

POLICE CIVILIAN REVIEW BOARD

Investigation Report

Internal Affairs Case Number S 2019-0009

Complainant: (Race/Gender)	C- The SLCPD
Alleged Policy Violation:	Excessive Force: OIS
Subject Officer: (Race/Gender)	S- Off. Brandon Rammel
Subject Officer's Years of Service:	S- 3 years
Date of Alleged Incident:	11/3/18
Date Investigation Requested:	11/3/18
Date Filed with Internal Affairs	11/5/18
Date Investigation Completed:	12/11/19
Panel Members:	Kevin Parke Sandra Walsh Catalina Cardona Amber Liechty
Date of Panel Meeting:	12/18/19
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:

This matter has been publicly released by the SLCoDA's office when their letter dated 11/21/19 was released and covered extensively in the media. In this letter, the involved parties were named, with the exception of the citizen witnesses, and so in this report, contrary to our usual procedures, the names of the involved officer and citizen will also be used in lieu of an identifying letter while the witnesses will be identified by two letters.

It should be noted at the onset that this OIS occurred 13 months ago and that CRB followed its longstanding policy of not initiating a review that may, or could, involve criminal charges so as to preserve the 5th Amendment rights of the subject.

The following comes from the SLCPD Policy Manual:

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer faced with the same set of facts and circumstances. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to effect arrest, to prevent escape or to overcome resistance.

(Utah Code 77-7-7). An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit.

These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.4 RESISTANCE AND CONTROL

Force situations are dynamic and require an officer to continually assess the subject's actions to ensure a proper response. Officers will transition to differing degrees or types of force as appropriate.

LEVELS OF RESISTANCE:

A. Cooperative - The subject responds appropriately to the officer's presence and instructions as well as to the way the officer has taken control of the situation.

B. Passive Resistance - The subject, with little or no overt physical actions, refuses to obey the officer's instructions. This behavior can be exercised by verbal objection as well as by intentional physical inertia.

C. Active Resistance - The subject physically resists or physically displays their refusal to comply with the officer's order(s) without being assaultive. For

example, the subject may abruptly step aside to avoid/escape the officer; he or she may overtly walk toward the officer, or on the contrary away from them. To run away is another example of active resistance.

D. Assaultive - The subject attempts or threatens, by an act or gesture, to use force, or uses force against someone else, or leads the officer on reasonable grounds to believe that he or she has the ability to carry out their intentions. For example, the subject may kick or punch, or display threatening body language showing the intention to do so.

E. Serious Bodily Injury or Death - The subject's behavior leads an officer to believe on reasonable grounds that he or she has the intention to, or is at imminent risk of, causing serious bodily injury or death to the officer or another person. For example, the subject may commit an assault with a weapon such as a knife, a bat, or a firearm, or may act in a manner likely to cause serious injuries to an officer or another person.

300.5 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer has probable cause to believe that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

A verbal warning should precede the use of deadly force, where feasible.

300.5.1 SHOOTING AT A MOVING VEHICLE

Discharging a firearm at a moving vehicle is generally prohibited. An officer should only discharge a firearm at a moving vehicle or its occupants when:

- (a) The officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, and the vehicle is being used in a

manner to immediately threaten the officer or another person with death or serious bodily injury; or

(b) A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle.

The following information comes from the SLCoDA's open and published letter dated 11/21/19. Some parts have been redacted that are not germane to the task of CRB along with conclusions put forth within this letter:

This letter addresses Salt Lake City Police Department ("SLCPD") Officer Branden Rammell's discharge of his firearm on November 3, 2018. Officer Rammell firing his weapon constitutes the use of deadly force within the statutory definition of an "Officer Involved Critical Incident" ("OICI") *See* Utah Code Ann. § 76-2-408(1)(b), (f)(i)

As a result, the law enforcement agency with jurisdiction over Officer Rammell's use of deadly force, (SLCPD) initiated what is known in Utah as the OICI Protocol. *See* Utah Code Ann. § 76-2-408(2)-(3). Accordingly, an investigative task force of law enforcement officers employed by agencies other than SLCPD, led by a member of the Unified Police Department of Greater Salt Lake ("UPD"), was called in to investigate Officer Rammell's weapon discharge. After the investigation, the task force's investigative findings were presented to the Salt Lake County District Attorney's Office ("D. A.'s Office"), which has the constitutional and statutory mandate to screen such matters for possible criminal charges.

SUMMARY OF FACTS AND FINDINGS

The following facts were developed from the OICI protocol investigation. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

On November 3, 2018, SLCPD Officer Rammell was on duty, in uniform and driving in his patrol car when he ran a routine license plate check on a car. The license plate check showed the registered owner of the car, Robert Craig Ortega had an active warrant for his arrest from the Utah Board of Pardons and Parole for a First Degree Felony Aggravated Sexual Abuse of a Child.

