

POLICE CIVILIAN REVIEW BOARD

Investigation Report

Internal Affairs Case Number S 2014-0004

Complainant: (Race/Gender)	C- Automatic Review
Alleged Policy Violation:	OIS-Person: Fatal
Subject Officer: (Race/Gender)	S- Off. Bron Crus (H/M)
Subject Officer's Years of Service:	S- 3 years
Date of Alleged Incident:	8/11/14
Date Investigation Requested:	8/11/14
Date Filed with Internal Affairs	8/12/14
Date Investigation Completed:	10/16/14
Panel Members:	Dan Cannon Dale Evans Roger Sandack Ginger Fletcher Glen Greener
Date of Panel Meeting:	10/17/14
Interviews Conducted:	6

It should be noted that the narratives contained in this report are summaries that have been paraphrased from interviews. They should not be interpreted as verbatim transcripts. The narrative is intended to accurately communicate the substance of the major points in each interview.

Synopsis:

The SLCoDA's office (DA) along with investigators from the South Salt Lake City Police Department undertook an exhaustive review of this incident, an Officer-Involved-Shooting (OIS), and publicly provided a letter laying out the evidence and their conclusion. Due to the thoroughness of this investigation, their report will be used as the primary basis of PCRFB's review of the matter. Since this matter has been widely reported upon, including the names of the involved parties, this report will not redact any of the names as they are already in the public eye

as they have been reported upon by all forms of mass media. In some instances, some portions of the DA's letter have been redacted as they are not necessary and/or are repetitive.

The following is a copy of the DA's letter detailing the investigation into the matter:

The Salt Lake County District Attorney's Office ("D.A.'s Office") operates under Utah State law and pursuant to an agreement between the D.A.'s Office and participating law enforcement agencies to perform joint investigations and independent reviews of officer involved critical incidents ("OICI") including police officers' use of deadly force while in the scope of their official duties. Pursuant to the agreement between the D.A.'s Office and participating law enforcement agencies, the D.A.'s Office has reviewed the above referenced matter to determine whether, and if so why, this OICI was "justified" under Utah State law. As outlined more fully below, the D.A.'s Office determined Officer Cruz's use of deadly force was "justified."

On August 11, 2014, Salt Lake City Police (SLCPD) Officer Bron Cruz responded with two other SLCPD officers to the 7-11 at the intersection of 2100 South and State Street in South Salt Lake City, UT. The officers were dispatched on a "man with a gun" call. The officers saw three males matching the description of those who reportedly were recently flashing a gun.

When contacted by officers, two of the males immediately complied with officers' commands to stop and show their hands. One male, Dillon Taylor, did not stop or show his hands. Dillon walked away from officers and placed both hands inside his waistband. As Dillon quickly withdrew his hands from inside his waistband, Officer Cruz fired twice, killing Dillon.

LEGAL CONSIDERATIONS

1. Utah State Code

As part of our review of the OICI and "justification" determination related thereto, the D.A.'s Office relied in part upon the following statutory provisions for the legal analysis:

76-2-401. Justification as defense -- When allowed.

(1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:

- (a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-406 of this part;
- (b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;

76-2-404. Peace officer's use of deadly force.

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

- (a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(3) or (4);
- (b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and
 - (i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

2. Use of Deadly Force and "Justification as Defense" in Utah

The use of deadly force that results in a person's death falls within the statutory obligation imposed on the District Attorney to determine whether a decedent died by unlawful means.¹ The District Attorney also determines whether acts causing a person's death warrant prosecution. A District Attorney determination considers whether a person who caused the death of another nevertheless has a legal defense to prosecution. If a person who caused the death of another has a legal defense to ostensible criminal charges related thereto, no charges can be brought against that person.

One legal defense to potential criminal charges available to police officers who used deadly force and caused the death of a person is the legal defense of "justification." This legal defense is found in Utah State Code set forth above and operates in conjunction with other legal authority.

A person's use of deadly force (including but not limited to use of deadly force by peace officers) is "justified" when the use of deadly force conformed to the statutes referenced above. Persons may lawfully defend themselves under circumstances outlined by law, and are afforded the legal defense of "justification" for the lawful use of deadly force in accordance with statutes.

Utah Code Ann. 76-2-402 states that a "person is justified in threatening or using force against another when and to the extent that the person reasonably believes that force or a threat of force is necessary to defend the person or a third person against another person's imminent use of unlawful force." *Id.* This section also states: "A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force, or to prevent the commission of a forcible felony²." *Id.*

In addition to the use of deadly force in defense of self or others, a peace officer's use of deadly force is "justified" when: "effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or the officer has probable...

1 U.C.A. 26-4-21. Authority of county attorney or district attorney to subpoena witnesses and compel testimony--Determination if decedent died by unlawful means.

(2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

2 U.C.A. 76-2-402(4)(a): "For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property." cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person." U.C.A. 76-2-404

In essence, the analysis for the use of deadly force to prevent death or serious bodily injury (whether by individuals or peace officers) turns on similar elements. Use of deadly force by *individuals*: "A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force" U.C.A. 76-2-402(1)(a),(b). Use of deadly force by *peace officers*: "the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person," or to effect an arrest under circumstances set forth in law. See, U.C.A. 76-2-404. A peace officer's use of deadly force is "justified" when that the officer "reasonably believes" that the use of deadly force is "necessary to prevent" the threat of "death or serious bodily injury."

This OICI investigation and our review that followed was conducted in accordance with an OICI investigation protocol previously established. The OICI investigation protocol strives to establish an investigation methodology and process that provides the District Attorney with the evidence needed to determine whether a police officer's use of deadly force conformed to the above referenced statutes. If the use of deadly force conformed to the statutes, the use of deadly force is "justified," and the legal defense of "justification" is available to the officer such that criminal charges cannot be filed against the officer and the criminal investigation into the actions of the officer is concluded.

If the use of deadly force does not conform to the statutes above, the use of deadly force may not be "justified," and the legal defense of "justification" may not be available to the officer.

In other words, if the use of deadly force failed to conform to the statutes, the law does not afford the officer the legal defense of "justification." Further investigation may be needed to determine whether, and if so which criminal charges can and should be filed against the officer if any. Just because the legal defense of "justification" may not be available (because the use of deadly force did not conform to the statutes) does not therefore necessarily mean that criminal charges are warranted against the officer. For instance, the evidence available to the District Attorney may not support criminal charges, the case may not have a reasonable likelihood of success at trial, or other reasons may preclude a prosecution. Again, further investigation and consideration may be required to determine whether the use of deadly force warrants criminal charges.

