: _____
Assistant Chief: _____

Officers involved:

- | | |
|------------------------------------|---|
| Officer Ronald Frashour # 40927 | AR-15 Operator (Lethal Force Used) |
| Officer Ryan Lewton # 34674 | Less Lethal Operator (Bean Bag Used) |
| Officer Jeff Elias # 29338 | K-9 Handler (Dog used) |
| Officer John Boylan # 41756 | Primary Officer/ Custody team |
| Officer James Quackenbush # 36875 | Communications |
| Officer Tyrone Willard # 47105 | Custody Team |
| Officer David Kemple # 39589 | Custody Team |
| Officer Justin Burns # 47103 | VI Handler |
| Sergeant John Birkinbine # 29351 | Assistant to Incident Commander/ Negotiations |
| Sergeant Liani Reyna # 28925 | Incident Commander |
| Lieutenant Derek Rodrigues # 37149 | Responded to Scene |
| Captain Robert Day # 23474 | Assumed Incident Command/ Activated SERT |

Case Number:
10-8352

Date and time occurred:
January 29, 2010 4:22 p.m.

Location of occurrence:
Sandy Terrace Apartments
12800 NE Sandy Boulevard # 37

Injury sustained:
Suspect Deceased

Narrative:

On Friday January 29, 2010 at 4:22 pm North Precinct Officers John Boylan and James Quackenbush were dispatched to a welfare check at the Sandy Terrace Apartments located at 12800 NE Sandy Boulevard Apartment 37. The call came from family members who were concerned about the welfare of a female whose boyfriend tried to kill himself earlier, was armed with a gun, and possibly wanted to commit suicide by cop. The family members conveyed concern they had not been able to contact the female half who also had 3 children. While en route to the call, Dispatch updated responding officers the male half was distraught over the recent death of his brother. Dispatch updated officers the male half was flagged resists arrests and domestic violence. Dispatch included the male half's PPDS record which showed prior arrests for attempted murder with a handgun. Officers Bocchino and Gryphon attached themselves to the call after this last update. Officer Ryan

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Lewton also responded and assisted Officer Boylan with containment of the apartment. Officer ~~Boylan~~ requested for a supervisor to respond. I acknowledged and started toward the call location from North Precinct.

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While I was in route, Officers worked to contain the location and attempted to have BOEC request the female half's cell phone be pinged. Dispatch was working with the cell phone company to ascertain the female's location. I arrived at the location and saw Officer Boylan speaking with female's father. Officer Boylan reported to me the male half was anti-police and had a history of attempted murder. Shortly thereafter, the female half emerged from the apartment. The female's eyes appeared wider than normal as she spoke with us about her boyfriend. The female half appeared hesitant to speak with us and informed us police presence would escalate her boyfriend. I was very concerned about the safety and welfare of the three children. The female half told me her children were between the ages of 2-5 years old, and they did not have clothes on at this time since the family had been sleeping. Two of the children belonged to the male half.

My primary concern at this point was the lives and safety of the three children and of the male half. According to PPDS and witness statements, the male half had a violent history; he reportedly attempted suicide the night before, he had access to a gun, and he was emotionally distressed over the loss of a family member. All these elements elevated the threat level of this individual. I assumed incident command at this time. Myself, Officer Lewton, Officer Quackenbush and Officer Boylan created a tactical plan to contain an outer perimeter, to establish a custody team, and to employ Officer Quackenbush to make telephone contact. Part of our plan was the use of an AR-15 to provide long cover front and back. We also requested the use of a canine unit to prevent escape and as a less lethal option. I also instructed Officer Lewton to retrieve his less lethal shotgun. Officer Burns was assigned to the female half to provide intelligence. Nothing at this time indicated the children were being held hostage. Officer Boylan reported in his detective interview his understanding of the mission was to attempt contact with the male half, and if he came outside we were going to take him into custody. If the male half did not want to come out, but expressed he did not want to hurt himself, then the plan was to leave.

I initially deployed with my AR-15 on the custody team once we had all resources in place, I ordered the first tactical maneuver which was to attempt telephone contact with the male half. I was told by Officer Quackenbush the male half hung up the phone. During additional attempts to contact the male half, we were informed via radio broadcast he sent a text message stating, "Don't make me get my gun, I aint playing." This statement further elevated my concerns about this man's mindset to harm himself. Officer Frashour arrived with his AR-15 and was directed to my location with the custody team. I briefed Officer Frashour on the situation up to that point. I moved to the alcove with Officer Boylan and Officer Quackenbush to discuss the next strategy. Sergeant John Birkinbine arrived an hour after the call began, and joined us in the alcove.

Sergeant Birkinbine, who I know to be a trained hostage negotiator, then attached himself to Officer Quackenbush. According to Sergeant Birkinbine's detective interview he offered himself as a sounding board to Officer Quackenbush in case the call turned into a SERT and HNT response. According to Officer Quackenbush's detective interview, Officer Quackenbush made telephone contact with the male half and expressed his concern about his welfare and expressed sorrow for his loss. Officer Quackenbush went as far as to share a personal experience to build rapport with the male half. The male half told Officer Quackenbush he just wanted to be left alone. Officer Quackenbush told the male half he was concerned about the welfare of the children at which point the phone went dead and immediately after, the kids came out. The children were secured by officers, and I directed officers to have the children removed from the apartment complex a safe distance away. Sergeant Birkinbine reported in his interview with Detectives he heard Officer Quackenbush inform the male half "we are not here to arrest you." Sergeant Birkinbine also reported to Detectives he overheard the conversation between Officer Quackenbush and the male half that the police were not going to be able to leave until the police knew the children were safe. Sergeant Birkinbine reported to Detectives the male half hung up the phone and immediately afterward the children emerged. Sergeant Birkinbine told Detectives it was obvious the children were instructed to look for and go straight to the police. While Sergeant Birkinbine worked with Officer Quackenbush at one end of the alcove, I worked with Officer Boylan at the entrance of the alcove. Officer Burns was with the female half away from the scene. I asked Officer Boylan to contact Officer

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Burns and gather more information from the female. I was actively engaged with Officer Boylan and was monitoring the custody team.

