

Portland Police Bureau

Internal Investigation: Aaron Marcell Campbell

Training

November 2010



**Portland Police Bureau
1111 SW 2nd Ave.
Portland OR 97204**

7-14-10
EAB



**Portland Police Bureau
Case #10-8352
Officer Frashour**

**Training Division Review
Prepared By
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Portland Police Bureau**

**Training Division
Officer Use of Force Review
PPB Case # 10-8352**

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This report was based upon a review of the Internal Affairs Division's investigation, the Grand Jury investigation and Training Division lesson plans and doctrine. It was a collaborative effort made by members of the Training Division utilizing the PPB Training Division's Tactical Guideline Elements and the PPB Supervisors Critical Incident Management Training which are attached. Each major action/decision made by officers was analyzed in the sequence in which it occurred during the incident. Timelines provided in this report are approximate, and included to provide a general outline of the sequence of events.

Tactical Analysis Preamble:

Tactical incidents are dynamic events that cannot be assessed in a mechanical or rigid manner. Most tactical incidents are extremely fluid and should be analyzed based on the facts and circumstances available to the officers at any given time during an incident. Police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. The Training Division analyzes tactical incidents based on the totality of the circumstances and the reasonableness of the officer's actions. Reasonableness is judged from the perspective of a reasonable officer on the scene at the time of the incident, rather than the 20/20 vision of hindsight.

Consequently the analysis will cover the range of acceptable and appropriate tactical options available to the officers and whether the options utilized were reasonable based on the standards outlined above. The purpose of the analysis is to review the officers' actions for consistency with the training they received from the Bureau.

It is the role of the RU manager, the review board process, the Chief of Police and the Police Commissioner to determine if an officer's actions were within policy.

It is acknowledged that by nature, tactical incidents are imperfect, and lessons can be drawn from each incident to assist in improving future training and practices.

TRAINING BACKGROUND:

- **Officer FRASHOUR #40927, hired November 29, 2001, total training hours 1,421, AR-15 certified February, 2006.**
- **Officer RYAN LEWTON #34674, hired August 16, 2001, total training hours 2,412, Less lethal certified April, 2005.**
- **Officer Jeff ELIAS #29338, hired January 22 1998, total training hours 1520.**

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- **Officer John BOYLAN #41756, hired December 13, 2001, total training hours 1072.**
- **Officer James QUACKENBUSH #36875, hired January 21, 1999, total training hours 1480.**
- **Officer David KEMPLE #39589, hired November 29, 2001, total training hours 943.**
- **Officer Tyrone WILLARD #47105, hired July 6, 2006, total training hours 811.**
- **Officer Craig ANDERSEN #46055, hired September 22, 2005, total training hours 975.**
- **Officer Matthew MCALLISTER #45405, hired March 10, 2005, total training hours 1013.**
- **Sergeant Liana REYNA #28925, hired December 30, 1993, total training hours 2220, promoted October 20, 2005. Critical Incident Management Training April 2007.**
- **Sergeant John BIRKINBINE # 29351, hired April 21, 1994, total training hours 2264, promoted November 16, 2005. Critical Incident Management Training April 2007.**
- **Lieutenant Derrick RODRIGUES # 37149, hired February 15, 1999, total training hours 1437, promoted December 10, 2009.**
- **Captain Robert DAY #23474, hired April 26 1990, total training hours 2539, promoted December 10, 2009.**

INCIDENT OVERVIEW:

This incident evolved out of a radio call regarding a welfare check on a woman, ANGIE JONES, and her three children, who were reported to be inside an apartment with a suicidal man named AARON CAMPBELL. CAMPBELL was JONES boyfriend and reportedly despondent over the recent death of his brother and believed to be armed with a handgun. According to the complainant, SHERRI STEWART (the aunt of ANGIE JONES) CAMPBELL had made threats to commit "suicide by police", and attempted suicide the night before by putting a gun to his head and pulling the trigger. During the incident the night before CAMPBELL had fired at least one round into the air (officers were not made aware of this information until late in the call).

After arriving on scene, responding officers attempted to locate JONES. Initially they spoke to JONES' father, COURTNEY JONES, who had come to the scene because he was concerned about his daughter and grandchildren. Eventually JONES came out leaving her three children still inside with CAMPBELL. Officers were able to establish cell phone contact with CAMPBELL and suggested he send the children outside. CAMPBELL never verbally acknowledged the officers request, however immediately after it was made, the children unexpectedly emerged from the apartment and were secured by officers. Some time later,

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officers talked to CAMPBELL about coming out, and without any verbal acknowledgement he unexpectedly emerged from the apartment. The custody team, who was unaware that CAMPBELL was asked to come out, verbally challenged CAMPBELL and attempted to direct him to a position where he could be taken into custody. At some point CAMPBELL refused to comply with officer's commands to raise his hands off of his head. CAMPBELL was then shot with a less lethal shotgun multiple times. CAMPBELL then ran back toward his apartment and was fatally shot because Officer FRASHOUR believed he was going for a gun.

SERT was activated to conduct post shooting operations.

TIMELINE

- (1623)** Officer BOYLAN is dispatched to Apartment # 37 of the Sandy Terrace Apartments on a "welfare check". Officer James QUACKENBUSH is dispatched as a cover unit. Dispatch advises that family members are concerned about Angie JONES, who is possibly at that location with her three young children. Officers are advised her boyfriend, identified as Aaron CAMPBELL, may be at the location and he is suicidal and attempted to kill himself the night before. Dispatch further advises that he may be armed with a gun and he wants "suicide by police". They are also advised that JONES father is also on his way to the location.
- (1626)** BOYLAN requests dispatch attempt to locate a contact phone number for JONES, apparently unaware that the phone number is in the call.
- (1629)** Dispatch cannot locate a phone number for JONES however they do provide vehicle information on the boyfriend.
- (1630)** BOYLAN arrives and waits for cover.
- (1630)** JONES father, COURTNEY JONES, contacts BOYLAN.
- (1632)** QUACKENBUSH arrives as cover.
- (1633)** K9 Officer ELIAS advises that he is monitoring the call.
- (1637)** QUACKENBUSH has eyes on apartment #37 from an alcove positioned just north of the alcove where #37 is located. He broadcasts the specific location of unit #37 within the complex.

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(1637) Officer BOCCHINO and GRYPHON arrive as a two-person car for additional cover. At this point BOYLAN is talking with the father and coordinating the initial patrol response. The father tells BOYLAN that his family is trying to get a hold of his daughter (JONES), because they are concerned that she might be in danger from her boyfriend. The father tells BOYLAN that:

- The children are inside the apartment
- CAMPBELL was distraught over the recent death of his brother
- CAMPBELL had been drinking and wanted to commit suicide or suicide by cop and suggested he might rob a bank so he could give money to his girlfriend
- The father also indicated that he was convinced the daughter was inside because she had no car and wouldn't be anywhere else
- The father also indicated that he was getting this information second hand

(1638) QUACKENBUSH advises associated vehicles are not in the parking lot.

(1639) BOYLAN advises the father has tried to call his daughter (JONES) but she is not answering.

(1643) BOYLAN requests dispatch run variations of JONES name to help verify her identity and associated information.

(1646) Officer LEWTON clears an unrelated vandalism call and arrives at the scene after hearing radio traffic that indicated to him the call was more involved than a normal call. LEWTON meets with BOYLAN who gives him a general description of the incident but advises they have not yet been able to verify the whereabouts of JONES. At this point the plan is to maintain a visual on the apartment while attempting to verify the location of JONES, CAMPBELL and the children.

- After talking with QUACKENBUSH briefly LEWTON finds the complex manager and gets a key along with information regarding who lived in #37 and phone numbers for the location.

(1647) BOYLAN requests dispatch ping JONES cell phone in attempt to verify whether she is in the vicinity.

(1648) LEWTON determines that a sergeant should respond to the scene

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and makes a request via radio.

- (1648)** Sgt. REYNA first becomes aware of the call when she hears the request and immediately responds to the scene. REYNA had not heard the original call come out because at the time it was dispatched she was performing administrative functions in the precinct. While enroute to the call dispatch briefed her on the nature of the call and she monitored the radio traffic until her arrival on scene.
- (1649)** Dispatch advises officers on scene that JONES'S cell carrier is Cingular which does not have real time ping capabilities and any ping information would be several hours old. QUACKENBUSH requests information anyway to verify if JONES has been in the area within that timeframe.
- (1701)** REYNA arrives on scene. BOYLAN is busy talking to the father so she contacts LEWTON who briefs her on the situation.
- (1701)** Officer BURNS self dispatches and arrives on scene.
- (1703)** LEWTON advises the girlfriend (JONES) just came out of the apartment and appears to be okay, and they are still trying to find out what is going on inside the apartment.
- (1703)** REYNA and BOYLAN meet with JONES to assess the situation inside the apartment. QUACKENBUSH and LEWTON are present during different parts of this conversation but do not hear the entire conversation. It is during this conversation that JONES tells BOYLAN that CAMPBELL'S suicidal behavior had occurred the night before and that he seemed to be doing better. REYNA did not hear this information and BOYLAN does not recall it being communicated to other officers on scene.
- (1704)** REYNA learns that three children are inside and considers a plan to conduct a hasty rescue. Once she learns that CAMPBELL is probably armed she suspends this plan and begins preparing to contact CAMPBELL by phone and/or loud hail.
- (1705)** LEWTON requests an AR-15 Officer respond to the scene. Officer KEMPLE responds to the request and indicates he is enroute.
- (1710)** REYNA directs custody team to move patrol car in front of apartment

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in preparation for a phone call to CAMPBELL. QUACKENBUSH is designated as the officer to make the phone call. If the phone call does not work then REYNA plans to conduct a loud hail.

- (1718)** KEMPLE arrives on scene but it is determined he is not an AR-15 operator. Officer HUGHES, who is an AR-15 operator, is dispatched to the scene, but he is responding from a long way off. Dispatch locates FRASHOUR on the East Precinct radio net and since he is closer he is also dispatched to the scene.
- (1721)** BIRKINBINE arrives on scene. BIRKINBINE responded because he heard officers asking for an AR-15 but did not initially know the nature of the call.
- (1722)** REYNA indicates she will be requesting non-emergency radio traffic in the next few minutes, and advises they are setting up to loud hail.
- (1724)** LEWTON requests a K-9 officer to the scene. K-9 Officer ELIAS advises he is enroute.
- (1725)** FRASHOUR is enroute with an additional AR-15.
- (1726)** BURNS advises the girlfriend (JONES) has received a text message from CAMPBELL asking what was going on. She texted back that "they want you to come out". Burns advises all units to be prepared in case CAMPBELL unexpectedly comes out. Prior to this point Burns is unaware that JONES is in text communication with CAMPBELL.
- (1726)** REYNA requests a hold on radio traffic as they place a call into the apartment.
- (1729)** FRASHOUR is on scene.
- (1729)** QUACKENBUSH makes that the first attempt to call CAMPBELL'S cell phone and advises that there is no answer. He then calls a second number that he believes goes to the apartment. Instead the number is to CAMPBELL'S mother who answers and indicates to QUACKENBUSH that she is concerned about CAMPBELL and the children. QUACKENBUSH assures her they are working on the situation.

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- (1730)** BOYLAN advises the girlfriend just received a text from CAMPBELL stating "I ain't playing don't make me get my gun". BOYLAN advises officers to be "heads up", he may have a gun.
- (1730)** REYNA confirms that she heard BOYLAN'S information and requests an additional perimeter unit to the scene.
- (1730)** LEWTON requests two additional units to the scene. BARR and ANDERSON (two person car) advise they are enroute. HUGHES advises he is still enroute.
- (1730)** Capt. DAY and Lt. RODRIGUES begin to head to the precinct to pick up DAY'S car so they can both respond to the call.
- (1731)** FRASHOUR advises he is in the back of the complex with his AR-15. LEWTON requests FRASHOUR come to the front of the complex with him. HUGHES advises that when he arrives he will take a position at the back with his AR-15.
- (1731)** BIRKENBINE moves into the alcove with QUACKENBUSH to assist with negotiations.
- (1731)** ELIAS is on scene and moves to alcove to be briefed.
- (1732)** FRASHOUR relieves REYNA and she moves to the alcove with QUACKENBUSH/BIRKENBINE/BOYLAN/ELIAS
- (1732)** BOYLAN advises that QUACKENBUSH is talking with the suspect now.
- (1732)** QUACKENBUSH suggests to CAMPBELL that he send the children out to make sure they are okay. CAMPBELL does not verbally respond.
- (1732)** FRASHOUR advises that 3 children are coming out the front.
- (1733)** Officer BARR is on scene.
- (1734)** REYNA advises the 3 children are secure.
- (1734)** REYNA advises to hold position and move the 3 children out of the area.
- (1736)** REYNA asks if officers on the back side of apartment see

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any signs of movement. Officers on scene including REYNA are not aware that QUACKENBUSH asked CAMPBELL to send the children outside.

- (1736)** HUGHES is on scene with AR-15.
- (1737)** HUGHES moves to the back of the apartment.
- (1738)** REYNA requests update on what officers and weapons are on the backside of the apartment.
- (1739)** REYNA asks what containment of the scene looks like.
- (1740)** CARMON and SCHMERBER are on scene and REYNA assigns them as perimeter support. REYNA advises ANDERSEN and MCALLISTER to stage on NE Sandy as a reactionary unit.
- (1740)** RODRIGUES indicates via CAD that he is enroute.
- (1741)** Girlfriend (JONES) is taken from scene to be with children on NE Sandy.
- (1741)** HUGHES advises no movement in the back.
- (1742)** DAY advises he is enroute and requests safe route to scene.
- (1744)** BOYLAN requests BURNS check with girlfriend to determine how much CAMPBELL has been drinking and if he has been using drugs.
- (1748)** Girlfriend (JONES) does not think he has had anything to drink since last night and he is not known to use drugs.
- (1749)** REYNA advises they are on the phone with the suspect now and they will be communicating by text.
- (1749)** Girlfriend (JONES) is relocated to 13038 NE Sandy to be with mom.
- (1750)** HUGHES advises he is breaking out light in the back with his ASP baton.
- (1751)** RODRIGUES asks REYNA to call him. She advises she will when she can.
- (1751)** REYNA advises they are on the phone with CAMPBELL.