The OICI protocol does not address the structure or organization of a criminal investigation into an officer's use of deadly force, nor does it address the District Attorney's prosecution screening and filing standards of criminal charges. The protocol

also does not establish an investigation into police department policy violations, tactical decisions, excessive force claims, civil liability or other ways to ostensibly measure the propriety of an officer's use of deadly force. The OICI investigation protocol only strives to establish an investigation methodology and process to determine whether the use of deadly force conformed to the statutes set forth above in order to determine whether the use of force was legally defensible as "justified."

FACTS

Investigators from the South Salt Lake City Police Department and the D.A.'s Office jointly investigated the OICI. Facts developed during the investigation were presented to the D.A.'s Office, many of which are set forth below. Should additional or different facts subsequently come to light, the opinions and conclusions set forth herein may likewise be materially different.

1. A 911 Caller Reports Men With a Gun

On August 11, 2014, a caller phoned 911 to report her claim that three males were walking in the area of 1900 South and 200 East in Salt Lake City, UT. A transcript of the 911 phone call is attached as Appendix A. The 911 caller claimed that she had seen three males walking down the street and acting suspicious; she said it looked to her like the males were "looking for trouble." The caller described their physical appearance, including their clothing. The caller claimed that one of the men was "flashing" a gun while he walked down the street. The caller said that the three males were walking southbound on 200 East towards 2100 South.

A police dispatcher informed SLCPD patrol officers of the call and relayed the claim that that at least one of men was seen flashing a gun. SLCPD Officer Bron Cruz was on patrol in the area and acknowledged the call. Police dispatchers assigned the call to him.

Because Officer Cruz was concerned about the claim of a gun, and knew that there were three potential suspects, Officer Cruz asked dispatch to send him backup patrol officers to assist him with the call. Shortly thereafter, SLCPD Officer Uppsen Downs and Officer Andrew Sylleloglu acknowledged that they were backing up Officer Cruz and traveling to his location.

2. Police Officers Identify the Suspects

Officer Cruz drove his marked patrol car to the area of State Street and 2100 South, which borders the cities of Salt Lake City and South Salt Lake City. When he arrived in the area, Officer Cruz saw three males matching the description dispatch sent out about the men who ostensibly had a gun. Because his backup officers had not yet arrived, Officer Cruz waited before engaging the men and watched as the men crossed State Street at 2100 South.

Officer Cruz said that as the three men crossed State Street, he saw them interact with a vehicle that had stopped for the red light on State Street. Officer Cruz said he saw the male in the white shirt (subsequently identified as Dillon Taylor) go to the driver's side of the vehicle and gesture. Officer Cruz said he could not tell whether Dillon was threatening or disturbing the driver. Officer Cruz said while Dillon was interacting with the driver, the other two males were "throwing their hands in the air, kinda making a big scene." Officer Cruz said the interaction lasted perhaps five to ten seconds, after which the males walked into the 7-11 convenience store at the intersection of State Street and 2100 South.

Officer Cruz said that as the men walked into the 7-11, Officer Downs and Officer Sylleloglu arrived in the area. Officer Sylleloglu said he would stage in the area and the officers would wait for the men to leave the 7-11; officers felt that confronting the men inside the 7-11 was not wise due in part to the concern that one had a gun. Officer Cruz saw the three men leaving the store. The officers drove their patrol cars to the 7-11 parking lot and arrived at about the same time the three men came out the door and walked into the parking lot. Each patrol car was marked as a police car and had the emergency overhead lights flashing. Each officer was in a patrol uniform and readily identifiable as a police officer.

The officers and the men encountered each other near the northeast corner of the 7-11.

All three officers got out of their patrol cars and walked towards the men. Two males (subsequently identified as Jerrail Taylor, Dillon's brother and Adam Thayne, Dillon's cousin) immediately stopped walking and raised their hands. Dillon turned and walked away to the west. Officer Cruz and Officer Sylleloglu followed Dillon as he walked away. Officer Cruz was behind and following Dillon; Officer Sylleloglu was perpendicular to Dillon to the north.

3. Dillon Taylor Does Not Comply with Officer's Commands

As Dillon and the two officers walked westbound, Officer Sylleloglu pointed his handgun directly at Dillon and repeatedly ordered Dillon to stop and to show his hands. Dillon looked directly at Officer Sylleloglu and continued walking westbound with both hands down the front of his waistband. Officer Sylleloglu said he could see what looked to him like Dillon reaching for something inside his pants. Officer Sylleloglu subsequently said he believed that Dillon was reaching for a gun.

As Dillon continued to walk away from the officers, both Officer Cruz and Officer Sylleloglu repeatedly ordered Dillon to stop. He did not. Dillon walked away with his back to Officer Cruz; Officer Cruz said he saw Dillon put one hand and then both hands in front of him and (to what appeared to Officer Cruz from his vantage point) down the front of his waistband. Officer Cruz repeatedly ordered Dillon to show his hands. Dillon did not comply.

3 OICI protocol investigators could not conclusively explain Dillon's behavior or why he failed to comply with officers' commands in the manner he did. Investigators found two Facebook posts on Dillon's Facebook page.

They read: *(Redacted but available for review)*

Dillon's Facebook post mentions an arrest warrant, and OICI protocol investigators found that Dillon had an active arrest warrant issued for an alleged probation violation.

And, as noted elsewhere, Assistant Medical Examiner Erik A. Christensen post-mortem examination of Dillon's body revealed that Dillon's blood alcohol level was 0.18%.

Officer Cruz was not aware of this information at the time of the shooting and is not considered in our review of Officer Cruz's beliefs at the time he decided to use deadly force. However, possible explanations of Dillon's motives are relevant to offer some insight into perhaps why Dillon behaved the way he did during the encounter with the police. We acknowledge that other alternative, reasonable explanations for Dillon's behavior may explain his actions. However, Dillon's motives are not directly relevant for our determination, since we consider Officer Cruz's beliefs at the time of the incident.

with these commands, either. Instead, Dillon turned around and faced Officer Cruz and continued to walk away, now stepping backwards while facing Officer Cruz. Officer Cruz said he could now see that both of Dillon's hands were down into his waistband and could see Dillon moving his hands in what appeared to be an effort to obtain a gun in his pants.

Officer Cruz said he repeatedly ordered Dillon to show his hands. On Officer Cruz's body video camera, Dillon can be heard saying: "No, fool" or "Nah, fool." Very shortly thereafter, Dillon quickly raised his left hand from inside his waistband and lifted his shirt level with his left armpit. He quickly brought his right hand out, too, lower than his left.

Within a fraction of a second later, Officer Cruz fired his handgun twice in very quick succession, hitting Dillon in the chest and abdomen.

Dillon immediately fell to the ground and landed on his chest, bleeding profusely. Officer Cruz secured Dillon's hands with handcuffs. Officer Cruz called "shots fired" over the radio and requested immediate medical attention for Dillon. Officer Cruz tried to provide live saving first aid, but Dillon expired from the gunshot wounds.