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After the children left the scene we discussed our next strategy. I instructed Officer Quackenbush to text message the male half and have him assure us he would not harm himself. Officer Quackenbush did so and told me the male half responded, "never" indicating he did not want to harm himself and even joked about our ability to use text messaging. I broadcast over the radio we were having positive communication. I told the officers in the alcove we were almost done. At or around this point in time, Captain Robert Day and Lieutenant Derek Rodrigues arrived on scene. I asked Officer Quackenbush to text the male half and have him promise us he would not harm himself and then my plan was to pull back the custody team and break down the perimeter. Officer Quackenbush reported in his detective interview, he sent the text, "Can you promise me you won't hurt yourself?" I waited for a response from the male half before issuing an order to the custody team to pull back.

While waiting for a response from the male, Captain Robert Day ordered me over the radio to come to his location. Sergeant Birkinbine heard the direction and told me, "You better get going." At approximately 17:58 hours I left the alcove and reported to Captain Day's location. I took a telephone call from Officer Burns updating me about the male half pointing a gun to his head the night before and pulling the trigger 4 times. The gun did not go off so the male half pointed the gun in the air and the gun fired. This information was reported from the female half to Officer Burns. Despite this new information, I still felt it would be a prudent course of action to leave. I began to brief Captain Day and I informed him of our decision, and included this new information. Lieutenant Rodrigues gave his opinion that we should stay on the call, and Captain Day weighed the two options. According to Officer Quackenbush's interview with detectives, while I was briefing Captain Day, the male returned Officer Quackenbush's text message and asked Officer Quackenbush why he was not calling him on the phone. Sergeant Birkinbine instructed Officer Quackenbush to make phone contact with the male half and ask him to come outside to talk. Officer Boylan, Officer Frashour, and Officer Lewton, all reported to detectives the male half emerged from the apartment without warning. At approximately 18:07 hours I was still briefing Captain Day and Lieutenant Rodrigues when I heard officers report the male was coming out.

According to Officer Lewton's interview with detectives, Officer Lewton began issuing the male commands. Officer Lewton stated the male was non-compliant and issued him a verbal warning to the effect of, "do exactly as we say or you will be shot." The male responded with, "Go ahead and shoot me." Officer Lewton ordered the male to put his hands up and when the male did not do as instructed, Officer Lewton fired his bean bag gun. Officer Lewton reported the first round was fired to gain compliance and when the round struck, the male dropped his hands. Officer Lewton reported the male then made a move to run and did not make a move to go down to the ground. Officer Lewton fired his bean bag gun again and reported the second round had "zero effect." Officer Lewton lost sight of the male's hands and fired more bean bag rounds at the male's buttocks. Officer Lewton remembered firing 6 rounds of bean bags which did not achieve the desired result of compliance.

In Officer Elias' interview with detectives, Officer Elias described the situation as volatile. Officer Elias heard the warning issued to the male to put his hands up or he would be shot. Officer Elias heard the male respond, "Fucking shoot me." The male did not put his hands up and was shot with the bean bag gun. Instead of going down, Officer Elias saw the male running away at which point he ordered his dog to grab the guy. Officer Elias stated he sent the dog with the purpose of preventing the male from gaining a tactical advantage or going back to the car or the apartment where he could shoot at the police.

During Officer Frashour's interview with detectives, Officer Frashour said, "I saw the subject come out and he came out walking, but very quickly and very determined." Officer Frashour remained focused on the male and said he heard commands being issued, but could not remember specifically what was being said. Officer Frashour described activating the light on his AR-15 and hearing Officer Elias' dog barking. Officer Frashour reported the male's tone of voice as being aggressive and hostile. Officer Frashour reported seeing the bean bag

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rounds hit the male causing him to stutter step forward. Officer Frashour reported all of a sudden the male reached his left hand straight down the middle of his back into the middle of his waistband. Officer Frashour reported he thought the male was pulling out a gun. Officer Frashour further believed the male was moving to hard cover and would shoot at police. Officer Frashour shot the male one time with his AR-15. Officer Frashour saw the male go down and broadcast over the radio, "lethal force, shots fired."

According to Sergeant Birkinbine's interview with detectives, Sergeant Birkinbine heard the commands being issued by the custody team, he heard the bean bag rounds being fired, and he heard the lethal round fired. After seeing the male go down, Sergeant Birkinbine left the alcove and went to the custody team. Sergeant Birkinbine broadcast for medical to stage. Officer Elias, Officer Lewton, and Sergeant Birkinbine discussed the possibility of approaching the male. Officer Elias expressed concern about not seeing the male's hands, but was willing to approach the male and take him into custody. Officer Lewton recommended activating SERT. Sergeant Birkinbine ultimately recommended activating SERT.

I was standing next to Captain Day when Sergeant Birkinbine called him on the telephone and discussed the activation of SERT. I ordered the closing of NE Sandy Boulevard at the direction of Captain Day. I was present when Captain Day assumed incident command and activated SERT. I assisted Captain Day with coordinating resources, and with the command post briefings. SERT responded, took the male into custody, and SERT medics declared the male deceased. Lt. Rodrigues coordinated the crime scene and post shooting procedures.

Attachments:

CAD Printout

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Notes

[Signature]
Lt. D. Rodrigues, #37149

03/08/10

Refer to attached memo by this officer.

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