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- (1751)** DAY is on scene.
- (1752)** DAY asks if RODRIGUES is on scene RODRIGUES advises he is a couple of minutes out and he is on the phone with REYNA.
- (1754)** TAFOYA and GARRISON (two officer car) are enroute.
- (1755)** DAY requests additional officers on NE Sandy to provide security.
- (1755)** QUACKENBUSH texts CAMPBELL "AARON we need to know if you intend to hurt yourself"
- (1756)** CAMPBELL texts back "Never..wow u guys text too..u get kudos".
- (1758)** REYNA advises they are getting positive text feedback from CAMPBELL and they are still in text communication with him.
- (1735-1758)** BIRKINBINE and REYNA are in the alcove discussing tactical options. BIRKINBINE wants to be sure that the girlfriend and children have a safe place to stay in case the police walk away. He also tells REYNA he is concerned about walking away without having direct contact with CAMPBELL to make sure he is stable.
- (1758)** REYNA requests BURNS call her so BURNS can ask the girlfriend if she has a safe place to stay the night with the children in case the police decide to walk away and leave CAMPBELL inside the apartment.
- (1758)** BURNS calls REYNA and advises the girlfriend and children have a safe place to stay.
- (1758)** DAY asks for the location of REYNA and whomever is texting CAMPBELL. REYNA advises they are in alcove.
- (1758)** RODRIGUES is on scene.
- (1759)** DAY asks who the other sergeant is on scene besides REYNA.
- (1759)** BIRKINBINE answers and asks DAY to go to TAC 2.
- (1759)** REYNA tells QUACKENBUSH to solicit from CAMPBELL a promise that he won't hurt himself.

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- (1759)** REYNA leaves the alcove to meet with DAY and RODRIGUES.
- (1801)** BURNS calls REYNA and advises that the girlfriend just told him that during incident the night before, when CAMPBELL was threatening suicide, he actually shot a round into the air. This is the first time she is made aware of this information.
- (1803)** SCHMERBER and CARMON observe the blinds on the backside of the apartment opening up and someone looking out.
- (1803)** QUACKENBUSH texts CAMPBELL "Thanks Aaron, I appreciate your help. I am truly sorry about your brother. Can you promise me u won't hurt yourself-Jim".
- (1804)** CAMPBELL texts back "Ur textin not callin me that's weird Jimmy".
- (1805)** QUACKENBUSH shows BIRKINBINE the text and BIRKINBINE tells QUACKENBUSH to call CAMPBELL and tell him they would like him to come out.
- (1806)** QUACKENBUSH calls CAMPBELL and brings up the idea of him coming outside so they can make sure he is okay.
- (1806)** Backside officers are broadcasting positions in attempt to coordinate positions.
- (1807)** FRASHOUR advises CAMPBELL is walking out.
- (1807)** BIRKINBINE advises CAMPBELL is backing up.
- (1807)** BIRKINBINE advises CAMPBELL is compliant so far.
- (1808)** BIRKINBINE advises bean bag rounds are deployed.
- (1808)** LEWTON advises bean bag rounds deployed.
- (1808)** FRASHOUR advises shots fired, lethal force and suspect down.
- (1808)** BIRKINBINE, who is now with the custody team, requests code 3 medical to stage on NE Sandy.
- (1808)** BIRKINBINE requests AR-15 to his location which is by the custody team.

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- (1809) BIRKINBINE advises all units that we are slowing down and holding right now.
- (1810) K-9 Officer ELIAS requests someone get binoculars from his car and bring them to him as soon as possible.
- (1811) REYNA and DAY requests cover units to the North entrance to deal with family and crowd control.
- (1813) WHEELWRIGHT on scene.
- (1815) DAY asks BIRKINBINE whether he is going to be able to take CAMPBELL into custody.
- (1815) Officers request light to be cast on CAMPBELL to see if there is any movement.
- (1816) REYNA shuts down traffic on NE Sandy from 125th to 131st.
- (1816) DAY asks Cmdr. FERRARIS to call him and he answers in the affirmative.
- (1816) BOYLAN advises he cannot see CAMPBELL'S hands and the hands might be underneath him.
- (1817) BIRKINBINE advises officers to hold their positions
- (1818) DAY activates SERT/HNT
- (1820) DAY advises that he is command of the scene.

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| INITIAL OFFICER RESPONSE |
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(1624) While enroute BOYLAN made inquiries to dispatch to obtain more information regarding the incident. Upon arrival BOYLAN waited for cover and contacted the father in a location out of view from the apartments **(CONCEALMENT)**. He gathered more information from the father before initiating any contact. QUACKENBUSH arrived and immediately located the target location and established surveillance. He positioned himself in the alcove north of the location **(COVER AND CONCEALMENT)**.

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QUACKENBUSH checked the parking lot for associated vehicles and looked for activity around unit #37. He broadcast the exact location of the unit and advised that associated vehicles were not in the area **(COMMUNICATION)**.

At this point, the officers on scene were still trying to gather accurate information and establish the exact nature of the incident. They have not confirmed whether the girlfriend, her children, and/or the boyfriend are at the location, or the exact nature of the incident. The officers approach is still very slow and cautious as they attempt to gather more information **(DON'T ASSUME)**. Their plan at this point is to maintain surveillance and attempt to verify the location of the principals.

The information provided by the father regarding CAMPBELL'S intentions and actions the night before, and his certainty that his daughter was inside the residence, elevated the threat level of this incident. BOYLAN advised radio that the daughter was not answering the phone. **(1644)** Officers were 20 minutes into the call and had not been able to verify the location of subject of the welfare check. BOCCHINO and GRYPHON arrived and took a position at the back of unit #37. LEWTON self dispatched to the scene based on the call being in his district and his interpretation of the radio traffic, which indicated to him that the call was more involved than a normal call.

(1646) When LEWTON arrived some confusion developed because he assumed it was his call since he was the district officer¹. Based on this he assumed that he was in charge of the incident, although he never clarified this with BOYLAN **(DON'T ASSUME)**. In addition to the information LEWTON heard over the radio and read from his CAD, he talked separately with BOYLAN and QUACKENBUSH in an attempt to accurately assess the situation.

LEWTON made contact with the apartment manager and received keys and possible phone numbers for unit #37, while BOYLAN asked dispatch to "ping" JONES' phone. At this point, officers on scene have taken appropriate steps to determine the nature of the incident. However, it is unclear who is in charge of the incident and whether all of the information has been made available to all the officers on scene **(COMMUNICATION)**.

(1648) LEWTON requests a sergeant to the scene because he felt there was a potential for a hostage situation to develop and also to coordinate the call ²**(BE ADAPTABLE-HAVE A LEADER-HAVE A PLAN)**. REYNA heard the requests for a sergeant and indicated she was responding from North Precinct.

¹ LEWTON IA Interview p2

² LEWTON IA Interview p2

Efforts continue to locate the girlfriend by "pinging" her cell phone until REYNA arrives on scene **(1701)**.

TRAINING ANALYSIS:

Ideally there needed to be more communication over the radio regarding information that was developing and updates regarding the plan for response. Once LEWTON arrived it needed to be clarified who was in charge of the call, although there is no indication that this had a significant impact on the response to this point. Given the dynamic nature of the incident and the inability to verify the exact nature of the threat, officers proceeded with caution, slowed the incident down, and made a safe tactical approach. LEWTON recognized the potential complexity of the incident and requested a sergeant to the scene. The patrol response to this point is consistent with training (HAVE A PLAN-CORRECT MISTAKES-BE ADAPTABLE-COMMUNICATION-HAVE A LEADER).

SUPERVISOR RESPONSE

(1701) The first sergeant arrived on scene approximately forty (40) minutes after the call was dispatched. REYNA did not hear the original call come out as she was in the precinct performing administrative duties. However, she heard the original request from LEWTON for a sergeant (1648) and responded to the scene. Numerous other sergeants were working however none of them heard the original call come out. Command personnel heard the original call come out but they were not aware of the fact the sergeants had not heard the original call³.

(1648-1701) While on the way to the scene REYNA monitored the activity of officers already on scene and reviewed the CAD entry describing the nature of the call. When she arrived BOYLAN, LEWTON, QUACKENBUSH, BOCCINO and GRYPHON were already on scene. She was immediately briefed by LEWTON who advised that surveillance and a rear perimeter were in place around the apartment. At this point they had not verified there was anyone in the apartment and they were continuing to gather intelligence⁴ before attempting contact.

(1703) Shortly after REYNA'S arrival, JONES came out of the apartment and advised that her three children and CAMPBELL were in-fact inside the

³ Critical Incident Management (CIM) p2, faster a supervisor is on scene the better,...coordinating with other sergeants working with you each day....always have someone in the field to quickly respond.

⁴ CIM p2&10, directing resources....Make a Plan.

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apartment⁵. At this point, REYNA began planning⁶ a way to make contact with CAMPBELL to determine if he was in fact a threat to himself or the children. Her assessment was the incident had escalated and become more tense and uncertain, and she felt the need to secure the children⁷. REYNA considered a variety of options including calling CAMPBELL or allowing JONES to go back inside⁸ and get the children. However, JONES told officers that contact from the police would escalate the situation since he did not know the police were outside and the situation was currently calm⁹. As for letting JONES go back inside to retrieve the children REYNA thought that option was too unpredictable. It was during this discussion that JONES told BOYLAN that CAMPBELL'S suicidal behavior had actually occurred the night before and she thought he was doing better today.¹⁰ Note that as the call develops this is critical information that is not communicated after additional units, including FRASHOUR arrived on scene.¹¹ At this point communication becomes sporadic and officers on scene begin to develop independent situational awareness and as a result, independent mindsets.

REYNA discussed with officers the feasibility of using the element of surprise and entering the apartment quickly before CAMPBELL had time to react. They would gain access to the apartment using the keys which LEWTON had obtained from the apartment manager. REYNA based this plan on the need to get the children and the fact that CAMPBELL was possibly asleep and there was no indication he currently possessed the gun¹².

While she put the plan together she had LEWTON get his less lethal shotgun in case CAMPBELL came out unexpectedly¹³. Prior to executing the plan REYNA learned from JONES that CAMPBELL was currently wearing the jacket where he usually kept his gun. At this point she immediately cancelled the plan to enter the apartment stating the dynamics had changed based on the increased likelihood that there was a gun in the apartment¹⁴.

⁵ Jones GJ Testimony ...indicated she came outside because she saw her father standing outside

⁶ CIM p10, Make a Plan. Tactical Training Guidelines p1, Have a Leader

⁷ Detectives Interview p410.

⁸ JONES GT testimony indicated the police would not let her back inside to get the kids.

⁹ LEWTON IA Interview p5. BOYLAN IA Interview p4.

¹⁰ BOYLAN IA Interview p4...indicates he believed REYNA and possibly LEWTON overheard this conversation . REYNA IA Interview p6... indicates she did not hear this information. LEWTON IA Interview p4-5... LEWTON heard the information about him being calm now, there is no reference to him hearing the behavior occurred last night.

¹¹ LEWTON IA p5.

¹² REYNA IA Interview p6,. Note JONES GJ testimony indicates that CAMPBELL had just woke up prior to her exiting the apartment...GJ transcript p 136.

¹³ Lewton IA Interview p5.

¹⁴ Tactical Training Guidelines p1, Be adaptable, Correct Mistakes

(1721) Based on the radio activity BIRKINBINE determined that a sergeant may be needed so he self-dispatched to the scene. While enroute he discovered REYNA was already on scene but he continued to respond in case REYNA needed assistance. BIRKINBINE arrived on scene and asked REYNA if she needed assistance with the incident but she indicated she did not need help. BIRKINBINE was not assigned a task so he contacted QUACKENBUSH to assist with negotiations. Sgt. ELLERTSON also contacted REYNA by phone during this time period¹⁵ and asked if she needed any help, however REYNA advised that she did not need assistance¹⁶. PPB sergeants are trained to utilize additional sergeants during complex incidents and delegate specific tasks with clearly defined roles.¹⁷

At this point REYNA changed plans and began to coordinate an attempt to establish communications with CAMPBELL. REYNA organized a custody team and a communication team in preparation for the phone call¹⁸. REYNA designated QUACKENBUSH as the negotiator, LEWTON, BOYLAN, KEMPLE, and herself were part of the custody team. LEWTON was designated less lethal shotgun and REYNA would be the AR operator¹⁹. REYNA placed a patrol car in front of the apartment to provide hardcover for the custody team. LEWTON requested an additional AR-15 and a K9 officer,²⁰ and REYNA concurred. BIRKINBINE, even though he was an additional sergeant on scene, was not given an assignment.²¹

All of the recommended elements of a communication and custody team were in place²². Optimally REYNA should not have a role on the custody team as it limited her ability to be in charge of the incident.²³ That task, if practical, should have been delegated to an officer.²⁴ REYNA indicated she was comfortable²⁵ with being the on scene supervisor as well as having the role of lethal cover, until she could be replaced with the AR-15 operator that had been requested. REYNA had the role of lethal cover for approximately 15-25 minutes.²⁶ QUACKENBUSH placed a call to CAMPBELL'S cell phone but it went right to voicemail.²⁷ QUACKENBUSH then called a second number which he thought was for the apartment but it ended up being CAMPBELL'S mother's phone. She

¹⁵ According to REYNA phone records this call was received at 1725

¹⁶ ELLERTSON IA interview p3. Note also that Sgt. WHEELWRIGHT attempted to call REYNA also but it appears as if she did not answer (REYNA IA p 17 ELLERTSON IA interview p3 and WHEELWRIGHT phone records indicate an attempt to call REYNA at 1702)

¹⁷ CIM p2

¹⁸ CIM p15. Communication Team, Custody Team. Attempt Contact

¹⁹ CIM p7, Specially Equipped Personnel

²⁰ CIM p9, K-9 assist with breakout

²¹ BIRKINBINE IA Interview p5.

²² CIM p9.

²³ CIM p1

²⁴ CIM p3

²⁵ REYNA IA Interview p9.

²⁶ LEWTON IA Interview p6.

²⁷ QUACKENBUSH GJ testimony p82. Criminal interview pg 479. REYNA's IA indicates she thought the suspect answered and then hung up.

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answered and expressed concern over CAMPBELL and the children's safety. QUACKENBUSH reassured her that he was working on the incident.