Officer Downs secured Jerrail Taylor and Adam Thayne and placed them in patrol cars while the scene was secured. SLCPD and SSLPD officers arrived to assist with the scene management and OICI protocol investigators were notified and responded to the scene.

4. OICI Scene Investigation

OICI protocol investigators inspected the scene and collected evidence. Investigators also inspected police officers' weapons. Investigators found that Officer Cruz's handgun was down two rounds and his other magazines were full. Unified Police Department crime scene investigators⁴ recovered two spent 9 mm cartridge casings and booked them into evidence. The two spent casings were consistent with the remaining ammunition found in Officer Cruz's handgun. Investigators found that Officer Downs' weapon and Officer Sylleloglu's weapon had not been fired during the incident.

OICI protocol investigators searched Dillon's body, clothing and immediate area around Dillon. Investigators did not find a weapon on or near Dillon or evidence that Dillon had a weapon when he was shot.

5. Witness Statements

OICI protocol investigators interviewed Officer Cruz about the incident. Relevant portions of the interview are included in Appendix B. As set forth in more detail in his interview, Officer Cruz explained that he believed Dillon was reaching for a gun and was going to shoot Officer Cruz and the other officers when Dillon quickly drew his hands from his waistband.

⁴ Unified Police Department crime scene technicians' assistance was requested by South Salt Lake Police Department.

OICI protocol investigators interviewed Officer Sylleloglu about the incident. Officer Sylleloglu said he saw Dillon walking away from the 7-11. Officer Sylleloglu said he ordered Dillon to stop several times. Officer Sylleloglu said Dillon did not stop but looked right at Officer Sylleloglu and continued walking away. Officer Sylleloglu said he saw

Dillon reaching into his waistband and heard Dillon verbally taunting officers as he walked away.

Officer Sylleloglu said he believed Dillon was reaching for and going to quickly produce a gun. Officer Sylleloglu said he would have shot Dillon had Officer Cruz not done so because he believed that Dillon presented an imminent threat of death or serious bodily injury to the officers.

OICI protocol investigators interviewed Officer Downs about the incident. Officer Downs said he saw Dillon with both hands down the front of his waistband. Officer Downs said he heard Officer Cruz and Officer Sylleloglu both shouting commands to Dillon. Officer Downs said he saw Dillon make a quick move like he was going for a weapon. Officer Downs said he heard gunshots but did not see who shot.

OICI protocol investigators interviewed Jerrail Taylor. Jerrail said that he, Dillon and Adam were at the 7-11 when police officers arrived. Jerrail said that he heard officers yelling commands to Dillon. Jerrail said that he believed Dillon heard the officers' commands. Jerrail said he thought Dillon was pulling up his pants when Dillon was shot. Jerrail said none of the three of them had a gun during or immediately before the incident.

OICI protocol investigators interviewed Adam Thayne. Adam said that he saw Dillon walking away from the police officers in front of the 7-11. Adam said he heard officers shouting commands at Dillon to stop. Adam said he heard gun shots and saw Dillon fall. Adam said he did not see who shot. Adam said that given Dillon's actions, Adam could see why officers thought Dillon had a gun.

Other witnesses were interviewed; however, none of the other interviewed witnesses saw the shooting. Some witnesses saw events following the shooting. Their statements were preserved by OICI protocol investigators.

6. Video Recordings

Officer Cruz was wearing an Axon Body Camera during the OICI. Officer Cruz activated the camera during the incident and the camera captured the events prior to, during and after the shooting. OICI protocol investigators inspected the video recording and the accompanying time code indicators embedded in the recording and found the video to be intact and authentic in that it appeared the video had not been tampered with or otherwise compromised.

Officer Sylleloglu was wearing an Axon Body Camera but did not activate it in time to record the shooting. Officer Downs was not wearing a camera. None of the patrol vehicles' dash cameras captured any of the incident. OICI protocol investigators recovered the 7-11 store indoor surveillance camera recording and reviewed the relevant portions. The recording does not capture the shooting; video footage shows Dillon, Jerrail and Adam inside the 7-11 and them leaving the store. The recording also shows Jerrail and Adam reacting to the gun shots.

OICI protocol investigators canvassed the surrounding business and buildings in an effort to determine whether surveillance cameras captured the incident. Investigators did not find any other surveillance video of the incident.

7. Medical Examiner's Findings

Dr. Erik D. Christensen, M.D., Assistant Medical Examiner performed an autopsy and forensic examination of Dillon Taylor's body. Dr. Christensen found that Dillon died from a penetrating gunshot wound to the chest and abdomen. Dr. Christensen noted that it appeared that two bullets hit Dillon; the bullet that hit Dillon's abdomen also appeared to have struck Dillon's left hand. This injury is consistent with Dillon's raised left hand when Officer Cruz fired.

Toxicology tested performed on Dillon's body showed his blood alcohol content at the time of his death was 0.18%. For reference, this blood alcohol level is more than twice the legal limit to operate a motor vehicle in the State of Utah.

DISCUSSION

1. Officer Cruz's Beliefs.

Our review of whether Officer Cruz's use of deadly force was "justified" considered whether Officer Cruz "reasonably believe[d] that the use of deadly force [was] necessary to prevent death or serious bodily injury to the officer or another person." U.C.A. 76-2-404. To determine whether Officer Cruz's beliefs were reasonable, we considered those things Officer Cruz knew, believed, sensed, perceived, etc. at the time of the incident. Our review included a review of Officer Cruz's body camera which recorded the incident. Also, Officer Cruz recounted what he did and why in an interview about the shooting conducted by OICI protocol investigators.

Relevant portions of his interview are included in Appendix B.

As Officer Cruz explained in his interview, dispatchers advised him of a report of men with a gun walking down the street. From the outset, Officer Cruz believed that at least one of the men he would encounter would be armed. And the 911 caller reported that one of the men was "flashing" or displaying the weapon. Officer Cruz was concerned for the safety of the public as well as the officers and himself in encountering these individuals.

Officer Cruz's concern about the gun was evident when he requested back up officers and waited for them to arrive. Officer Cruz's concern was heightened when he observed Dillon engage in an exchange with a driver on State Street, and saw Dillon's companions creating a ruckus. Because of these concerns, Officer Cruz elected not to go into the 7-11 to confront the men but waited until they came outside.

Officer Cruz said that his concerns were heightened when Jerrail Taylor and Adam Thayne immediately raised their hands when officers first contacted them outside the 7-11. Officer Cruz explained that to him, their immediate compliance and raising their hands confirmed to Officer Cruz that a gun was indeed involved in the situation; Officer Cruz said that he interpreted their raised hands as an indication that neither of them had a gun. Officer Cruz said he therefore believed that Dillon had the gun.

Officer Cruz's belief that Dillon had a gun was reinforced by Dillon ignoring officers' commands and walking away. Officer Cruz explained that he was even more concerned that Dillon wasn't trying to run; Officer Cruz said he believed that Dillon was just trying to put some space or distance between him and the officers. Dillon's calm behavior worried

Officer Cruz and reinforced to him that Dillon was about to take action against the officers.

Officer Cruz's concerns were compounded when Dillon's hands went down into the front of his waistband. Officer Cruz said that Dillon's hands disappeared and seemed to be reaching for something. Referring to Dillon's hands, Officer Cruz said: "They were just completely wrist-deep in his pants. He wasn't pulling up his pants. He wasn't in his pockets. He was completely wrist-deep in his pants...." Dillon's actions confirmed to Officer Cruz that Dillon was armed. Officer Cruz said: "[H]e wasn't just hiding his hands. He was, he was digging at something. He was manipulating something. I knew there was a gun in those pants."

Reinforcing Officer Cruz's belief that Dillon had a gun was the look Officer Cruz said Dillon gave him. Officer Cruz said that Dillon looked at him with "complete, total defiance in his eyes." Officer Cruz said that Dillon's look of defiance added to Officer Cruz's belief that Dillon was reaching for a gun and trying to draw it from his waistband.

As Dillon quickly drew his hands from his waistband, Officer Cruz said: "I was scared to death. The last thought I had go through my mind when I pulled the trigger; and I'll never forget this. Was ah, was that "I was too late. I was too late." And because of that I was gonna get killed.

Worse, my officer was gonna get killed."

2. Dillon's Actions Created a Reasonable Belief that Deadly Force was Necessary

When Officer Cruz first saw Dillon, Officer Cruz saw what he thought could be Dillon confronting a driver and Jerrail and Adam creating a ruckus.

From the moment Officer Cruz and the other officers encountered Dillon, Jerrail and Adam, Dillon's conduct was different from the others. Dillon's noncompliance drew officers' attention to him and caused them to respond to Dillon's behavior. And the way in which Dillon failed to comply with officers' commands reinforced Officer Cruz's belief that Dillon had a gun and was trying to get it out of his waistband to use it against the officers.

As Dillon walked away from the officers, the officers wanted to stop Dillon and determine whether Dillon had a gun, whether he was a public safety threat, whether he was in violation of the law, etc. Rather than comply with officers' commands to stop and show his hands, Dillon continued to walk away and demonstrably and verbally refuse to comply. And Dillon's defied the officers' orders in spite of both officers pointing their weapons at Dillon. All of Dillon's acts to that point led officers to believe that deadly force may be necessary to defend themselves. Dillon's final act of quickly raising his left hand and shirt, and quickly withdrawing his right hand from his waistband reasonably caused Officer Cruz to use deadly force in defense of himself and others.

CONCLUSIONS

As events unfolded, Officer Cruz's belief that Dillon Taylor was armed with a gun and intended to use it against the officers was reinforced by Dillon's actions and the acts of others. By the time Dillon drew his hands from his waistband, Officer Cruz's belief that Dillon was presenting a weapon (and that Dillon would use the weapon against the

officers) was reasonable. As such, we conclude that Officer Cruz's use of deadly force was "justified" under Utah State law.

If you have any questions or concerns regarding the determination made in this case, or otherwise wish to discuss the matter, please feel free to contact our office to set up a personal meeting.

Very Truly Yours,

SIM GILL,
Salt Lake County District Attorney

APPENDIX A

911 call received on August 11, 2014 at approximately 7:00 p.m.

911: "911, what's the address of your emergency?"

CALLER: "[garbled] not sure if it's an emergency, lady; look, I just saw some gangbangers, they're walking up second east, they're almost to twenty first south. Um, the guy in the red hat has a gun. [garbled] red hat, dressed all in red..."

911: "[multiple voices] hold on, hold on; where are you right now? Cause you're almost to twenty first south?"

CALLER: "I'm, I'm on, I'm on twenty, I'm on nineteenth south and second east but the guy flashed a gun [garbled] flashed a gun as he was walking by."

911: "Ok but you're on nineteenth south and what, what's the street you're on?"

CALLER: "Second east. Two hundred east."

911: "Two hundred east, ok. And what's..."

CALLER: "Ok, [unintelligible] are almost to twenty first south and second east, they're walking up the road."

911: "Ok what's the phone number you're calling from in case we're disconnected."

CALLER: "Um, you know what? I don't wanna [unintelligible] they just walking in the road. I, they have weapons, they're looking for trouble. That's all I see, ok [unintelligible] [multiple voices] I'm just reporting it because it looks suspicious."

911: "Did he threaten you or anything like that or did he just flash it?"

CALLER: "Yea, I just seen a gun as he walked by."

911: "Ok, but again did he make threats at you, did he threaten to shoot you or..."

CALLER: "No, he did not threaten me in any way. I just saw it as he was walking by."

911: "Ok give me just one second. You said he's almost to twenty first south?"

CALLER: "They're all basically at twenty fir... I'm watching them walk down the road. They're basic, they are basically at twenty first south and second—two hundred east."

911: "Ok, and when did this happen?"

CALLER: "Uh, I'm, I'm watching them walk up the road, so, um, I don't know: three or four minutes ago? But they're obviously looking, looking for trouble, just the way they look. There are three of them, um...there's one in uh, that's all dressed in red, he's got a red baseball hat, there's another one [garbled]."

911: [multiple voices] "Ok hang on real quick, ... where was the weapon? Was it in his waistband, was it in his hand?"

CALLER: "Uhh, waistband? [talking to another person] he, he pulled it out of his pocket."

911: "Ok, so where, where is it now?"

CALLER: "Um, you know what, he's on twenty first south and second. [multiple voices]"

911: "Ok, I understand ... ok but I need to know where, where the weapon is. Where did he put the weapon? Did he put it back in his pocket?"

CALLER: "It was in his pocket."

911: "Ok. Have shots been fired?"

CALLER: "No."

911: "Ok, what direc...you said he was, what race was he: Hispanic, white, black?"

CALLER: "Um, black? No, no, Mexican, right? Mexican [unintelligible], Mexican- American."

911: "Ok, about how old was he?"

CALLER: "Ummm, twenty."

911: "Ok, he was wearing all red?"

CALLER: "Yea, he's all in red, he's got a white baseball cap. Ok, white tee shirt, sorry. He's walking with two other, uh, um [unintelligible]."

911: "Ok, so he's wearing a white tee shirt, red pants? Or...?"

CALLER: "Yea, white tee shirt, white pants and a white baseball hat. He's walking with another kid that's in a striped shirt... "

911: "Ok what race is he [multiple voices]?"

CALLER: "They're all Mexican-American."

911: "Ok, the second one with a white shirt, a striped shirt what [unintelligible]"

CALLER: "Yea, ok, they just turned right towards State Street."

911: "Ok about how old [multiple voices] striped shirt?"