Shortly after the QUACKENBUSH phone call, FRASHOUR, who had been dispatched to the scene as an AR-15 operator because he was the closest available AR-15 operator²⁸, arrived on scene and took a position in the back of the complex. LEWTON then immediately called FRASHOUR to the front to relieve REYNA with his AR-15. BOYLAN and REYNA then moved back into the alcove with the communication team, which consisted of QUACKENBUSH and BIRKINBINE. REYNA and BOYLAN began to discuss the next step. At this point, information was broadcast that Officer BURNS had discovered JONES was receiving texts from the boyfriend indicating he knew the police were outside and that he may have a gun. Specifically CAMPBELL and JONES exchanged the following texts:

CAMPBELL :(1724) "What the hell is going on"

JONES: (1724) "I don't know but they want you to come outside"

CAMPBELL: (1725) "Who"

CAMPBELL: (1725) "I told you not to have anybody bother me"

CAMPBELL: (1726) "don't make me get my gun"

These texts had been occurring without the knowledge of the police on scene.²⁹ This appears to be the time period where CAMPBELL becomes aware that the police are on scene. BOYLAN broadcasts this information to all units on scene and cautions them to be alert as the text may indicate that CAMPBELL could be coming out.³⁰

REYNA and BOYLAN began to make plans to loud hail based on their concern that CAMPBELL appeared to now know the police were outside. These plans were made at the same time the communication team had taken possession of JONES' phone, and was preparing to place a call to CAMPBELL. They were unaware that the communication team was planning to call CAMPBELL and that during the conversation QUACKENBUSH would address concerns about the children's welfare³¹ **(1734)**. While REYNA was planning for a loud hail the communication team made the call to CAMPBELL and broached the subject of the children with CAMPBELL³² without coordinating with REYNA. Within a matter

²⁸ Radio tapes 1718...units on scene thought KEMPLE was responding as an AR operator however that was not accurate

²⁹REYNA Criminal Interview p412

³⁰ Radio Tapes @ 1726 and 1730

³¹ REYNA IA Interview p12

³² QUACKENBUS criminal interview p18. during this call QUACKENBUSH tells CAMPBELL that a crime had not been committed and they were just concerned about his welfare and the welfare of the children. QUACKENBUSH also indicated that it seemed to him that CAMPBELL had either been drinking or just woken up. CAMPBELL told QUACKENBUSH to go away and just leave him alone.

of seconds the children unexpectedly came out and were secured by the custody team.

There appeared to be no communication or coordination between REYNA and BIRKINBINE during this sequence of events. REYNA was unaware that the children had come out in response to the request made by QUACKENBUSH³³. Instead she believed that sending the children out was an independent action taken by CAMPBELL which she interpreted as a possible indication that he was escalating the situation.³⁴ A lack of communication and coordination was continuing to develop between the communication team and the custody team. There seemed to be confusion regarding who would provide regular updates to other officers on scene, and a lack of coordination between the negotiation tactics and the other tactics being implemented on scene. No single person was tasked with communicating negotiation activity to the rest of the officers on scene.³⁵

As the incident developed, the problems with information flow between the communication team and the rest of the units on scene continued to create a lack of situational awareness.

(1734) Once the children were sent out of the house REYNA came on the air and began to coordinate and direct resources in a confident and controlled manner.³⁶ She asked for a roll call to establish what resources were on scene and confirmed the scene was contained. Regular traffic was moved to a different net³⁷ and a reaction car was staged on NE Sandy.³⁸ This would have been an optimal opportunity for REYNA to review the plan and ensure that everybody on scene had a shared situational assessment.

With only CAMPBELL now in the house she moved back to the alcove and met with BOYLAN, QUACKENBUSH, ELIAS and BIRKINBINE to discuss the next plan. REYNA felt there was a potential CAMPBELL would escalate the incident since the kids were out of the house.³⁹ Her plan was to contact CAMPBELL by phone and ask him if he was going to hurt himself. If he said no, then REYNA was considering withdrawing police resources and leaving the scene. REYNA decided this was a viable option based on her training and experience.⁴⁰ She discussed less lethal force options with the group and specifically discussed using the less lethal shotgun and/or the K9 to prevent someone from committing suicide. She

³³ REYNA IA Interview p12

³⁴ REYNA IA Interview p12

³⁵ REYNA IA Interview p11. BIRKINBINE interview p7-8.

³⁶ CIM p4-5 Sound competent and in control... it should be obvious who is in charge

³⁷ CIM p3-4 Move regular traffic to another net

³⁸ CIM p3 Reaction Car

³⁹ REYNA IA Interview p12

⁴⁰ REYNA IA Interview p14

indicated her plan was to bean bag and/or use the K9 on CAMPBELL if he came out and then tried to runaway or run back into the apartment.⁴¹ There is no clear indication that either LEWTON or any other members of the custody team, other than ELIAS, were present during this discussion.⁴²

At this point, there was disagreement between BIRKINBINE and REYNA regarding the use of the K9 and also the feasibility of walking away from the incident.⁴³ BIRKINBINE believed it would be better if they could get CAMPBELL out of the apartment and have a face to face assessment of his intent to hurt himself. He indicated he was concerned about the police leaving and CAMPBELL doing harm to himself or others. He was also concerned that JONES and the children would not have a safe place to stay if CAMPBELL was left in the apartment.

To satisfy BIRKINBINE'S concerns REYNA had BURNS, who was with JONES, confirm that she could stay somewhere else that night if the police left.⁴⁴ ELIAS confirmed by phone with his K9 sergeant that using the K9 in such a manner was authorized. ELIAS then moved to a position near the custody team.

At some point REYNA moved forward with her plan and had QUACKENBUSH contact CAMPBELL by text. There is no indication however that REYNA communicated her plan to the entire custody team or other perimeter units. Further there is no indication that all officers on scene, including REYNA, had a concise overview of all of the information available to them⁴⁵. As a result, the custody team and surrounding units were not all made aware via radio of critical information such as:

- REYNA'S plan to walk away from the incident if the suspect promised not to hurt himself
- The plan to use the K9 and less lethal shotgun in the event the suspect came out and then decided to run away or back towards the apartment
- REYNA'S intent to move to the custody team location and take charge of the custody in the event the suspect came out⁴⁶
- The information provided by JONES that CAMPBELL'S suicidal behavior had occurred the night before and CAMPBELL was currently calm
- The fact that the children had come out of the apartment because of a police request

⁴¹ REYNA IA Interview p13

⁴² REYNA IA Interview p13.LEWTON IA Interview p8

⁴³ REYNA IA Interview p13it is unclear whether Birkinbine also disagreed with the use of the bean bag

⁴⁴ REYNA IA Interview p13

⁴⁵ LEWTON IA Interview p9

⁴⁶ REYNA IA Interview p15

In addition, it was not evident who was responsible for providing strategy and radio updates regarding the negotiation efforts. It was REYNA'S intent that she would interact directly with QUACKENBUSH and not utilize BIRKINBINE to coordinate and communicate negotiation activities.⁴⁷ On the other hand QUACKENBUSH thought BIRKINBINE had that role⁴⁸ while BIRKINBINE indicated he was unclear who had that responsibility.⁴⁹ Ultimately, once the children were out Sgt. REYNA broadcast three updates regarding the information from the negotiations.⁵⁰

At this point, REYNA was now coordinating all facets of this incident. She was in charge of the custody team, the communication team, and the perimeter units. In addition, she was the single point of contact for outside communications.⁵¹ The result was that REYNA was seemingly over tasked with responsibilities which made it increasingly difficult to supervise the incident.⁵² Meanwhile, BIRKINBINE had a limited support role assisting QUACKENBUSH with negotiations.

Shortly after REYNA instructed QUACKENBUSH to text the boyfriend, RODRIGUES called REYNA. She briefed him over the phone regarding her plan to possibly pull away from the incident. At approximately the same time **(1751)** DAY arrived on scene and after dealing with a crowd control problem on the north side of the apartments, he then asked the location of REYNA **(1758)**⁵³. REYNA then left the alcove and moved around the corner of the apartment to meet with DAY and RODRIGUES.⁵⁴

When REYNA left the alcove to brief DAY it is unclear who was in charge of the scene. DAY was aware that BIRKINBINE was also on scene and assumed that prior to leaving, REYNA and BIRKINBINE would communicate and BIRKINBINE would be in charge of the scene⁵⁵. BIRKINBINE indicated there was no communication between him and REYNA so he assumed REYNA was still in charge of the scene.⁵⁶ REYNA'S interpretation was that DAY was ordering her to

⁴⁷ REYNA IA Interview p25

⁴⁸ QUACKENBUSH IA Interview pg 8

⁴⁹ BIRKINBINE IA Interview p8

⁵⁰ Radio "we are communicating with text, keep holding be patient", "we have positive text feedback from him we are still in text communication" "we are on the phone with him now"

⁵¹ REYNA IA Interview p17 phone calls from Sgt. ELLERTSON, Sgt. WHEELRIGHT, Lt. RODRIGUES. Note that according to WHEEL WIGHT phone records his call to REYNA was earlier in the incident at approximately 1702 which is when REYNA was just arriving on scene)

⁵² REYNA IA Interview p18

⁵³ Radio tape @ 1758

⁵⁴ Both DAY (p6) and REYNA IA (p18) interviews indicate the request was from Captain DAY over the radio however there never was a request over the radio for him to meet with her. Lt. RODRIGUES IA Interview p6 Lt. RODRIQUES indicated that he asked for REYNA to meet with them at the request of Capt. DAY.

⁵⁵ DAY IA Interview p7

⁵⁶ BIRKINBINE IA Interview p15.

meet with him, and that although she did not say anything to BIRKINBINE she understood that he was now in charge of the scene.

After REYNA left the alcove, QUACKENBUSH told BIRKINBINE that he had just received a text from CAMPBELL asking why he was texting and not calling.⁵⁷ BIRKINBINE and QUACKENBUSH interpreted the message as an attempt by CAMPBELL to reach out to them and call him. As a result, BIRKINBINE decided to have QUACKENBUSH ask CAMPBELL to come out of the apartment.⁵⁸ QUACKENBUSH made the call and asked CAMPBELL to come out. Without any response the phone went dead and within a few seconds CAMPBELL came out of the apartment. BIRKINBINE did not broadcast to the custody team or perimeter units that CAMPBELL had been asked to come out. He did not broadcast this information because he did not anticipate CAMPBELL would come immediately.⁵⁹ As a result there was no time to give CAMPBELL specific instructions. Both QUACKENBUSH and BIRKINBINE intended to give specific direction to CAMPBELL on how to safely come out of the apartment once they had an indication he was coming out.⁶⁰ Once CAMPBELL exited the apartment he was immediately engaged by the custody team.

TRAINING ANALYSIS:

When REYNA arrived on scene this incident was extremely complex and ultimately created a variety of tactical challenges. All Portland Police Sergeants receive "Critical Incident Management" training which provides guidelines for supervisors during critical incidents⁶¹. In this incident a sergeant did not arrive on scene for approximately 40 minutes. Sergeants are trained to respond to critical incidents as soon as possible.⁶²

During the initial stages of this incident there were three sergeants on duty and none of them heard the original radio call come over the air⁶³. Sgt. ELLERTSON was the pre-relief sergeant and was in the precinct performing administrative tasks at the time the original call came out. She did not hear the original call or LEWTON'S subsequent request for a sergeant to come to the scene⁶⁴. Sgt. WHEELWRIGHT was a late relief sergeant and did not appear to hear the original call. REYNA was a late relief sergeant and was performing administrative tasks at the

⁵⁷ BIRKINBINE IA Interview p15

⁵⁸ BIRKINBINE IA Interview p16&17.

⁵⁹ BIRKINBINE IA Interview p17.

⁶⁰ BIRKINBINE IA Interview p17

⁶¹ PPB Training Records...Sgt. BIRKINBINE and Sgt. REYNA attended this training in April of 2006

⁶² CIM p2

⁶³ There is no indication that any day shift sergeants heard the call either

⁶⁴ ELLERTSON IA Interview p 2&5

precinct and did not hear the original call. However, she did hear LEWTON'S subsequent request for a sergeant and immediately responded to the scene.

DAY and RODRIGUES both heard the original call over the air but did not interpret there was any need to take further action at that point.

Portland Police trains sergeants to coordinate together to ensure there is always a supervisor out in the field⁶⁵. Although there were multiple sergeants available during the original stages of this incident nobody was clearly tasked with monitoring the radio. As the pre-relief sergeant, ELLERTSON would typically be responsible for monitoring the radio during this time period; however she had administrative duties to perform. The lack of coordination between the sergeants resulted in the first stages of the incident not being monitored by a supervisor.

Additionally, DAY and RODRIGUES heard the original call however they did not ensure that a sergeant was monitoring the incident. This lack of coordination is INCONSISTENT WITH PPB TRAINING.

REYNA first became aware of the incident when she heard LEWTON'S on air request for a supervisor. REYNA quickly acknowledged LEWTON'S request and immediately responded to the scene. Once on scene REYNA began gathering intelligence and coordinating resources which is CONSISTENT WITH PPB TRAINING⁶⁶.

Once JONES came out, REYNA learned that there were three children inside the apartment with CAMPBELL. REYNA immediately recognized the potential risk to the children and began planning for a possible hasty rescue into the apartment in an attempt to secure the children. However prior to executing the plan she learned information that increased the probability that CAMPBELL might be armed. Based on this new information REYNA changed her plans to enter the apartment and prepared to conduct a loud hail in an attempt to make contact with CAMPBELL. REYNA'S original planning and ultimate decision not to enter the apartment was CONSISTENT WITH PPB TRAINING. (BE ADAPTABLE, HAVE A PLAN)⁶⁷

When attempting to make contact in this type of situation PPB trains sergeants to first establish a custody team and a communication team prior to contact. Sergeants are also trained to make sure that the

⁶⁵ CIM PowerPoint talking points p4

⁶⁶ CIM p2 &10

⁶⁷ PPB Tactical Guidelines

custody team consists of a less lethal operator, AR-operator, and a K9 if appropriate. REYNA'S plan for the loud hail had all the recommended elements including the deployment of specialty resources such as an AR operator for lethal cover and a less lethal operator. REYNA'S assigning herself to the custody team as lethal cover while FRASHOUR was enroute was not optimal. PPB trains sergeants that having a specific role in any tactical operation has a limiting affect on a sergeant's ability to supervise, however sergeants are also trained that it may be necessary to fulfill a role until relief is available⁶⁸. In this incident REYNA was aware of this principle and her plan included having FRASHOUR replace her once he was on scene. REYNA'S plan for the composition of the custody team was CONSISTENT WITH PPB TRAINING.⁶⁹

As the preparations for the loud hail were being made BIRKINBINE arrived on scene. BIRKINBINE had just logged onto his CAD when he heard the incident and interpreted the call as an incident that may need the support of an additional sergeant. PPB trains sergeants to use additional supervisors to delegate important tasks to help coordinate a critical incident and prevent the supervisor in charge from becoming overwhelmed.⁷⁰ BIRKINBINE'S response to the scene was CONSISTENT WITH PPB TRAINING.

Upon arrival at the scene BIRKINBINE met with REYNA and asked if she needed assistance. REYNA indicated she did not need assistance and did not delegate or utilize BIRKINBINE in any manner. Additionally it was during this same time frame that both WHEELWRIGHT⁷¹ and ELLERTSON called REYNA and offered assistance. REYNA'S reluctance to utilize the assistance of BIRKINBINE and the other sergeants on duty was indicative of a pattern that developed for the remainder of this incident. Additional supervisors at a scene of this nature would have been a valuable asset and PPB sergeants are trained that additional supervisors are ideal people to delegate important tasks and sub-missions⁷².