CALLER: "Uh they're all, uh, it's hard for me to guess, um, yea [unintelligible] twenty to twenty-five."

911: "Ok are you or anyone else in immediate danger?"

CALLER: "No, not..I just thought I had to report this. It looked suspicious."

911: "Ok, do not put yourself in danger, we'll have officers dispatched to check the area as soon as possible. Just call us back immediately if anything changes, you have any further information, ok?"

CALLER: "Ok, thank you."

911: "Alrighty, bye."

APPENDIX B

Det. Hermansen: Um, can you tell me the details of the call, ah, you were sent on, on August 11th?

Bron Cruz: (Inhales) Yeah. Um, (pause) I was, ah, (pause) it was a man with a gun. I was, ah, 24 South and 50 East. And I was headed east bound. I was gonna go see Blake over at Westminster College.

It was just a simple theft investigation. Um, and it was a, a Triple B came over the air. And it's, we know that to be a priority call in progress.

Det. Hermansen: Hmm Hmm.

Bron Cruz: Dispatch said that it was a (pause) man with a gun and (pause) um, said that, ah, a group of males someone, one of them had a hand gun that he brandished. And a caller called in and made this complaint. Um, on 911. Um, I was right there. I was in the area. Call came out at 21st South and 2nd East. Just a couple blocks west of me.

Um, and so I turned around and I called "in the area," um, and I knew when I turned around that I was gonna run into, into these guys that; they gave, ah, two descriptions. (Paper shuffling) (pause). And it was very distinctive descriptions, I remember that.

One had striped pants. Were both males. Well, (pause) and they gave two descriptions; both males. One of them had striped pants. Um, and the other one had a red shirt.

Um, and again, for what we do, um, that's pretty distinctive, ah, description. Especially to be so close in the area. I, like I said, I turned around just being a couple blocks away there was no doubt that, that I was gonna run into these guys.

Um, I flipped around and, ah, and I saw them. There they were. They were on the south side of the street I first saw them at, about 150 East, 21st South. And there were three of them. They were all together. (Sniffs) And they were walking west-bound. (Sniffs) Um, (pause) soon as I saw them I took off my seat belt, just out of training and practice.

Um, and I knew that I wasn't gonna stop these guys by myself or try to. Um, because I believed, I had ever reason to believe um, there was a gun involved. And that's what I was told. That's what our caller told us. Um, I called out, I said, "I have eyes on them and I'm staging the area till I get some more units here."

(Pause) They're, everyone else was tied up. (Pause) Downs' cleared. He said, he said, um, "Come help you out?" Then Glue said, I don't, (mumbled), you know, I'm not real good at pronouncing his name so like we would call him Glue. (Sniffs) And he said, "You want some help?" (Pause) I said, "Yeah." (Pause) "Come." So they were both in route and I just staged, staged back. Sorry. Staged back, about a block, so I kept eyes on them. (Sniffs) I don't believe they saw me but I don't know. Then they continued to walk (sniffs) as described. West bound on the south side of the street 21st south. (Pause) Um, they were all together. They remained together that whole time. Um, (pause) they made it to 21st South and State Street, where they proceeded to cross the street. At this point I had traveled west-bound through the intersection and ah, pulled into this Subway parking lot that was just ah, just north across the 7-11, where I staged right there and continued to keep eyes on them.

(Pause) Um, and, ah, when they were in the crosswalk, cause they were crossing the street I noticed that, ah, (pause) (sniff) so I gave the two descriptions. The third one, the third description was a male and was white in a white shirt. And he had jeans; all had jeans on, I believe. Except those striped pants I'm not sure what those were.

Um, and they all three pro- proceeded to cross the street, west-bound. In the crosswalk. (Sniffs) Um, and the, the, male in the white shirt, he stopped and he went up to a car that was stopped there at the red light, traveling; would have been traveling north bound.

And he went to the driver's side and did some kind of hand, hand, I don't know if it was a greeting. I don't know if they were exchange- I don't know what it was. I couldn't see that well.

Um, but I thought that was kinda odd. I didn't know if it was a disturbance. If he was harassing the driver? Um, but the other two kinda were just throwing their hands in the air. Kinda making a big scene. Um, talking, maybe yelling just looked like a distraction or a scene.

Um, and that, lasted, you know five, ten seconds. I don't know and then they continued to walk across the; finish walking across the street. Um, and they cut a, through the parking lot of the 7-11. And, ah, and I saw them heading towards the 7-11 and soon as they were heading into the 7-11 my other two officers called "in the area."

And, ah, Glue said, "I'll stage," ah, he says, "We're not gonna, you know they're going in the 7-11 um, we need to stop them. We'll stop them when they come out." You know, we're not gonna, we're not gonna go after them in the 7-11. It's not smart.

Um, so, again, I was still parked across the street in the Subway parking lot. And Downs came over right next to me. (Sniffs) And Glue staged west bound like he had said. Um, and I called out their descriptions over the air for them. I said, "You know, we have one in, one in stripes, ah, pants. One in a red shirt. And the third one had the white shirt." They were together the whole time. (Paper shuffling) They never split up.

(Pause) Um, and together they walked in the 7-11 and my car was facing them, across the street and down. So this was just to my left. And then we rolled down our windows and we talked about how man, we really hope those guys don't rob the store. Um, and, ah, probably a minute or two they were inside. And just like they had walked in together, they walked out.

(Pause) (sniffs) They walked out together. And I said on the air, I said, "They're coming out." And Downs and I both went across the street (sniffs). I anticipated I, I had the south position and for reasons I can't explain Downs; he said, "I'm going out back." Um, as these three just walked straight out into the parking lot. (Sniffs)

Um, and so he just kept driving. (Pause) (Choked up) He drove around the building but I felt, felt good when I saw Glue. He pulled up, and kinda pulled up on a V right in front of them.

And we initiated our lights (sniffs) (emotional) turned on our emergency lights and when we did that (pause) for a split second I felt a little bit better about the situation. Cause ah, we stopped the car. We turned on our lights. Got out of my car and when we did that the two; man in the stripedsh- pants and the man, I think he was in the middle, with the red shirt, they both, I mean, all three of them looked at us.

But what eased tensions in my mind, slightly just because they all lined up perfectly for us. They were all perfectly lined up and that made me feel so good inside. All their hands were just down at their sides. I could see their hands and the tension just, I just felt it go down for a split second. They're perfectly lined up like I wouldn't have lined them up better myself. Just one, two, three right in a row. West, east to west.

I could see their hands. I got out of my car and, ah, I didn't have my gun drawn when I got out of the car. I didn't. Um, and the two; striped pants and red shirt they both put their hands up. When I got out of my car we said, "Stop." That's all we said. That's all I said was, "Stop."

And it scared the crap out of me when those two raised their hands. Like, they knew a gun or weapon was involved, that's the only time they do that. They never put their hands up like that. Those two put their hands straight up in the air and that confirmed to me, even more, there was a gun involved.

Those two, those two; striped pants and red shirt, they both put their hands up in the air. And all I said was, "Stop." And when, simultaneously, when they put their hands in the air? White shirt, suspect in the white shirt? He looks right at me for a split second he turned around and he starts walking off.

Um, and, ah, that wasn't the bad part. The bad part was his hands, his hands disappeared. That was when I knew something was gonna go bad. Um, cause he looked right at me, um, with complete, total defiance in his eyes. Um, and when his hands disappeared that's when I drew my gun. Because I knew his hands, they were like this through his waistband.

(Pause) And the way he looked at me? And then turned around? There was no doubt in my mind what he was doing with his hands. Um, (pause) and it scared me even more that he wasn't running away. (Exhales) He wasn't trying to run away. He was buying time. He was buying time and he was creating distance. That's all he was doing. Very calmly walked away. With his hands right in his waist band.

(Sniffs) And, ah, one-hundred-percent of my intention at that point after I saw who was compliant and the actions of the male in the white shirt? 100% of my attention went to the male in the white shirt. For better or worse probably. I wish I had another couple guys to watch those other two but their eyes looked harmless. And their compliance and with, my attention was focused on the male in the white shirt.

Again, I had drawn my gun as soon as his hands disappeared. And I started yelling at him. As loud as I could. As loud as I could I said, "Let me see your hands." With the most, as much seriousness as I could. Serious and as loud as I could I yelled at him and I said, "Let me see your hands."

And I was 100%, 100% convinced when I saw him turn around that it was gonna be a gunfight. (Emotional) I knew he had that gun that he'd be trying to kill us. (Pause) But I wasn't about to shoot him in the back. I wasn't about to. So I wanted to know. I wanted us both to know (paper shuffling) we both knew what was going on in that situation right there.

He kept walking and I paced after him. Just kept, kept distance. My gun was trained on him. Standard Apps. (Emotional) Um, and he continued. His hands, completely non-responsive. Non-responsive. I heard Glue, five to seven feet off to my right I could see him in my peripheral. He was yelling at him, too. "Show us your hands. Stop. Show us your hands."

Um, and he turned around. He didn't stop. He never stopped. He turned around. Um, and it was only worse because his hands (sniff) they were dove in his pants. They were just completely wrist-deep in his pants. He wasn't pulling up his pants. He wasn't in his pockets. He was completely wrist-deep in his pants and he wasn't just warming up his pants, his hands on a cold day. Wasn't even cold.

Um, he wasn't just hiding his hands. He was, he was digging at something. He was manipulating something. I knew there was a gun in those pants. And, ah, at that point I mean, my gun I've had it, center-massed, trained on him and I was yelling at him and he was looking directly at me, directly at my eyes. And I looked directly in his eyes. And he looked at me like, "You're not gonna. You're not gonna stop me." Um, "And I'm gonna kill you guys."

And I, I think he said something. I don't remember what he was saying. He was yelling, "You make me." Or, "You can't make me," or some crap. I, I can't remember. But we yelled at him. I yelled at him with every, as loud as I could, "Let me see your hands. Let me see your hands." And he looked down the barrel of my gun. It just felt like an eternity. Um, and he, he didn't. He kept digging. He kept digging. Digging. Manipulating something in his pants.

(Sniffs) And I knew (exhales) he, he was ju-; he'd already made up his mind and he just (sniffs) (pause) I was just giving him time to just kill one of us. Um, don't know if the gun was caught or if it was falling down? Or I, I don't know. He was taking off the safety? I don't know what he was manipulating something.

It was, this was something that the scenario we'd gone over dozens of times in training. You know, you have reasonable belief that somebody's armed and you can, can't the hands? We were taught the hands are what kill you. (Emotional) (Pause)

And I knew that was a deadly force situation. No doubt in my mind. (mic moving sounds) no doubt in my mind. I needed to see his damn hands. I couldn't take the chance of him shooting my officer or shooting me.

(Emotional)

And, ah, and after I yelled at him for what felt like an eternity with my gun trained right on him he did nothing but keep digging at that gun in his pants or whatever the hell it was. Without any hesitation. Without any reservation in the world I fired at him. And I would have kept firing until that deadly threat stopped. Fired off two rounds. One after the other and he fell.

I heard Glue yell at me, "He's digging for something." And he was digging for something. And I was convinced. I was convinced that I just that we just saved our own lives. I went directly over to him. The first thing I did was handcuff him. I handcuffed him up. And I didn't know if he was dead or alive. And I knew he was a threat.

Um, as soon as I handcuffed him I was on a knee right next to him and there was a lot of blood. Got on my pants and my shoes and my hands.

And I looked over, I looked back. Glue was just off to my right like he had stayed the whole time and I looked back and Downs was over with the other two and they were still over there. Still over there, like there's just being compliant. They hadn't moved.

And Downs was yelling at them. "Where's the gun? Where's the gun?" Um, (pause) and, ah, (sniffs). Oh, sorry I missed. I called "Shots fired," right after I, I shot those shots. Called "shots fired." Probably should have said more than that cause I'm sure I scared the hell out of my sergeant and everyone else.

(Sniffs) But all I could feel I had time for was "shots fired." And I ran over to him. I handcuffed him. Um, and he lost a lot of blood. Um, I laid him up on his side. He was bleeding out of his mouth, bleeding out of his stomach. I looked up his shirt, I frisked him just real, just s-s-s-so, I mean, just so quick. There was a lot of blood.

I frisked his waist band and I couldn't feel a gun. Again, I didn't if it had fallen down his pants. I didn't know what the hell but I just for a few seconds I frisked him and I didn't feel a gun. Um, pulled up his shirt and his right abdomen about; gunshot wound was bleeding pretty bad.

And it, so I got on my gloves out to get them out of the way. I carry a quit clot with me and I tried to do some first aid on him. I called out for medical. I mean right when I, right when I shot him, that was probably the second traffic I had. After "shots fired."

You know. "Hey, we have medical here. We need medical here, now. He's not conscious. He's not breathing." (Sniffs) And they felt like they took an eternity but I held that quit clot on that wound. I just saw the one, originally. The one on his abdomen; the gun shot.

Um, and I couldn't feel a pulse and he didn't look like he was breathing. I think he was dead instantly. If not, within a minute. And the troops started showing up and everybody started helping, taking a role. Um, (pause) I, ah, (pause) pull up his shirt a little bit more. Downs came over and he was like, "Well, you know I mean how, how many did you fire?"

Um and I was like, "There were two shots. I know there were just two shots." And he wanted to make sure they were both on him and I pulled up his shirt a little bit more and one was in the middle of his chest and that one wasn't bleeding though. I tried talking to him and you know, "Hey, stick with me. Stick with me, man."