BIRKINBINE, and any additional sergeants that were available, could have been delegated a variety of tasks including coordinating the negotiations and communication with the rest of the officers on scene.⁷³ This would have allowed REYNA to focus efforts on

⁶⁸ CIM p.3

⁶⁹ CIM p.7

⁷⁰ CIM p.3

⁷¹ Phone records indicate WHEELWRIGHT called REYNA but she let his call go to voicemail.

⁷² CIM p.2

⁷³ CIM p.9

coordinating the custody team and insuring they were given clear and concise instructions regarding custody tactics. Communications regarding the negotiations were disjointed and it was not clear who ultimately had responsibility⁷⁴. The result was that essential information regarding the negotiations was not communicated at critical times and a lack of common situational awareness began to develop. Failure to utilize and coordinate with additional supervisors is NOT CONSISTENT WITH PPB TRAINING⁷⁵.

The lack of coordination became evident when QUACKENBUSH contacted CAMPBELL and discussed the welfare of the children. REYNA indicated that she was not aware the communication team had broached the idea of the children coming out or that there had been any communication about the children. In addition there is no indication that BIRKINBINE made any attempt to advise her of that conversation⁷⁶.

After the kids were out, REYNA'S meeting in the alcove with BIRKINBINE, ELIAS, BOYLAN, and QUACKENBUSH was contentious. BIRKINBINE and REYNA had different ideas about how to proceed with negotiations and officer's authority to use less lethal force if CAMPBELL came outside. The dynamics of the discussion seemed to frustrate both of them. PPB trains supervisors to consider consulting with other resources such as; Lieutenants, SERT or HNT when they are faced with difficult decisions⁷⁷. They frequently are in a good position to help with decision making as they are not involved in the emotion of the original response. In this incident a phone call to consult Lt. RODRIGUES would have been appropriate.

Ultimately, REYNA developed a plan to text CAMPBELL and get assurance that he would not hurt himself. If she received an assurance she was going to withdraw police resources and leave the scene. Portland Police trains sergeants to consider this strategy during tactical incidents⁷⁸. REYNA based this decision on the fact that she did to want to force a police confrontation with a person who may want to commit "suicide by police"⁷⁹. Considering this strategy WAS CONSISTENT WITH PPB TRAINING.

⁷⁴ Conversely REYNA could have tasked BIRKINBINE with coordinating the custody team thereby freeing her to directly coordinate the communication team. Either option was available to her.

⁷⁵ CIM p2

⁷⁶ CIM p9,14, and 15. CIM lesson plan power point p17.

⁷⁷ CIM p12. In this instance HNT may have offered suggestions regarding negotiations or offered advice on how to deal with the poor phone connection which apparently existed.

⁷⁸ CIM p12

⁷⁹ REYNA IA Interview p19

She also discussed plans for the possible contingency that the subject would come out. These plans included discussion of how the K9 and less lethal shotgun could be utilized during the custody. REYNA indicated that if CAMPBELL came out, it was her plan to move to the custody team location and take charge of the custody.⁸⁰ There is no indication that LEWTON and FRASHOUR were in the alcove for this meeting, nor were other members of the custody team, except for ELIAS. As a result the custody team was never told the details of REYNA'S plan or of her intent to lead the custody team in the event CAMPBELL came out.⁸¹ Conversely LEWTON stated that it was his understanding that he was in charge of the custody team.⁸²

PPB trains sergeants that when working as a team it must be clear to everyone what actions you expect to be used and when⁸³. Furthermore, the communication team and the custody team must be given specific directions regarding exactly what they need to do⁸⁴. In this instance, REYNA developed the plan but it was not clearly communicated over the air or face to face with the custody team. Although REYNA did broadcast that there was positive text communication with CAMPBELL she did not provide additional information to the officers on scene. As a result the following details of the plan were not clearly communicated to the custody team:⁸⁵

- REYNA'S plan to move to the custody team and lead the operations in the event CAMPBELL came out.⁸⁶
- REYNA'S intent to walk away from the incident in the event CAMPBELL promised not to hurt himself.
- REYNA'S assessment that the situation was de-escalating.
- REYNA'S plan to use the K9 and beanbag shotgun as less lethal force in the event CAMPBELL came out and attempted to run away or back into the apartment.

The lack of communication and coordination resulted in officers and supervisors on scene not having a shared situational awareness. The custody team perceived that the situation was escalating while the

⁸⁰ REYNA IA Interview p15.

⁸¹ LEWTON IA Interview p7-9. FRASHOURIA Interview p6-7. WILLARD IA Interview p3-4. KEMPLE IA Interview p5.

⁸² LEWTON IA Interview p7

⁸³ CIM p14

⁸⁴ CIM p15

⁸⁵ LEWTON IA Interview p 8 "specific guidelines for use of force...no" "rules of engagement...no"

⁸⁶ LEWTON IA Interview

communication team perceived it to be de-escalating. Many officers on scene, including the custody team, had not been made aware of several critical facts including the following:

- **CAMPBELL'S suicidal behavior had occurred the night previous and he was reported to be better at the time of this incident.**
- **The children had been sent out as a result of QUACKENBUSH'S conversation with CAMPBELL. Instead, not knowing this information, the custody team members interpreted CAMPBELL'S action as possibly preparing to attack or engage the police in violence.**
- **CAMPBELL exited the apartment at the suggestion of the police. Not knowing this, the custody team was surprised and again interpreted his actions as being aggressive towards the police.**

Ultimately, tactics and information were not clearly communicated and knowledge of the plan was lacking.

The lack of communication and coordination surrounding the plan ultimately made it less effective. PPB trains that ineffective planning and communication breeds confusion and may create situations that cause officers to act independently and hazardously⁸⁷. Without a proper plan, officers tend to be reactive instead of proactive⁸⁸. PPB also trains sergeants that when executing a plan the following principles should be followed⁸⁹:

- **Establish rules of engagement. When working as a team it must be clear to everyone what actions you expect to be used and when.**
- **Specific directions must be given to the custody and communication team.**
- **Give regular updates especially when phone contact is initiated.**

The lack of communication and coordination regarding the plan and the execution of the plan were NOT CONSISTENT WITH PPB TRAINING.

During the same time frame that the children left the apartment, DAY and RODRIGUES started to respond to the scene. REYNA was still in the alcove and text negotiations were taking place. BIRKINBINE and

⁸⁷ PPB Tactical Guidelines p1. PPB In Service Training.

⁸⁸ PPB Tactical Guidelines p1

⁸⁹ CIM lesson plan PowerPoint p16

REYNA were still discussing what the threshold would be for them to walk away from this incident. At that time, REYNA began to receive phone calls and radio requests from people wanting information and requesting assistance, at the same time she was trying to coordinate the custody team, the communication team, and perimeter units. This contributed to the volume of information and decisions she was tasked with managing.

When DAY and RODRIGUES arrived on scene and asked for REYNA to meet with them there was poor communication regarding the circumstances. When REYNA left the alcove to meet with them there was confusion over who was now in charge of the incident. PPB trains supervisory personnel to not make notifications when you need to be actively making tactical decisions⁹⁰. Sergeants are also trained to clearly establish and communicate who is in charge of tactical incidents.⁹¹ REYNA'S actions in not clearly establishing incident command and attempting to make notifications while actively involved in tactical decisions are NOT CONSISTENT WITH PPB TRAINING.

THE DEPLOYMENT OF LESS LETHAL & THE USE OF THE CANINE

THE DEPLOYMENT OF LESS LETHAL

In the training analysis, three questions were evaluated – 1) What did LEWTON know prior to CAMPBELL coming out, and 2) Why did LEWTON deploy the less lethal rounds and 3) Was the deployment of the less lethal rounds consistent with training?

LEWTON said on that day he was on another call at 42nd and Halsey with QUACKENBUSH when this call was initially dispatched. QUACKENBUSH asked LEWTON if he needed him to stay as he intended to go on another call. LEWTON said he checked on his MDC and saw QUACKENBUSH was going on a welfare check in his district. LEWTON said he heard QUACKENBUSH say, once he arrived on the call over the radio, he had eyes on apartment #37 in the Sandy Terrace Apartments at 128th and NE Sandy Blvd. LEWTON said hearing that perked his interest and indicated to him that something else was going on besides your everyday call. He said he drove there code three. ⁹²

LEWTON said that, when he arrived, BOYLAN and QUACKENBUSH were already there and BOYLAN was involved in an interview of COURTNEY JONES, the father

⁹⁰ CIM p12

⁹¹ CIM p1. PPB Tactical Guidelines-Have A Leader p1

⁹² LEWTON detective interview p. 7&8

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of ANGIE JONES who was the subject of the welfare check. (In his Grand Jury testimony, LEWTON said initially they were there to determine if ANGIE JONES, the kids and AARON CAMPBELL were even inside)⁹³. LEWTON said he thought they needed a sergeant at the call and he asked radio to send a sergeant; REYNA answered up and was responding⁹⁴.

LEWTON said he initially obtained as much information as possible from BOYLAN when he arrived on the call. LEWTON stated in his detective interview he learned a suicidal armed man was inside apartment #37, and he had an adult female and three children with him. Additionally, LEWTON said he learned from QUACKENBUSH that the man inside #37 wanted "suicide by police." LEWTON contacted the manager and got a key, and obtained information about who rented and lived in #37. LEWTON said the apartment manager told him the toddler age kids were still inside. LEWTON thought the ages were six, five and three⁹⁵.

Shortly after REYNA'S arrival, the female, ANGIE JONES, exited #37. LEWTON estimates he was on scene for 15 minutes before JONES came out. Once out of the apartment, JONES talked with BOYLAN and REYNA. She told them CAMPBELL had calmed down – don't go in there because you will just escalate the situation. JONES said the gun is somewhere on CAMPBELL – there was definitely a gun. JONES said CAMPBELL was awake inside and either had the gun on him, in his jacket, or the gun was next to him. JONES said there was definitely a gun and it was in CAMPBELL'S possession. JONES said she left her three kids inside the apartment. JONES said CAMPBELL lost his brother the day before⁹⁶.

Initially, police discussed going inside but discarded the idea after interviewing JONES because of the risks an entry presented to everyone involved⁹⁷.

LEWTON was told by REYNA to get his less lethal. REYNA had police cars moved to the center of the lot. LEWTON took a position behind an engine block to use as cover in the event CAMPBELL came out. Initially, REYNA had her AR out and deployed at the police cars and so LEWTON called for another AR. LEWTON was assigned as a member of the custody team. FRASHOUR arrived and replaced REYNA with an AR, becoming part of the custody team and providing lethal cover with his AR-15. KEMPLE and WILLARD were assigned as the hands-on officers for cuffing. LEWTON also called for a K-9 in the event CAMPBELL attempted to break out. LEWTON said he saw himself as a less lethal operator in the event less lethal needed to be deployed⁹⁸.

⁹³ GJ testimony transcript p. 281

⁹⁴ LEWTON detective interview p. 9

⁹⁵ LEWTON detective interview p. 9-10

⁹⁶ LEWTON detective interview p.11

⁹⁷ LEWTON detective interview p. 13

⁹⁸ LEWTON detective interview 13,14,15

LEWTON was told specifically by REYNA, even prior to moving the police cars into the center of the lot, to get his less lethal in case CAMPBELL came out. LEWTON estimated he was in the lot for about an hour while QUACKENBUSH and BIRKINBINE were attempting contact with CAMPBELL. LEWTON said he knew QUACKENBUSH could not make voice contact with CAMPBELL so QUACKENBUSH was texting CAMPBELL. He said he heard from the alcove they were getting somewhere – that they were making some progress⁹⁹.

At **(1734)**, LEWTON reports that the kids came out and he and other officers called to them. The children went to their mother and were taken out of the area to a place of safety¹⁰⁰.

(1808) About 30 minutes later, CAMPBELL came out. LEWTON said "he came out; he came out of this alcove." LEWTON said he did not really have any information CAMPBELL was coming out, "he was just all of a sudden out." LEWTON said he was surprised. He said CAMPBELL was moving quickly with his hands behind his head. He said CAMPBELL was side stepping quickly like jogging sidesteps¹⁰¹. LEWTON said CAMPBELL sidesteps to the center and then LEWTON told him to start walking backward to the sound of his voice. LEWTON said he was still moving quickly and CAMPBELL was told slow, slow, slow and then stop, and CAMPBELL stops. LEWTON told CAMPBELL to "do exactly as we say, or you will be shot¹⁰²". WILLARD in his Grand Jury testimony said LEWTON said "we believe you have a weapon if you reach for it you may be shot¹⁰³". CAMPBELL responded by saying "go ahead and shoot me." WILLARD in his Grand Jury Testimony states that CAMPBELL said "shoot me, just fucking shoot me"¹⁰⁴.

LEWTON stated, I told him again, "put your hands straight up in the air" and he didn't do that¹⁰⁵. In his Grand Jury testimony, LEWTON says he wanted CAMPBELL'S hands straight up in the air to make sure his hands were empty and that was a first step in getting him to turn around and then go into the prone position to take him into custody¹⁰⁶. CAMPBELL did not put his hands straight up in the air. CAMPBELL just stood there with his hands behind his head. LEWTON said, "I shot him with the bean bag gun." He said the round hit CAMPBELL in the rear-end¹⁰⁷. In his Grand Jury testimony, LEWTON said he shot the bean bag round at CAMPBELL to gain his compliance. LEWTON was asked what he

⁹⁹ LEWTON detective transcript p.16 & 17

¹⁰⁰ LEWTON detective transcript p. 19

¹⁰¹ LEWTON detective transcript p.19 & 20

¹⁰² LEWTON detective transcript p. 20

¹⁰³ GJ transcript p. 292

¹⁰⁴ GJ transcript p. 366

¹⁰⁵ LEWTON detective transcript p. 21

¹⁰⁶ GJ transcript p. 294

¹⁰⁷ LEWTON detective transcript p.21

expected of the bean bag shot and he said he expected CAMPBELL'S to put his hands in the air.¹⁰⁸

LEWTON said after his first bean bag round, CAMPBELL'S hands come off his head and it looked like he is going to run and so he fires another shot¹⁰⁹.

In the Detective interview, page 21, Detective KAMMERER interrupts LEWTON and says the following,

KAMMERER: If we could just slow things down for a second here. Um, so, you're giving him these commands, urn, to put his hands up, all the way up. He's not doing it. And then you say you shot him once with a bean bag shotgun. What was the thought with that, that round?

LEWTON: Gain compliance.

LEWTON said the rounds had no effect on CAMPBELL.