Um, I didn't want that kid to die. Um, but he was non-responsive there was no response. There was nothing. Um, medical showed up. My sergeant got there. She pulled me away and she said, "Hey, you know, we're gonna get you out of here. You know, don't do anything." I had blood, his blood all over my hands; trying to stop the bleeding. Maybe lifting up his shirt for the wounds.

Um, (pause) and, ah, and that was it. He laid there and I got transported over to the station. Everybody else took over. My car stayed there. (Sniffs) Yeah. That was about it.

Det. Hermansen: Um, what did the complainant describe as far as the gun or the, the suspects?

Bron Cruz: Um, again, there were two descriptions. Um, I asked and they left that part out. I asked if we knew, if anyone knew who had the gun.

Det. Hermansen: Hmm.

Bron Cruz: And dispatch said "No, we don't know."

Det. Hermansen: So it could have been any one of them?

Bron Cruz: It could have been any of the three.

Det. Hermansen: Okay.

Det. Hermansen: Um, you said on first contact two of them complied. Put their hands up just when you said the word, "Stop"?

Bron Cruz: Yes.

Det. Hermansen: But the third one looked at you- in the white shirt?

Bron Cruz: In the white shirt.

Det. Hermansen: And he kept walking?

Bron Cruz: He looked directly at me and ah, he turned around and walked off with and his hands, his hands is what, his hands is what did it.

Det. Hermansen: You said that he, ah, looked at you with defiance?

Bron Cruz: Yeah. He looked at me like, ah, he, I mean I don't know how to explain it.

Um, you know, but you can tell when you look into somebody's eyes when you're working with them. Um, that's when you know it's, it's, it's ah, it's one of the clues that we have when we're dealing with people.

Um, their eyes can tell you a lot. Um, and his eyes were just complete just 100% defiance. He had this, this, this look on his face like you know?

Like I, ah, hate? Um, um, and ah, like he was, he was not going to do anything that I said. Um, and it was just a horrible feeling. Um, looking at him. Having him, you know just the, it was just horrible. Just hate, defiance, that he had in his eyes.

Det. Hermansen: And you've seen this kinda look before you're saying with, with work related circumstances?

Bron Cruz: I've seen, ah, I don't know that I've seen it like that. I mean, I've seen a type of it before. I've seen it when people aren't gonna comply and they look at you like, "I'll fight you first."

Det. Hermansen: Hmm Hmm.

Bron Cruz: "I'll do whatever I need to do but you're not, you're not taking me down."

Det. Hermansen: Okay.

Bron Cruz: Um, and, and that's, yeah, it was an extreme version of that.

Det. Hermansen: Did the male say anything to you? The one in the white shirt, at that point?

Bron Cruz: Um, when I, the only (pause) (exhales) I remember him talking as he was facing me. I don't, I can't remember if he was face, I, when he was walking away um, I remember him saying, um, I don't remember exactly what he was saying. Something, though, to the effect of, "You can't make me," or "Make me."

Or, I was yelling at him this whole time. I wasn't terribly um, you know. I, I was just yelling at him. You know, non-stop. "Just show me your hands," and "Stop."

Det. Hermansen: Okay. Um, as he starts to walk away you described he, he starts putting his hands in his pants. Can you show that action to me?

Bron Cruz: Yep. As he started to walk away?

Det. Hermansen: Yeah.

Bron Cruz: So, the other two put their hands out, just like this. Um, and, and without any, without any prompting that, this is what they did. Which, again, was very, it was even more concerning. Ah, because people don't do this when we contact them unless we believe they have a gun. Or they're armed.

Um, and as soon as they did that it was pretty much simultaneous in my mind. They did this and again, he looked dead at me and I looked dead at him and as soon as they did that he turns around and this is what I see.

Det. Hermansen: Okay.

Bron Cruz: So his hands, I mean I can see they're going. I see there is a waist band and he's just walking away from me.

Det. Hermansen: And they were at his sides prior to that?

Bron Cruz: Yeah. They were at, all six hands were at the sides prior to that.

Det. Hermansen: Okay. And nothing was in those hands at the time?

Bron Cruz: No.

Det. Hermansen: Okay. Um, as he makes them move the way you described it that indicates to you that that's a problem? What does that mean to you as he puts his hands in front of his waist band?

Bron Cruz: It means everything to me because we had reasonable belief that there was a gun involved. Um, that one of these three had a gun. And then that in combination with the compliance level of compliance, when you turn and walked away and he put his arms in his waist band which is where armed individuals keep their guns the large majority of the time.

Um, like I said, I, there was no doubt in my mind that what, what, you know, what he was trying to do at that point. Or what he was gonna do. Um, I, I believed ah, ah, that he was, that he was in his waist band for a gun.

Det. Hermansen: Okay. Um, then he turns around to you and you actually see his hands in his waist band. Can you show me that?

Bron Cruz: Yeah. I can't, because my, my pants fit me and his were baggy.

Det. Hermansen: Baggy?

Bron Cruz: Like they usually are with people that we deal with when they're concealing things. But, ah, his hands were buried like this in his pants. Buried.

Det. Hermansen: Okay.

Bron Cruz: And like I said he's not just warming them up. I mean, you can see that there's a difference between somebody just casually putting their hands there because we work with people all the time and they're frequently um, inadvertently, a lot of the times, putting their hands into places. In their pockets, or wherever and, ah, so we see that a lot. And that's, that's one thing.

But when they're buried way, wrists deep and he's sh- you know, he's clawing at something then he's this. This is what I see. This is what I see in his baggy pants. This.

Det. Hermansen: Hmm Hmm.

Bron Cruz: They're not just sitting there. They're just digging, digging and he has this look on his face like you know, "Come and get me. I'm gonna fricken kill you."

Det. Hermansen: Hmm Hmm.

Bron Cruz: That's what it was.

Det. Hermansen: Um, (sniffs) through your training you, you've learned that that's a high probability of where a weapon is?

Bron Cruz: Absolutely.

Det. Hermansen: Ah, at the time ah, with the information that was given involving the call the actions of him on the scene um, did you think that he might have had a gun that could have caused the death or serious bodily injury to you or anybody else involved at the scene?

Bron Cruz: I, I was 100% convinced with his actions, with the call, with the information that we had in combination with his actions. The look on his face and what he was doing I was 100% for w-w-w with him looking down a barrel of my gun and me telling, "Sh-sh-show me," yelling at him to "show me his hands."

I was convinced, 100% there was nothing else he was doing. Nothing else he could have been doing than getting a gun t-t-to try and kill one of us. To try and kill somebody. Nothing else. There was zero; nothing else made sense. Nothing else.

Det. Hermansen: And with that thought in mind, how (someone coughs) did it make you feel?