LEWTON continued to fire bean bag rounds as CAMPBELL ran back toward the apartment. LEWTON focuses on the rear end area as he fired more rounds. LEWTON is asked what he is thinking as he observes CAMPBELL and he says, he running, he is possible armed and LEWTON does not know where CAMPBELL is going¹¹⁰.

In his IA interview, LEWTON is asked more in-depth questions by Sergeant MORGAN relating to planning, communication on scene and what specifically led LEWTON to fire his less lethal.

LEWTON was assigned to be less lethal by Sergeant REYNA but neither she nor BIRKINBINE explicitly told the custody team what the plan was for the custody team. No sergeant was specifically in charge of the custody team. LEWTON and the custody team were not provided with any specific guidelines with respect to the use of force. There was no talk of rules of engagement by the supervisors. There were no specific plans about what to do if CAMPBELL came out and tried to go back inside the apartment. LEWTON was asked in IA what were they going to take CAMPBELL into custody for and he said a mental hold. As far as LEWTON knew, CAMPBELL had not committed any crime¹¹¹.

¹⁰⁸ GJ transcript p. 296

¹⁰⁹ LEWTON detective transcript p. 21

¹¹⁰ LEWTON detective transcript p. 21

¹¹¹ LEWTON IA transcript 7 & 8

LEWTON was asked if he was given specific instructions on what to do if CAMPBELL fled? Lewton said there were no instructions, and he said there were no specific plans but that the K-9 was there to assist if that were to happen¹¹².

LEWTON was asked if he was kept up to date regarding the ongoing communications with CAMPBELL and he said he heard there was some conversations and text with CAMPBELL, and that there was some progress. LEWTON said there was no face to face communication from the sergeants and officers in the alcove. The two teams – the custody team and communications team – were separated and remained so for the duration of the call¹¹³.

LEWTON said there were no updates that the kids might be coming out. LEWTON said he viewed the kids' coming out as more threatening and more serious because it was as if CAMPBELL was planning to do something¹¹⁴.

LEWTON was specifically asked if he recalled a specific update coming that CAMPBELL had texted, "I'm not playing. Don't make me get my gun." And he responded "Yes. Actually, I'm sorry, I do recall that update".¹¹⁵

LEWTON was surprised when CAMPBELL came out as he did not know CAMPBELL was asked to come out. LEWTON and other members of the custody team did not know CAMPBELL had texted he would "never" hurt himself. They did not know BIRKINBINE and REYNA just wanted to see CAMPBELL and get a commitment from him he would not hurt himself, and LEWTON did not know that once they were able to check on CAMPBELL they intended to leave.

LEWTON is asked by MORGAN to tell the details of when he first observes CAMPBELL come outside.

LEWTON: Um, he comes out of this alcove right here. He's facing away from us, so he's facing south. And he is sidestepping very quickly. My first thought was that he's been arrested by the police many times because he thinks he knows exactly what we want him to do. So he's sidestepping, sidestepping to about the center, right there. And that's when I addressed him. I tell him, stop. And then I tell him, walk back slowly towards the sound of my voice. So he starts taking these giant steps and almost starts like running back towards the...walking backwards or running back towards the sound of my voice. I'm telling him, slow, slow, slow down. And he's not doing it. He's not slowing down. He's still coming back fast at me. I finally tell him, stop. And he stops. And this is like right about here, right. And I tell him...I tell him, um, I tell him

¹¹² LEWTON IA transcript p.8

¹¹³ LEWTON IA transcript p.9

¹¹⁴ LEWTON IA transcript p. 9

¹¹⁵ LEWTON IA transcript p. 10

again, walk back slowly towards the sound of my voice, because I want...the reason why I told him to stop was because he was coming at us way too fast, and I wanted to slow the situation down and take control of it again. And, um, he then starts walking slowly towards the sound of my voice 'til about right here, and this is probably about ten to fifteen yards away from our police car. Probably ten. And I tell him, stop, again. And that's when he stops.

MORGAN: *Okay.*

LEWTON: *And he's facing south, um, with his feet, you know, kind of shoulder length apart, standing behind with his hands inter, with his hands behind his head. And that's when I tell him, do exactly as we say or you will be shot. And, um, he then turns to me...he then kind of holds like this and kind of just turns around like this, and says something like, just go...he said something like, go ahead and shoot me. Um, and I tell him...I tell him, um...and then he moves back, so he's not like continuing to look at us. He looks back and says, go ahead and shoot me, and he moves back and starts facing south again. Um, I tell him, put your hands straight up in the air, because my plan was to move him into the, I guess, the high risk prone position that we're taught in defensive tactics. I was going to have him go down to his belly with his arms out, palms up and cross his legs, and that kind of stuff. So that was my whole plan. I tell him...so I was going to have him put his hands straight up in the air, and then I was going to have him turn around and face me, and then I was going to have him go down to the ground. Um, I tell him, put your hands straight up in the air, and he just kind of...he stays there. I tell him...and I tell him again, I said really slowly, I said, put your hands straight up in the air. And he just stays there again. Um, and he was not putting his hands straight up in the air. He was standing there. And that's when I fired my first bean bag round at him¹¹⁶.*

LEWTON had no knowledge CAMPBELL was coming out. LEWTON said when CAMPBELL moved back towards him he thought it was as if CAMPBELL was planning on attacking them. He thought he might be closing the distance to get a shot off or attack them and so he wanted to gain more control of him. LEWTON said he told him to stop and he did and then he told him to walk back slowly and CAMPBELL did¹¹⁷.

LEWTON said he told CAMPBELL to stop a second time and he did. LEWTON said he told him to do what he was told or he would be shot, just as he was trained to say in bean bag school. CAMPBELL responded by saying, go ahead and shoot me. LEWTON told him to put his hands straight in the air and he did not do that – he just stood there. LEWTON said two to three seconds later he

¹¹⁶ LEWTON IA transcript p. 11

¹¹⁷ LEWTON IA transcript p. 12

gave the same command, but CAMPBELL just stood there. LEWTON says two or three seconds later he shot CAMPBELL with his bean bag gun¹¹⁸.

LEWTON said he wanted CAMPBELL'S hands straight in the air so he could make sure CAMPBELL'S hands were empty and it would lift his clothes up so he could see his waistband. LEWTON said he believed CAMPBELL was armed.¹¹⁹

LEWTON said everything was happening so quickly he believed he needed to act. He said his goal in deploying the less lethal at that moment was to gain compliance to get him to put his hands up in the air¹²⁰.

LEWTON said he fired his second round when CAMPBELL started to run. LEWTON fired to gain compliance to get his hands up. He continued to fire as CAMPBELL continued to run until he has fired all six rounds. When asked what threat level CAMPBELL posed, LEWTON said he believed CAMPBELL was armed, suicidal, not doing what he was told to do and he took that as a very high threat level¹²¹.

TRAINING ANALYSIS:

Less lethal specialty impact munitions are designed to provide stand off distance in cases where people are engaged in aggressive physical resistance, indicates intent to engage in aggressive physical resistance or armed or potentially armed, capable of causing serious physical injury or death¹²². Less lethal munitions are an additional use of force option in cases where impact weapons are reasonable but there is a need for distance. Less lethal munitions are not a replacement for time, talk or sound tactics¹²³.

The extended range impact weapon allows officers to deliver force similar to the amount of force used when an ASP Baton is used but from a longer and safer distance. It can be used cases where suspects are violent and there is a desire to "achieve compliance"¹²⁴.

Situations that may call for the use of specialty ammunition, a violent subject who is armed with non-traditional weapons like, a baseball bat, a crow bar or a garden shovel, a suspect who is armed with a knife or

¹¹⁸ LEWTON IA transcript p. 13, 14, 15, 16

¹¹⁹ LEWTON IA interview p. 16 & 17

¹²⁰ LEWTON IA transcript p. 17

¹²¹ LEWTON IA transcript p. 18

¹²² LL PP slide.8

¹²³ LL PP slide 7

¹²⁴ LL PP slide 19

similar weapon and lastly an armed suicidal person who may force officers into a shooting to achieve "suicide by cop"¹²⁵.

When CAMPBELL exited the apartment it was a surprise to the officers in the custody team. There was inadequate communication from the communications team with the custody team. Therefore the custody team did not know there was a discussion about him coming out; they did not know CAMPBELL was coming out cooperating with a request to come out. Thus they interpreted CAMPBELL'S actions as aggressive instead of cooperative.

LEWTON stated in the detectives interview, in the grand jury and in IA that he believed CAMPBELL was armed, suicidal, had talked about suicide by cop and had texted earlier in the call, "don't make me get my gun I ain't playing".

As CAMPBELL came out of #37 LEWTON said he was surprised. LEWTON said CAMPBELL'S hands were on his head. LEWTON said he wanted to slow CAMPBELL down. LEWTON gave verbal commands to CAMPBELL to slow and he did. LEWTON told CAMPBELL to stop and he did. LEWTON told CAMPBELL to walk back slowly to the sound of his voice and he did. LEWTON told CAMPBELL to stop a second time and CAMPBELL did. LEWTON said he told CAMPBELL to "do exactly as we say, or you will be shot" however Officer WILLARD in his Grand Jury testimony testified LEWTON said "we believe you have a weapon if you reach for it you may be shot". LEWTON could have said you will be bean bagged but he did not. CAMPBELL responded, shoot me or by some accounts "go ahead and fuckin shoot me". LEWTON told CAMPBELL to raise his hands straight in the air but CAMPBELL did not comply. LEWTON told CAMPBELL to raise his hands again straight in the air but CAMPBELL'S hands remained on his head. LEWTON said a second or two passed and he shot CAMPBELL with a bean bag round. When CAMPBELL was shot with less lethal he was standing still with both hands on his head while he was possibly armed and may have wanted suicide by police. At the moment he was shot by the bean bag he was not complying with commands to put his hands in the air.

LEWTON states he had concerns about the possibility CAMPBELL came out to attack him and other officers present in the custody team. LEWTON did not see CAMPBELL'S behavior as compliant. There was a possibility CAMPBELL came out to attack officers but there was also the potential CAMPBELL came out because he was asked to and he was

¹²⁵ LL PP slide 34 & 35

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complying with requests made by officers in the communications team and CAMPBELL'S hands were on his head and remained there.

LEWTON did not de-escalate on the basis of his observations of CAMPBELL'S actions. LEWTON engaged in little conversation with CAMPBELL. CAMPBELL would not put his hands in the air but LEWTON did not ask CAMPBELL to go to his knees or to remain still so they could approach and take CAMPBELL into custody.

LEWTON was behind cover and had lethal cover available to him in the event CAMPBELL became an immediate threat. CAMPBELL had stopped as he was told to and was standing still with his hands on his head when shot. LEWTON had an advantage and was in a position to talk to CAMPBELL in an effort to de-escalate the situation but he did not.

LEWTON said he fired to "gain compliance". LEWTON said he wanted CAMPBELL to put his hands up in the air instead of having them on his head. CAMPBELL was reported to be in crisis and despondent over his brother's death. CAMPBELL was engaged in passive resistance and given the officers advantage more talk could have produced more cooperation from CAMPBELL. THE USE OF THE LESS LETHAL WAS NOT CONSISTENT WITH TRAINING.

THE USE OF THE CANINE

ELIAS responded to provide canine support and assist North and East Precinct officers. ELIAS received information from dispatch indicating the subject of the call; Aaron CAMPBELL was distraught over the recent death of his brother, believed to be armed with a handgun and was suicidal, possibly wanting suicide by police.

Arriving on scene he was briefed by BIRKINBINE and REYNA. ELIAS took a position behind two large dumpsters in the apartment's parking lot just adjacent to the custody team. Shortly after taking his position CAMPBELL exited the apartment and walked back toward the custody team. The custody team gave CAMPBELL verbal commands. CAMPBELL stopped when told to do so but would not raise his hands in the air and was subsequently shot with bean bagged gun. After being hit by bean bag rounds CAMPBELL began to run. He began to run away from the custody team back toward his apartment.

Believing CAMPBELL was armed and was moving to a position of cover ELIAS sent his dog to "Take" CAMPBELL. As the canine moved towards CAMPBELL a lethal round was fired. CAMPBELL fell to the ground. The canine bit CAMPBELL as he was down. Initially ELIAS moved toward CAMPBELL to take him into

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custody but he withdrew as a plan was constructed to affect the custody of CAMPBELL. SERT was activated and arrived and approached CAMPBELL handcuffing him and it was determined at that time that CAMPBELL was deceased.

TRAINING ANALYSIS:

ELIAS sent the canine after other efforts at control were exhausted. He knew he faced a fleeing, uncooperative, possibly armed and suicidal subject and the use of the canine was intended to "bite and hold" allowing officers an opportunity to gain control of CAMPBELL. THE USE OF THE CANINE AS AN APPREHENSION STRATEGY IS CONSISTENT WITH TRAINING.

THE USE OF DEADLY FORCE

In the training analysis, three questions were evaluated – 1) What did FRASHOUR know prior to CAMPBELL coming out, and 2) Why did FRASHOUR deploy deadly force on CAMPBELL and 3) was FRASHOUR'S use of deadly force consistent with training?

On January 29, 2010 at about 1705 hours a dispatcher on the East net asked if an AR was available to respond. FRASHOUR and his partner Officer WILLARD indicated they could respond. While enroute FRASHOUR read the call on the CAD. FRASHOUR saw the call involved a female, some kids and a boyfriend who tried to commit suicide either earlier in that day or the day before, and that he was armed¹²⁶.

FRASHOUR said the information in the call put him in the frame of mind that they were going to a call of a serious nature, possibly a hostage situation involving kids, a suicidal man with a gun, not just a man with a gun but a suicidal man where there is a potential he is very irrational and very unpredictable. FRASHOUR said enroute he was thinking about protecting the kids¹²⁷. In his Grand Jury testimony, FRASHOUR talks about internalizing and processing the information in the call. He said, in addition to the information listed above, suicidal people can be irrational, aggressive, unpredictable and homicidal as well. He is asked how he knows that, and he said training and experience. FRASHOUR is asked, what is the connection between being suicidal and homicidal? He refers the Grand Jurors to generic news accounts where the

¹²⁶ FRASHOUR Detective transcript p. 10, 11, 12

¹²⁷ FRASHOUR Detective transcript p. 12

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man kills his whole family before killing himself. FRASHOUR also believes he has received some training on this topic as well, but cannot recall any specifics.¹²⁸

In the Grand Jury FRASHOUR is asked a question:

Q: When you saw this call, you understood why you were being dispatched to the call and why an AR was needed. Correct?

A: FRASHOUR said the man with a gun was a threat to the children, to the woman and to the police responding; the AR is used in these types of calls where the risk is elevated compared to regular police calls. He went on to say that suicide by police brings up strong images of someone coming out with a gun shooting at police, forcing the police to take action that could kill the person. He went on to say the AR allows for distance and more precision.¹²⁹

FRASHOUR and WILLARD arrived, and FRASHOUR chambered a round and removed the magazine to make sure a round stripped off the magazine. He said he resealed the magazine to make sure he had loaded the gun. They were initially directed to the rear of the apartment, but he asked on the air where he was needed and REYNA said "FRASHOUR we need you in front." He said he went to the front of the apartment and saw police cars in the center of the lot. He went there and relieved REYNA who had been on an AR.¹³⁰

FRASHOUR took a position behind the police cars where he saw LEWTON who was armed with less lethal. REYNA pointed out where apartment #37 was. He said he was told #37 was the third entryway by the satellite dish. REYNA told him if someone came out of #37 it would be there. FRASHOUR knew that he needed to focus on the entryway and the windows for possible threats¹³¹.

Once in position, FRASHOUR said he knew there was supposed to be a man inside with a gun. The female had just come out and the man was still inside with the kids. He also said he was told the man wanted suicide by police. He said he understands suicide by police to mean someone who is in a desperate mental state who would take an action, possibly even shoot at police, to get police to shoot at him¹³².

FRASHOUR said he knew there was a man inside #37 who was suicidal, possibly wanting to commit suicide by police. He said he focused on the brick at the entryway and observed he had a safe backstop there¹³³.

¹²⁸ GJ transcript p. 412-413

¹²⁹ GJ transcript p. 414-415

¹³⁰ FRASHOUR detective transcript p. 13-44

¹³¹ FRASHOUR detective transcript p. 16

¹³² FRASHOUR detective transcript p. 17

¹³³ FRASHOUR detective transcript p. 17

FRASHOUR said when he took a up a position there in the center of the lot; he was there with WILLARD, LEWTON and KEMPLE. LEWTON was less lethal, KEMPLE and WILLARD are to be the actual custody officers, and FRASHOUR is focused on his role as AR operator¹³⁴. In the Grand Jury testimony FRASHOUR says, once in position, REYNA told him CAMPBELL sent a text saying something to the effect, "you think I am joking", or, "I am serious, don't make me get my gun." FRASHOUR also said REYNA told him the female was out and just the kids and the male were still inside. A Grand Juror asks FRASHOUR if he was basically staring at or focused on the satellite dish just outside # 37. FRASHOUR responded by saying at that point his actual job was to make sure that if a threat, lethal force threat, presents itself in the entry or from the windows he was the person specifically assigned to address it because he had the extra training and the AR-15.¹³⁵

FRASHOUR said now the situation is a suicidal person, possibly suicide by police, who is armed, and with the kids inside, the kids could be hostages. FRASHOUR is asked who told him CAMPBELL was armed and suicidal and he said the information was confirmed by LEWTON once FRASHOUR was in position in the lot¹³⁶.

FRASHOUR said he did hear from some source that CAMPBELL was armed with a gun in a sock in his coat. He did not know who told him that¹³⁷.

FRASHOUR said as he was looking at the alcove, three small children came out. FRASHOUR did not know they were going to come out. He was very concerned with getting them out of the way. He said they were in the middle of the crisis. If CAMPBELL came out just then shooting, the children were in between them. They called to the children and two of the three came to the officers. One child seemed confused and FRASHOUR thought they might need to do a rescue, but eventually the child came to them. FRASHOUR said he recalled the children were taken away to a place of safety¹³⁸. In his Grand Jury testimony FRASHOUR is asked what he was thinking was happening when the children came out. FRASHOUR responded by saying he was concerned about the man killing himself, or thinking about him violently attacking the police, or planning for something bad to happen inside, and that he, CAMPBELL, did not want the children to get caught up in all of that¹³⁹.

¹³⁴ FRASHOUR detective transcript p. 18

¹³⁵ GJ transcript p. 422-423

¹³⁶ FRASHOUR detective transcript p. 19

¹³⁷ FRASHOUR detective transcript p. 20

¹³⁸ FRASHOUR detective transcript p. 20-21

¹³⁹ GJ transcript 429

When the children came out, FRASHOUR first became aware of the race of the children as African American. FRASHOUR confirmed the race of the male inside as African American with LEWTON¹⁴⁰.

FRASHOUR said not long after the kids came out, ELIAS arrived. He said ELIAS stood with them briefly, but then took a position by the green dumpsters near them. ELIAS told FRASHOUR the dumpsters might be a better location for FRASHOUR to be positioned but FRASHOUR thought he was well positioned and did not want to move and create a cross fire situation. FRASHOUR said he was also aware that LEWTON had arranged for officers to take a position in the apartment lot to the east of their location to get an eye directly on the door of #37 and he did not want to move and create a cross fire with those officers¹⁴¹.

FRASHOUR said the lighting condition was dark outside; he described it as night and dimly lit. FRASHOUR was asked if they had any artificial light to see with and he said they discussed using police car spotlights, but decided not to do it as it would give away their position. FRASHOUR was not provided with a description of CAMPBELL other than the fact he was African American¹⁴².

FRASHOUR knew CAMPBELL was inside because QUACKENBUSH was in contact with him by text communication. He said he thought it was odd the kids came out without an adult. FRASHOUR said maybe the adult was afraid for something bad to happen and didn't want the kids to get hurt. He said he thought CAMPBELL could come out and start shooting. He said he was really prepared mentally for that to happen¹⁴³.

FRASHOUR said he was squatting behind the car for some time and it was difficult to stay comfortable. He said an officer put citation books under his knees, giving him a break from the blacktop¹⁴⁴.

All of a sudden, an African American walked out of the entry he was looking at. Initially FRASHOUR said he saw him run out but he clarified that by saying he came out walking very quickly and very determined. FRASHOUR said in his past experiences, people who come out usually come out methodically and slow because they don't want something bad to happen. In his experience they have even come out with their hands up¹⁴⁵.

FRASHOUR said CAMPBELL'S actions were in stark contrast to what he had seen before. He said he was totally surprised by how quickly and determined

¹⁴⁰ FRASHOUR detective transcript p.21

¹⁴¹ FRASHOUR detective transcript p.22

¹⁴² FRASHOUR detective transcript p. 23-24

¹⁴³ FRASHOUR detective transcript p.26

¹⁴⁴ FRASHOUR detective interview p. 27

¹⁴⁵ FRASHOUR detective transcript p. 28

CAMPBELL came out. FRASHOUR described it as "he just shot right out"¹⁴⁶. In the Grand Jury testimony FRASHOUR he said he had seen a lot of people give up in police situations. He said they usually put their hands straight up in the air and they don't make any fast movements because they don't want something bad to happen. Sometimes they even verbalize 'I give up.' FRASHOUR said CAMPBELL'S movements were so like he had a plan, very determined¹⁴⁷.

FRASHOUR said CAMPBELL had his hands on his head and he tracked him with his AR. He said CAMPBELL'S hands were on his head and the determination of his walk stood out. FRASHOUR said CAMPBELL stopped. FRASHOUR said he was focused on the possibility of a threat from CAMPBELL, and other officers gave verbal commands. He said he heard commands but did not recall specifically what they were. He said he did not know if CAMPBELL stopped because of commands or if he stopped because CAMPBELL chose to stop. He said CAMPBELL was facing south away from them and began to walk backwards. FRASHOUR said he turned his light on (the light on his AR) CAMPBELL as it was terribly dim. He said he could not make out much, but he saw that CAMPBELL was wearing a coat that looked like hunting camouflage¹⁴⁸.

FRASHOUR said he heard commands, ELIAS'S dog was barking, and CAMPBELL started to walk back. As CAMPBELL was getting close, FRASHOUR said he changed the aperture on his sights. He was squatting down. FRASHOUR said he was uncomfortable and he was concerned about being able to move if he needed to so he stood up. CAMPBELL stopped again. FRASHOUR said he heard or saw something. He said he could not recall what he saw but knew CAMPBELL'S tone was hostile and aggressive. He said CAMPBELL was being aggressive, hostile and loud. FRASHOUR said he thought it was strange that, up to that point, CAMPBELL was doing what he was told but that verbally he was saying he was not going to do it¹⁴⁹.

FRASHOUR said all of a sudden he saw bean bags hit CAMPBELL and he heard the sound of the bean bag gun as well. He said he saw the bean bag hit CAMPBELL and he took a half a step forward and kept his hands on his head. CAMPBELL was bean bagged again. FRASHOUR said he knew CAMPBELL was given commands and that he was given a chance to comply¹⁵⁰.

FRASHOUR said, (page 32 of the detective interview) "all of a sudden his left hand left his head and he reached straight down the middle of his, of his uh, back, straight into the back of his waistband. Urn, not, not as if reaching for a

¹⁴⁶ FRASHOUR detective transcript p. 28

¹⁴⁷ GJ transcript p. 431-432

¹⁴⁸ FRASHOUR detective transcript p. 28-29

¹⁴⁹ FRASHOUR detective transcript p. 30-31

¹⁵⁰ FRASHOUR detective transcript p. 31-32

wallet, not, you know, off to one side or the other, not as if, I mean he just dove his hand straight down the middle of his back and I instantly thought, he is pulling a gun out. Um, the - I'm sure this actually all happened quicker."

Kammerer: Um~hm.

Frashour: Than I can remember it, because it seems like I waited and waited for him to continue to pull the gun, but at the same time he started running, uh, and uh, that's not the right car. He started running toward the silver Volvo, toward the front right corner of the silver Volvo.

Kammerer: Okay.

Frashour: The entire time his left hand is digging for something in the back of his waistband. Urn, I knew and I'd thought about the fact that the silver Volvo gives him hard cover if he duck, ducks behind the engine block and then the brick entry wall is the next closest hard cover. And I remember thinking I cannot let him get to hard cover 'cause he's gonna shoot at us and he's protected if he shoots at us from there. I knew there was a gun coming out of back of his waistband. And before he got to the corner of the Volvo, I shot him. I shot him one time. He took a, well, it, it appeared to me in, in the way I was looking at it. It appeared he took maybe a half a step or maybe just fell, but his momentum carried him to the front of the Volvo where he fell down and all I could see was uh, his white shoe¹⁵¹.

In the Grand Jury testimony, FRASHOUR said he saw CAMPBELL reach his hand straight down the middle of his back, straight down the back of his pants. He said he was not grabbing his waistband. FRASHOUR said, I knew exactly what he was doing. FRASHOUR thought to himself, don't do that, don't pull your gun, and don't reach for your gun – I knew he was grabbing his gun. FRASHOUR said people were still yelling at CAMPBELL, he was still pointing his gun at him and CAMPBELL began to run. FRASHOUR told the Grand Jury he thought to himself at the time, "give up, give up, you got to give up before you get to the edge of the car." FRASHOUR said CAMPBELL got to the edge of the car and was still digging in the back of his pants. FRASHOUR said he could not let CAMPBELL get to hard cover and start shooting at the officers and himself. FRASHOUR said it was unfortunate; he had to shoot when CAMPBELL got to the edge of the car¹⁵².

In the Grand Jury testimony FRASHOUR is asked by a Grand Juror if CAMPBELL could have been pulling up sagging pants or reacting to being hit by the bean bag and FRASHOUR said, "with the information I had received, the fact that he stated I'm serious, don't make me get my gun – and that there is a gun in his

¹⁵¹ FRASHOUR detective transcript p. 32

¹⁵² GJ transcript p. 436-437

coat and that he wanted suicide by police, I had no reason not to believe that. I mean that's what I believed, that he was making good on his threats that he was reaching for a gun." FRASHOUR went on to answer the second part of the question, if CAMPBELL was reaching for where he had been hit by the bean bag gun? He said no, it seemed determined, it was deliberate the way he reached down, he didn't arch his back as if hurt. He seemed purposeful in what he did¹⁵³.

FRASHOUR is asked by a Grand Juror if, based on his training and experience, the waistband was somewhere someone could keep a gun. He said he was a defensive tactics instructor and yes he knew people to keep guns in the waistband¹⁵⁴.

FRASHOUR is asked by a Grand Juror "is this something you knew about?"

QUACKENBUSH talked to us and he says just before he comes out, he's not texting. He is on the phone with the victim and he says

- There's is no crime, we are just talking.
- CAMPBELL says; leave me alone I am okay.
- He said (CAMPBELL) said don't worry about the kids and that's when the kids came out.
- QUACKENBUSH said: "Aaron we know you are not going to hurt yourself".
- CAMPBELL: never, I wouldn't do that.
- QUACKENBUSH: "Can you promise you won't hurt yourself?" Bad connection (on the phone).
- Officer PC wants assurances you are not going to hurt himself and that's when he comes out.
- Grand Jurors asked FRASHOUR: Did you know any of this?
- FRASHOUR responds, no, none. He follows up by saying; I did not know any of that¹⁵⁵.

However in FRASHOUR'S IA he was asked by IA Investigator RENNA,

RENNA: Would it have made a difference if you knew that he was coming out at the request of one of the officers at the scene as opposed to just walking out of the apartment?

FRASHOUR: Throughout the whole course of the - - I guess it would have shown some compliance on his part and I would have registered that as some compliance on his part. It wouldn't have affected the end result, I can tell you that. I know that's not, I'm just, but yeah, it would have shown compliance on

¹⁵³ GJ transcript p. 439

¹⁵⁴ GJ transcript p. 439-440

¹⁵⁵ GJ transcript p. 441

his part and it would have taken some of the alarm off I suppose of what was going on¹⁵⁶.

TRAINING ANALYSIS:

In the Supervisory Response section of this analysis we comment on the fact that certain information was not passed to the officers on this call. For instance, CAMPBELL was acting suicidal the night before the call and was asleep when police arrived, CAMPBELL sent the children out because the communications team asked about their welfare, police asked CAMPBELL to come out so they could get an assurance from him he would not hurt himself and that after that REYNA intended to leave. There was also little explicit direction given to the custody team for the duration of the call and this lead to independent mindsets and different situational awareness of the call. FRASHOUR was at a very high threat level the entire call and did not adapt and got caught in a thought process that did not change¹⁵⁷.

FRASHOUR saw CAMPBELL as a threat the entire call to the exclusion of any other interpretation of CAMPBELL'S actions. During this incident CAMPBELL was reported to be suicidal, potentially armed, may have wanted suicide by police and had texted to JONES "I aint playin, don't make me get my gun". All of these factors gave FRASHOUR reason to believe CAMPBELL was a potential threat. Conversely, however FRASHOUR also was aware that CAMPBELL was known to be emotionally despondent over the recent death of his brother, in need of psychological care and not wanted on any criminal charges. CAMPBELL had not directly threatened the officers on the call and to FRASHOUR'S knowledge CAMPBELL had not threatened anyone other than himself. Shortly after his arrival REYNA broadcast that police were in text communication with CAMPBELL and that was going well. FRASHOUR did not consider that these factors mitigated the potential of the threat.