Bron Cruz: I was scared to death. The last thought I had go through my mind when I pulled the trigger; and I'll never forget this. Was ah, was that "I was too late. I was too late." And because of that I was gonna get killed. Worse, my officer was gonna get killed.

Det. Hermansen: Okay, and-

Bron Cruz: And that was the shittiest feeling.

Det. Hermansen: When you refer to that officer. Which one are you referring to?

Bron Cruz: To Glue. Glue was right there.

Det. Hermansen: Glue? Okay.

Bron Cruz: And I was like, "I'm gonna get us killed."

Det. Hermansen: You told me that you fired two shots.

Bron Cruz: Fired two shots.

Det. Hermansen: Um, and the reason you fired is because?

Bron Cruz: The reason I fired at him is because I, I was 100% convinced that he was gonna try and kill us. (Sniffs)

Det. Hermansen: What weapon did you use?

Bron Cruz: I would use my 9mm Glock 17. Full size. Semi-auto.

Det. Hermansen: Did anybody else shoot?

Bron Cruz: No.

Det. Hermansen: Ah, what position were you in at the time of the shooting? Or, or, in relation to him? Um, how far away from him?

Bron Cruz: I was probably m-m- 10 to 12 feet, 12 to 15 feet away from him, something like that would be my best guess. Ten to fifteen feet away from him. Ah-

Det. Hermansen: How bout, ah, Glue? How far was he?

Bron Cruz: Um, he, he would have been the same distance. Again, five to seven feet off to my right is where he would have been. But, but the, the, the- it was about the same distance to the suspect. (Sniffs)

Det. Hermansen: Okay. Um, have you been able to view the video at all from your Axon?

Bron Cruz: No. I Det.

Hermansen: No?

Bron Cruz: I haven't viewed it. I didn't care to.

Det. Hermansen: Um, you said that the actions that he was doing was not even congruent with pulling up pants?

Bron Cruz: Absolutely not. No. There was, there was no confusion.

Craig Hicken: Okay. Um, do you believe the suspect had any confusion as to what you wanted him to do during this?

Bron Cruz: Absolutely not. (Rustling papers)

Craig Hicken: Do you believe the suspect heard you?

Bron Cruz: Yes. There's n- no doubt in my mind he heard me.

Craig Hicken: Why do you say that?

Bron Cruz: Well, he turned around.

Craig Hicken: Okay.

Bron Cruz: And he looked, he looked dead at me. And that's, you know, one of the reasons I, I wanted to see his face. I didn't want there to be no confusion. I didn't want to ever have to know what was going through his mind when I was yelling at him with my gun in his face. Um, and there was, there was no doubt. When he stared at me and he, just looked like he wanted to just kill me and he was, he kept digging for his weapon.

Craig Hicken: Did, um, this individual have ear buds in or head phones on? Anything like that?

Bron Cruz: I never saw any during the whole time when I was kneeling down by him I never once saw any kind of headphones. (Sniffs)

Evidence:

Numerous photographs were made of the scene, along with photographs of Off. Cruz. An autopsy was performed and so there are photographs within that file that are available for review. Additionally, as explained above, there is a videotape of the incident from an officer worn camera that captured the incident. The description provided above is an accurate description of what is captured on the video.

Allegations:

Due to the nature of the incident, an OIS, the allegation to be determined is whether or not the actions of the officer were "Within Policy" or "Not Within Policy".

Definitions

Unfounded: The reported incident did not occur.

Exonerated: The employee's actions were reasonable under the circumstances.

No determination is possible: There is insufficient evidence to support a conclusion as to whether or not the employee violated policy.

Sustained: The employee's action(s) are in violation of the policy or procedure of the Police department.

Analysis and Recommendation:

This investigation noted that various media accounts have reported that Jerrail Taylor and/or Adam Thayne have stated that Dillon Taylor had earbuds in his ear at the time of the incident. Neither Thayne nor J. Taylor provided that information when they were interviewed by the OIS team and in fact Thayne stated he "...could see why officers thought Dillon had a gun." This investigation has no better insight into the possibility that Dillon was wearing earbuds at the time of the incident but Off. Cruz recalled Dillon saying something to him and the videotape confirms Dillon saying something to the officer. This remark has been reported to be something like "Nah fool" or "No fool" but it is not clear enough to definitively report what he said, but it is clear enough to demonstrate he was verbally communicating with the officer. So, if Dillon was wearing earbuds, and there is no supportive evidence that he was, it is reasonable to infer that the volume was low enough that he was able to hear the commands of Off. Cruz. Additionally, the videotape shows Dillon facing Off. Cruz at the time of the verbal exchange and shooting. The accounts also demonstrate that upon initial contact, when all three citizens were in a line, that they saw the officer arrive with Thayne and J. Taylor putting their hands up upon command with Dillon turning his back and walking away from the officers, two of which followed him.

This investigation also focused on what Off. Cruz knew at the time of the incident, not what was known or discovered at a later date. The 911 calls triggered Off. Cruz to respond to the scene about a call of a man with a gun. The fact that three males were involved would definitely increase the tension felt by the officer(s) and reasonably so. When first contact was made with all three of the now suspect parties, two of them immediately complied and one turned and began to walk away. This investigation believes that too added to the tension felt by Off. Cruz as only one person was reportedly armed, and only one person turned his back and began to walk away when challenged by the police. Again, from the officer's point of view, he believed one of the three was reportedly armed and when first contact is made, one of the three began to walk from the scene. Off. Cruz spoke about the threat he felt and how this was manifested in his focus on the hands of Dillon. It has been learned that one of the fired rounds, the one that entered the lower stomach area, first grazed a finger of the hand that was lifting the shirt up. It is most likely that this was the first round fired and seems to confirm Off. Cruz's focus upon the hands of Dillon.

Lastly, there was the suggestion that Dillon may have been simply pulling up his pants which Off. Cruz mistook for a drawing motion. The videotape does not support that explanation as the first hand plainly raised the shirt to well above the navel area of his stomach as the second hand moved towards the belt line. This investigation is unconvinced that Dillon was pulling up his pants as if that is what he was doing it seems much more likely his hands would have gone to his hip area, outside of his shirt, and a pulling motion on the concealed belt line would have been captured on the videotape. The videotape does not show how deeply the hand went into the belt line, if at all, but Off. Cruz's account seems plausible. Off. Downs reported that he too perceived the same threat reported by Off. Cruz and in fact had also made the decision to fire his weapon in protection of himself and others when Off. Cruz fired first.

For the purpose of this review, the issue at hand is: were the action(s) of Off. Cruz reasonable in that he felt in danger for his life, or the life of others, as laid out in the "Deadly Force Policy" contained with the policy manual of the SLCPD?

Panel Findings:

As to the examination of Off. Cruz's actions in this OIS, the Panel makes a finding of Exonerated.



Glen Greener
Panel Chair

10-17-14

Date