Once on scene FRASHOUR ultimately joins the custody team in the center of the lot. Shortly after his arrival the kids came out. While FRASHOUR said he thought it was positive the kids came out because they were safe and there was no hostage situation he also characterized it as bold, he thought CAMPBELL may be considering

¹⁵⁶ FRASHOUR IA transcript p.31

¹⁵⁷ Tactical Thinking and Planning, Six basic fundamentals of patrol tactics. C. Communication without proper communication, your entire operation may be in jeopardy. A failure to set up good comm. Puts officers at risk, breeds confusion and may create situations to cause officers to act independently and hazardously)

suicide by cop and FRASHOUR believed CAMPBELL was planning something.

Just before CAMPBELL came out FRASHOUR hears a report from officers in back of #37 indicating CAMPBELL was looking out the blinds and that caused FRASHOUR alarm. FRASHOUR believed CAMPBELL could be gaining information and planning to attack officers or planning an escape.

CAMPBELL'S pace as he exited the apartment is viewed differently by different officers on scene. When CAMPBELL came out of the apartment FRASHOUR said he was shocked and alarmed at how determined CAMPBELL seemed even though CAMPBELL had his hands on his head and was cooperating with commands.

FRASHOUR was so focused on perceiving a threat from CAMPBELL and on the mechanics of the AR-15 that he did not properly focus on the decision making process regarding the use of deadly force. For example, FRASHOUR talked about switching his aperture sight for closer range shooting and quicker target acquisition when CAMPBELL came within about 15 feet.

PPB trains officers to be flexible and adaptive in tactical situations. FRASHOUR had legitimate concerns about CAMPBELL based on the information he had. FRASHOUR had a heightened concern about the possibility of suicide by cop. Suicide by cop does imply a danger that a subject may display a weapon, shoot at police or act as if armed forcing police to shoot. While that was a concern in this case CAMPBELL did not come out of the apartment with a weapon drawn or in view, instead his hands were on his head and he walked backwards toward officers following commands. When CAMPBELL was first told to stop he did and when he told to walk back slowly he did, he was told to stop a second time and he did. CAMPBELL'S hands remained on his head, he could have taken his hands off his head at any time but he did not. It wasn't until CAMPBELL was told he would be shot that CAMPBELL, known to be suicidal, said go ahead and shoot me.

FRASHOUR was so focused on a threat from CAMPBELL that he did not know what specific commands were being given. FRAHOUR only recalled one command, when CAMPBELL was told to put his hands in the air, FRASHOUR recalled thinking, his hands were already on his head. FRASHOUR also did not know what CAMPBELL said in response to commands even though CAMPBELL was estimated to be only 15 feet from him. While FRASHOUR did not hear what CAMPBELL said he

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characterized the tone as loud, hostile and aggressive. FRASHOUR concluded CAMPBELL was indicating intent not to comply. FRASHOUR said CAMPBELL was bean bagged and was given a chance to comply after the first round and before the second round even though he estimates there was only 2 seconds between rounds.

FRASHOUR is asked in the IA interview if CAMPBELL reacts in pain to being bean bagged,

MORGAN: Did it appear that any of those rounds after he takes his hand off his head, did it appear that any of those rounds had any affect? Did you see any stumbles? Did you see any pain or reaction? Did you see any of that?

FRASHOUR: No, no.

MORGAN: Other than the initial stumble from the first one, did that appear to you to be a reaction to the bean bag?

FRASHOUR: Well, it had to have been, I mean, yeah.

MORGAN: Did it appear to be somebody who was surprised by sudden pain? How would you describe? Or was it an involuntary reaction to the force hitting him or how would you describe that?

FRASHOUR: I don't know how to describe. I mean it was very basic. He got hit in the butt or right below and took a very short step forward. I'd be guessing if I said it was because it hurt him because I don't know¹⁵⁸.

FRASHOUR was so rigid in his interpretation of the situation that he does not recognize that being hit by the bean bag gun would cause pain.

There are a number of witnesses to this incident some are police and others citizens. Some say CAMPBELL reached into his waistband, some did not see his hands, and others say he was reaching for where he had just been struck with a bean bag and some thought his hands were moving in a running motion. FRASHOUR said CAMPBELL reached very deliberately with his left hand straight down the middle of his back deep into his waistband. FRASHOUR said CAMPBELL ran and his left hand stayed in his pants. FRASHOUR said he believed CAMPBELL was digging for a gun. FRASHOUR said he believed CAMPBELL was going to pull a gun out and start shooting at police from behind the cover of the car parked in front of #37 and he would not let that happen so he shot.

FRASHOUR said CAMPBELL ran with his back to him and CAMPBELL'S hand remained in his waistband until he was shot and he fell down and only then did CAMPBELL'S hand come out of the waistband. IA investigator Morgan asks how the reaching of the hand was different

¹⁵⁸ FRASHOUR IA transcript p. 20

than someone reaching for a spot in pain. FRASHOUR said it was too methodical and purposeful. Later in the IA interview FRAHOUR responds to a specific question from IA investigator Morgan about the possibility of CAMPBELL being unarmed:

MORGAN: I think that answers the question, yeah. Yeah. Did you at any point in the event, I guess specifically once he emerges from the apartment, did you consider the possibility that he was unarmed?

FRASHOUR: Well, there's always that possibility. I didn't, you know, there's always that possibility and you know, I allowed him the opportunity to give up while he was walking out. I allowed him the opportunity to give up as he's backing up. And I allowed him to get bean bagged and give up. I allowed him to start running and stop running. He could have stopped and proven he was unarmed and complied at any point in that and he didn't. I'm always aware of the possibility that somebody's unarmed or armed. But at the point with the fact that he told us he was armed, at the point he started doing the physical things he did, there is no way I was going, I believed him to be armed. It wouldn't have been reasonable to believe otherwise.

MORGAN: And you discussed obviously, I've asked a couple of times throughout this--

FRASHOUR: That's okay.

MORGAN: -- the suicide by police angle. Did you consider at any point while the event was unfolding that MR. CAMPBELL was deliberately bating you into shooting him?

FRASHOUR: Meaning did I think he was unarmed and just bating? I never thought him to be unarmed once he started those things. If I thought him to be unarmed I would not have shot him.

MORGAN: And --

FRASHOUR: And to clarify looking back, I understand he had no gun on him. I totally think he did what he did to look like he could, to get shot deliberately in order to die¹⁵⁹.

IA investigator RENNA asks FRASHOUR some concluding questions:

RENNA: Would it have made a difference if you knew that he was coming out at the request of one of the officers at the scene as opposed to just walking out of the apartment?

FRASHOUR: Throughout the whole course of the -- I guess it would have shown some compliance on his part and I would have registered that as some compliance on his part. It wouldn't have affected the end result, I can tell you that. I know that's not, I'm just, but yeah, it would have shown compliance on his part and it would have taken some of the alarm off I suppose of what was going on (indecipherable).

RENNA: You indicated that you weren't aware that the apartments connected by that same alcove were vacant. If you had that during the moments, during the time that you were out behind the police car, would that have been helpful information for you to have?

FRASHOUR: It probably would have been helpful, it certainly wouldn't have hurt. It probably would have been helpful to know, just to know where people are.

RENNA: And my last question.

¹⁵⁹ FRASHOUR IA transcript p.27

FRASHOUR: Okay.

RENNA: You indicated that you gave MR. CAMPBELL several opportunities to give up or I think that's the word you used.

FRASHOUR: Or comply.

RENNA: Okay. If you had known that he was coming out at the request of officers at the scene uh and then he's got his hands on his head and he's backing up and he slows down and he stops a couple of times at the request of the officers. Isn't that what he was doing?

FRASHOUR: Yeah, that is what he was doing. I (indecipherable) what you just asked.

RENNA: Right. Isn't he in the process of giving up?

FRASHOUR: Well - -

RENNA: Isn't he in the process of complying is what I'm asking?

FRASHOUR: I see what you're saying. Do I believe he was in - -

RENNA: If you connect all those dots - -

FRASHOUR: Right up to that point, right?

RENNA: Up to the point and it sounds like up to the point when he reaches into his pants.

FRASHOUR: Well, not up to that point.

RENNA: Up to the point - -

FRASHOUR: Up to the point of - -

RENNA: - - of not raising - -

FRASHOUR: - - and yelling. I would say the appearance. Up to the point of the yelling I would say, I know I want to say it's hard - - the outward appearance, absolutely, he was doing as directed. Yes. I don't think that was his mindset, but that's me what I think and what I believe, or what I believe now. Yes, he appeared to be compliant. I was uh, for instance, I certainly and it didn't, wouldn't have shot him when he walked out the door because that's not against the law, that's not non-compliant, that's not aggressive physical resistance or anything. You know, he came out and he backed up, but a point was reached when everything changed. So, I hope I'm asking, answering what you're actually asking and if not, please ask it again.

RENNA: No, I think you're giving your explanation as to when the event changed from - -

FRASHOUR: The event changed - while I was alarmed at his determination of walk and the speed of the walk, that in my mind didn't justify doing anything different to him.

RENNA: Okay. I hope I didn't interrupt.

FRASHOUR: No, go ahead.

RENNA: My question is just tell me or describe for us if you will how his, you described the tone of his voice and when he turned. How is that not compliant?

FRASHOUR: That's showing the intent to engage in resistance, aggressive or physical resistance. But he's showing, now he's showing the intent because he's verbalizing the intent to not comply mixed with right about in there somewhere he's not putting his hands up when told. So he's not doing it and saying uh, what (indecipherable) what he was saying, but I just perceived it as hostile¹⁶⁰.

FRASHOUR was trained that de-escalation should always be an option.

¹⁶⁰ FRASHOUR IA transcript p. 31-32

PPB officers are trained that "circumstances may change your situation and warrant de-escalation."¹⁶¹

FRASHOUR did have information that CAMPBELL was a potential threat but once on scene FRASHOUR did not consider other available information that may have de-escalated his mindset. FRASHOUR saw CAMPBELL looking out windows as threatening, he saw CAMPBELL coming out as threatening, even though CAMPBELL cooperated with verbal commands, once in the lot FRASHOUR viewed CAMPBELL as loud and aggressive even though he cannot say he heard what CAMPBELL said. When CAMPBELL reached into his waistband after being bean bagged in his back twice FRASHOUR could not acknowledge that those bean bag rounds were painful. After being hit twice FRASHOUR said CAMPBELL reached into his waistband as if for a gun even though he just witnessed CAMPBELL being hit in that area by two bean bag rounds. FRASHOUR said CAMPBELL'S hand remained in his waistband and that he ran away from him with his back to him but he did not think he was just running away. FRASHOUR said he saw CAMPBELL as not complying and said he believed CAMPBELL was given a chance to comply.

FRASHOUR is asked in IA if he ever considered that CAMPBELL may be unarmed and his answer indicated that he never considered the possibility that he may be unarmed.

FRASHOUR is asked in IA if it would have made a difference if he knew CAMPBELL was being asked by officers to come out and he said it would have showed some compliance but would not have changed the outcome. FRASHOUR saw CAMPBELL as showing the intent to engage in resistance, aggressive or physical resistance and as non compliant and he said he did not think compliance was CAMPBELL'S mindset¹⁶².

FRASHOUR was trained that he must reasonably believe that a person is an immediate threat of death or serious physical injury to be justified in the use of deadly force. In this case it is clear that a reasonable officer on scene could conclude that CAMPBELL was reaching for a part of his body just hit by bean bag rounds, in fact there were some witnesses that made that conclusion.

It is the mission of the Training Division to prepare officers to deliver effective police service safely and in a manner consistent with the values of the community. In regard to the use of force, the Training

¹⁶¹ Tactical Thinking and Planning Lesson plan, section D, De-escalation

¹⁶² FRASHOUR IA transcript p. 31-32

Division endeavors to provide officers with training in confrontation management that allows them to develop the skills, abilities and attitudes necessary to regularly resolve confrontations without resorting to the higher levels of allowable force. To perform at this ideal level, officers must master many disciplines and must embrace the Bureau's goal of accomplishing its mission as effectively as possible with as little reliance on force as practical.

To help Portland officers resolve confrontations, when practical, with less force than the maximum that may be allowed by law, the Training Division teaches the use of de-escalation tools and confrontation management tactics that minimize the need to use force. Beginning on the first day of Advanced Academy, trainees study the Bureau's force policy so they can try to attain the Bureau's force management goals during extensive scenario-based training. Confrontation management skill development continues through in-field coaching, probation supervision, annual In-Service training, roll call trainings and a wide variety of specialty trainings both inside and outside the Police Bureau.

All Portland officers should be very familiar with PPB's current force policy and goals. Veteran officers may have participated in, and certainly watched, the extensive discussions about force policy that occurred in the Bureau over the last several years in conjunction with the latest revision of the force policy. When announcing the force policy revision, the Police Bureau made strong statements emphasizing de-escalation and promoting smart use of lower levels of force when practical. The re-statement of force policy, the emphasis on de-escalation and the aspirations of the organization were communicated by the Chief or an Assistant Chief, in person, to every patrol officer prior to this incident. Portland officers should know that, while Graham v. Connor sets the outside limit on permissible force and that officers must be capable of using effective force when appropriate, all officers must strive to develop and apply the skills that allow them to safely resolve confrontations with less force than the maximum that may be allowed by Graham.

The Training Division teaches officers to be aware of the totality of facts and circumstances at a scene, to be flexible and adaptive and to avoid assumptions or over-reliance on any mechanical decision making model. We train officers to develop an objective situational awareness based on current and accurate information so they can make informed and balanced decisions. We emphasize the need for communication and strive to instill a desire for information and coordination in officers

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to reduce the likelihood of confusion and uncoordinated or conflicting action.

PPB understands that in certain circumstances officers are faced with threats to which they must respond immediately or face serious injury or worse. However, when there are sergeants on scene, an inner perimeter and outer perimeter, a communications team and a custody team, as in this incident, there are considerable resources and tactics available to vigorously pursue a non-fatal resolution of the confrontation while limiting risk to an acceptable level.

Proper management of this scene required dedication by all to principles that are at the core of PPB's training curriculum. While other parts of the system did not perform to the expectations of the Training Division, affecting the context of his decision making, FRASHOUR did not, in large part, display the confrontation resolution skills and attitudes Training seeks to develop in officers. There is little evidence in FRASHOUR'S thinking or actions of a desire to accurately balance the threat information at the scene with other, counterbalancing information. There is also little evidence that FRASHOUR sought to absorb information available to him about the totality of the situation. To the contrary, there is evidence that FRASHOUR steadfastly remained focused on absolute threat control to the purposeful exclusion of participating in the information sharing, group planning and decision making and coordinated action that is a primary goal of his training.

FRASHOUR ACTIONS WERE NOT CONSISTENT WITH HIS TRAINING BECAUSE HE DID NOT DE-ESCALATE HIS MINDSET DESPITE THE FACTS OUTLINED ABOVE.

POST SHOOTING RESPONSE

After CAMPBELL was shot, his body fell face down and he landed in a position that concealed his right hand underneath his body. The location where he fell was dark and the officer's view was partially obscured by the vehicle.

(1808) As soon as CAMPBELL fell to the ground ELIAS moved toward him in an effort to control his K9 who was now at CAMPBELL'S body. CAMPBELL'S body did not appear to react to the K9. ELIAS was approximately halfway to him when he turned to the custody team in an effort to determine if they were going to effect custody of CAMPBELL. ELIAS indicated that there was a delay in this decision so he pulled his dog back and moved to a position of cover and waited for the decision.

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(1808) BIRKINBINE moved from the alcove to the custody team location immediately after shots had been fired. At that point he took the following actions:

- Removed FRASHOUR from the immediate area and replaced him with HUGHES who is also an AR operator
- Requested code three medical to the scene and directed them to stage on NE Sandy
- Advised units to hold their positions and slow things down until a determination could be made whether CAMPBELL could be safely approached

(1810) QUACKENBUSH and KEMPLE moved to a location north of CAMPBELL in attempt to get a better view of him. They immediately yelled commands to him but there was no response. They were quickly joined by LEWTON who also yelled commands and attempted to assess CAMPBELL'S condition and determine whether he could be approached in a safe manner. BOYLAN retrieved ELIAS' binoculars from his patrol car and moved to a location near MCALLISTER and ANDERSON who were just east of the apartments. From this location BOYLAN observed CAMPBELL though the binoculars and could not see any movement.

(1810-1812) BIRKINBINE consulted with the officers on scene to determine whether CAMPBELL could be safely approached. Ultimately BIRKINBINE developed the opinion that CAMPBELL could not be safely approached. He based this decision on the following facts:

- CAMPBELL was possibly armed
- His body was partially obscured
- One of his hands was concealed underneath his body
- He did not believe there was a safe approach for officers

(1812) DAY broadcasted that he is now in command of the scene and asks to speak with BIRKINBINE. DAY is in a location of cover around the north corner of the apartment complex.

(1813) BIRKINBINE called DAY and explained his position that SERT should be activated because it was not tactically feasible to approach. DAY challenged BIRKINBINE to consider all the options, but ultimately deferred to his judgment based on the fact that BIRKINBINE was more familiar with the situation and was in a better position to make that decision.

(1816-1818) DAY directs that a staging area be established and calls Commander FERRARIS to advise that he is going to activate SERT.

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(1818) DAY activates SERT

(1818-1846) Perimeter contains the scene and continues to verbally challenge CAMPBELL in an attempt to assess his condition. CAMPBELL continues to be non-responsive.

(1846) First arriving SERT members were given the mission to conduct a hasty rescue of CAMPBELL. Sgt. KRUGER assembles a team consisting of Officers BARBOUR, DAUL, J. HARRIS and C. GRADWAHL. The team approaches CAMPBELL in the B.E.A.R. truck driven by Officer HUBERT.

(1851) As the team gets close to CAMPBELL they exit the truck and move forward on foot utilizing ballistic shields deployed by BARBOUR and DAUL. KRUGER first searched the area where CAMPBELL'S right hand was concealed and then brought it into view and CAMPBELL was handcuffed by J. HARRIS. KRUGER then called PFB medic BREGMAN forward from the B.E.A.R. truck where he examined CAMPBELL and pronounced him deceased.

TRAINING ANALYSIS:

The K9 was approaching CAMPBELL just as he was shot. As a result the K9 was at his body just after he fell to the ground. Contemporaneously, ELIAS moved from his position towards CAMPBELL in an attempt to control the K9. As ELIAS moved closer to CAMPBELL he looked to the custody team to determine if they were going to move forward to effect custody. At that point, the team was not able to determine whether it was safe to move forward so ELIAS called his K9 back to prevent further injury to CAMPBELL.

Because CAMPBELL'S body was partially obscured, officers tactically deployed to different locations in an attempt to get a better view. Additionally, one of the officers secured binoculars to enhance his view. All the time officers were shouting commands to CAMPBELL in an attempt to assess his condition. During their assessment period CAMPBELL did not move and or verbally responded to the officers. However, officers on scene still believed that CAMPBELL was armed and his right hand was still concealed underneath his body. For officers to approach CAMPBELL to monitor his medical condition they would have ultimately had to leave positions of cover and advance without cover. Commander DAY had only been on scene for a limited period of time. Because of his location around the corner from the scene and also not having access to a ballistic vest, DAY was unable to directly observe the tactical situation. As a result he appropriately relied on his

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consultation with BIRKINBINE in deciding whether to approach CAMPBELL or activate SERT.

PPB trains officers that such monitoring can occur only if it is tactically feasible or appropriate¹⁶³. PPB also trains officers that adequate cover provides them with a margin of safety to make sound decisions¹⁶⁴. Given these facts the decision to activate SERT and not move forward to contact CAMPBELL was consistent with PPB training. However since this incident PPB has added equipment and implemented training which may now have allowed for a different response¹⁶⁵.

Once enough SERT members were on scene a Hasty Rescue Team was assembled and SERT utilized the armored B.E.A.R. truck and ballistic shields to approach CAMPBELL and safely take him into custody.

REVIEW SUMMARY

The outcome of this incident cannot be attributed to one single factor or decision. In retrospect, the cumulative effect of a variety of factors including the subject's own behavior, individual officers and supervisor's actions, all contributed to the outcome.

Tactical incidents, by nature, require responding officers to operate collectively and work as a team to assess the situation and implement a plan of action. In this incident the first officers on scene were faced with a broad spectrum of contingencies ranging from an armed suicidal subject holding family member's hostage to the possibility that the subject and/or family members were not even at the location. The officer's response was cautious and as information developed they measured their response and ultimately requested a sergeant to the scene to coordinate what was evolving into an extended tactical incident. Even though there were three sergeants working that day, none of them appeared to be monitoring the event. Conversely both the Shift Lieutenant and the Precinct Captain heard the original call and were monitoring the call however they were not aware and did not ensure that a sergeant was monitoring. This confusion and lack of coordination resulted in a delayed response by supervisory personnel and potentially contributed to the lack of situational awareness that ultimately developed on the call.

After becoming aware of the incident, the first sergeant on the scene responded immediately and applied many sound tactics and adapted plans as the situation

¹⁶³ Directive 1010.10 Post Use of Force Medical Attention

¹⁶⁴ PPB Tactical Guideline Elements

¹⁶⁵ PPB has purchased ballistic shields and trained the operations branch at an annual in-service.

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warranted. However as more resources arrived and the girlfriend came outside and advised that the children were still inside, the situation became more complex, which increased the potential for communication and coordination problems. The custody team and communication team were established with multiple specialty tools deployed, and perimeter units were positioned. This elevated the complexity of the incident and made it critical that the rules of engagement were clear and that every officer on scene had a shared situational awareness, in order to minimize any confusion on scene

At this point, that communication and situational awareness begins to deteriorate on the scene. Officers on scene did not have a clear understanding of their roles, and did not have an understanding of the overall plan. When a second sergeant arrived on the scene the best practice would have been to have the sergeants coordinate together and reduce the number of tasks assigned to one sergeant. Additionally, this would have been an appropriate time to possibly consult with the shift Lieutenant or possibly request that he respond. This would have facilitated better coordination and communication on scene however this did not happen.

The lack of communication and coordination resulted in the custody team ultimately operating at a high threat level which they interpreted based on the information available to them. Conversely, the communication team was at a lower threat level based on their communication with the subject inside which was never clearly passed on to the custody team. The result was that the communication team was in a "de-escalating" mindset while at the same time the custody team had an "escalating mindset".

The sergeant in charge of the scene had very clear expectation of how she wanted the incident to unfold based on all the information available to her, and had established what the threshold was for the police to disengage. Unfortunately, this was not clearly communicated to all officers on scene, and the other sergeant on scene was not in total agreement with her assessment. To compound matters, the subject was asked to come out of the house at the specific time when the sergeant in charge had been called away to brief the Captain, which created confusion over who was in command of the incident.

The result was the custody team engaged the subject without the knowledge that the incident was de-escalating and without a clear and concise plan on how to deal with the subject. The result was that officers took independent action with different levels of situational awareness, and there was not a supervisor with the custody team to correct this.

When the subject did not fully cooperate with the officers on the custody team the response was not coordinated, which left the officers to act independently,

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and resulted in a certain level of confusion. Regardless of the confusion, officers were still in a position to adapt to the subject's behavior and attempt to de-escalate the situation. Instead officers escalated the situation by deploying less lethal rounds when the subject did not comply with their commands. When the subject reacted to the less lethal rounds by running away and reaching in the area he was being struck, the lethal cover officer misinterpreted these actions as creating an immediate threat of deadly force and deployed lethal force.

Once the subject was shot there was still some confusion over whether he could be safely approached. Once a sergeant took command of the custody team several efforts were made to communicate with the subject and also visually determine his condition. When the subject did not respond to the officers and they could visually see that one of his hands was concealed, the sergeant determined officers could not safely approach. After consulting with the Captain on scene SERT was activated.

RECOMMENDATIONS

1. Develop and implement an annual Critical Incident Management training refresher for supervisors that builds on the initial Critical Incident Management training currently offered to all newly promoted sergeants.
2. PPB should conduct a comprehensive review of its response to "suicide by cop" calls.
3. Require SERT CIC consultations in certain cases.
4. Develop and disseminate written response protocols for Command Personnel for tactical incidents and develop Bureau wide written guidelines for supervisors for the notification of Command regarding tactical incidents.
5. Develop and implement an annual less lethal in-service. There is currently no follow up training for less lethal operators once they complete their initial training. Clarify the appropriate use of the bean bag consistent with Police Bureau policy and relevant case law.
6. Review selection criteria for AR operators and include a 360 degree evaluation of all candidates and enhance discussions of Bureau policy and relevant case law.

PPB Training Division Tactical Guideline Elements

Fundamental Concepts of Tactics

- Have a Leader
 - *Someone needs to be in charge*
 - *Usually it is the primary officer*
 - *Can be relieved by a superior*
- Have a Plan
 - *Chances of success are higher if there is a tactical plan*
 - *Cognitive thinking ability is diminished in a high stress situation*
 - *Without a plan we tend to be in a reactive mode rather than a proactive mode.*
- Be Adaptable
 - *Things change, sometimes very quickly*
- Don't Assume
 - *A typical radio call is 3^d or 4th hand information at best. It is best to make decisions based on what we observe for ourselves.*
- Communicate
 - *Before, during, and after an event. Helps to make sure that all understand what is going on.*
- Correct Mistakes
 - *Uncorrected mistakes tend to have a snowball effect. Small, uncorrected mistakes can grow into major issues by the end of an event.*

Tactical Advantages

Factors that are usually available to officers. These enable officers to more safely address a threat, situation or subject. Their use usually increases the chances of success.

- Cover and Concealment
 - *The use of available cover or concealment provides the officer with a margin of safety in which to make a sound decision.*
 - *Cover has the ability to physically protect the officer from a threat, while concealment only hides an officer.*
 - *Cover/Concealment = Safety and Decision Time = More options available*
- Numerical Superiority
 - *Offers a distraction to the subject who must now concentrate on addressing multiple officers instead of one. A single officer and a single subject is a competitive situation.*

COPY

- Distance
 - *The distance between the officer and the individual always has to be considered because of the safety of the officer and the action/reaction principle.*
 - *Greater Distance = Time = More options for the officer*
 - *Lesser distance = Less decision time = Fewer options*
- Element of Surprise
 - *Element of Surprise = Unawareness or slow reaction by the subject = Advantage to the officer*
- Information and Knowledge (DT Manual)
 - *The more information and knowledge the officer can gather prior to and/or during the encounter, the more time he has to assess the level of threat. By having prior information, the officer has time to plan appropriately.*

Four Cardinal Rules of Firearms

- All Guns Are Always Loaded
- Never Point Your Muzzle At Anything You Are Not Willing To Destroy Including Yourself
- Keep Your Finger Off The Trigger And Outside the Trigger Guard Until You Are On Target And Ready To Fire
- Be Aware Of Your Target, Backstop And What Is Beyond

Eight Basic Concepts (Defensive Tactics)

- Five Levels of Control
 - Presence and Demeanor
 - Verbal Control
 - Physical Control, OC, and Taser
 - Impact Weapon and Less Lethal
 - Deadly Force
- Adequate Control is Essential
 - *Imperative that the police officer establishes and maintains superior control in any law enforcement situation.*
- The Police Officer's Role is Non-Provocative
 - *The officer's approach to control must be defensive in nature. Not the role of officer's to inflict punishment or encourage violations of the law in order to deal with a situation.*
- Control is Non-Competitive
 - *A competitive approach to control may place the officer in a competitive or inferior position. An officer must assume control. This will minimize the risk to the officer and to the other person.*
- Control Techniques vs. Survival Techniques

- *Control Techniques: Methods used by officers to establish and maintain control.*
- *Survival Techniques: Methods used by officers when control techniques are not adequate to ensure the officer's or other person's survival.*
- Control vs. Physical Force
 - *Control is directing or regulating another person.*
 - *Physical force is force which is directed against a person and is readily capable of causing physical injury.*
- Physical Force as an Element of Control
 - *If physical force is needed to establish or maintain control, that amount of physical force necessary to establish or maintain control is justified.*
- Attitude is a Personal Responsibility
 - *Officers must not allow prejudice, ego, personal problems or other negative factors to affect the proper performance of their duties.*

Five Basic Principles

- Action-Reaction Principle
 - *Action is always faster than reaction. The disadvantage may be minimized by sound defensive procedures and good conditioning.*
- Distraction Principle
 - *In times of stress or extreme concentration, the mind focuses on the most important element of the situation. Any sudden act or act of significant magnitude will break concentration, causing the mind to focus on the distraction.*
- Domination Principle
 - *Many are likely to commit an act of premeditated aggression when they have a superior advantage. Least likely to act from an inferior position. Aggressive acts are deterred when the officer establishes a superior position.*
- Yielding Principle
 - *When two forces directly oppose one another, the stronger will prevail. An inferior force, if properly applied, can direct a superior force to its own advantage.*
- Confidence Principle
 - *A lack of self-confidence creates uncertainty which is likely to result in compensating behavior.*