Officer Rammell followed the car into a gas station and made contact with Mr. Ortega, who did not comply with Officer Rammell's orders. Instead, Mr. Ortega got in his car and tried to flee. Mr. Ortega rummaged through the interior of the car and Officer Rammell believed Mr. Ortega may have been reaching for a weapon. Officer Rammell tried to physically restrain Mr. Ortega and take him into custody. Instead of complying with Officer Rammell's orders, Mr. Ortega fought with Officer Rammell. Mr. Ortega slipped into the driver's seat. Officer Rammell and Mr. Ortega fought inside the car as Officer Rammell tried to detain Mr. Ortega and Mr. Ortega forcibly resisted. Mr. Ortega started the engine and put the car in gear. Officer Rammell

explained that he feared he was going to be dragged by Mr. Ortega's car if he held on to Mr. Ortega, or he would be run over by the car if he let go. Mr. Ortega put the car in gear and it began to move. Officer Rammell fired one shot at Mr. Ortega. All evidence of which we're aware indicates that Officer Rammell's bullet did not hit Mr. Ortega.

The D.A.'s Office operates under Utah State law to review and "screen²" criminal charges against individuals where a violation of Utah State law may have occurred. The D.A.'s Office engages in an analysis (discussed more fully below) to consider whether criminal charges should be filed.

In the above referenced matter, the D.A.'s Office operates pursuant to an agreement between the D.A.'s Office and participating law enforcement agencies to perform joint investigations and independent reviews of OICI's including police officers' use of deadly force while in the scope of their official duties. Pursuant to the State law and 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 the office should file a criminal charge against Officer Rammell in the above referenced OICI for his use of deadly force. Among the factors we considered was an analysis of whether the above referenced use of deadly force was justified under Utah State law. We also reviewed this matter using legal and ethical considerations to inform the decision to file criminal charges.

FACTS DEVELOPED DURING OICI INVESTIGATION

As noted previously, on November 3, 2018, SLCPD Officer Rammell was on duty, in uniform and driving his patrol car. While driving on eastbound on 3300 South Street in Millcreek, Utah, he observed a car driving towards him and ran a routine license plate check. Information from a police database notified Officer Rammell that the registered owner of the vehicle, Robert Craig Ortega⁸, had an active warrant for his arrest from the Utah Board of Pardons and Parole for a First Degree Felony Aggravated Sexual Abuse of a Child.

Officer Rammell turned his patrol car around and followed Mr. Ortega to a gas station located at 1111 East, 3300 South in Salt Lake City, Utah. Officer Rammell identified Mr. Ortega as the wanted person from a photograph on his in-car computer. Officer Rammell parked his patrol car and walked in to the gas station convenience store where he saw Mr. Ortega enter.

Officer Rammell made contact with Mr. Ortega inside the store. Mr. Ortega refused Officer Rammell's order to show his identification and left the store. Mr. Ortega also refused to stop and sit down as ordered by Officer Rammell. Instead Mr. Ortega walked quickly towards his car as though he were going to drive away. Officer Rammell ordered him to stop several times but Mr. Ortega did not comply. Officer Rammell deployed his Taser and fired it at Mr. Ortega; it made contact but was not effective.

Mr. Ortega started to fight with Officer Rammell as Mr. Ortega tried to enter the passenger side of his car. Officer Rammell tried to physically restrain Mr. Ortega and take him into custody. Mr. Ortega got into the car. The two struggled and eventually, Mr. Ortega was able to get into the driver's seat, start the engine and put the car into gear.

In his subsequent interview, Officer Rammell said while in the car, Mr. Ortega's hands were flailing as though he were reaching or searching for a weapon. Officer Rammell explained that he knew Mr. Ortega was wanted for a parole violation on a potential life sentence, and, in Officer Rammell's experience, parole fugitives sometimes presented the most dangerous kind of suspect encounter, because fugitives could go to extremes to prevent apprehension and arrest. Officer Rammell explained that he also feared he was going to be dragged by Mr. Ortega's car if he held on to Mr. Ortega, or he would be run over by the car if he let go. Officer Rammell quickly drew his firearm and fired one shot at Mr. Ortega. All evidence of which we're aware indicates that Officer Rammell's bullet did not hit Mr. Ortega.

Off. Rammell is the subject of this matter and provided the following:

Officer Rammell

On November 15, 2018, protocol investigators interviewed Officer Rammell. Officer Rammell said that on November 3, 2018, he was on his way to a vandalism/neighbor dispute call for service in the area of 3300 South and 1100 East in Salt Lake City, Utah. Officer Rammell said he saw a vehicle traveling towards him and he ran a records request on the license plate. Officer Rammell said, to be proactive with his policing, he routinely runs license plate checks on vehicles. Officer Rammell said he often finds vehicles with revoked registration, no proof of insurance, and stolen cars.

Officer Rammell said after he ran a records check on this vehicle traveling towards him, the records check revealed that the registered owner of the car, Robert Craig Ortega, was a parole fugitive, and the Utah Board of Pardons and Parole had issued an active warrant for his arrest. The information provided to Officer Rammell showed Mr. Ortega was on parole from a conviction and prison sentence for a First Degree Felony Aggravated Sexual Abuse of a Child.

Officer Rammell said he turned his patrol car around and followed the vehicle. Officer Rammell said he saw the car turn into a gas station at 3300 and 1111 East. As he approached the gas station, Officer Rammell said he pulled up a photograph of Mr. Ortega so he could confirm the driver was the person for whom the warrant was issued. Officer Rammell said he saw the driver was the same person as the photo in the warrant information.

Officer Rammell said he tried to make contact with the driver, but to Officer Rammell, it seemed like the driver was ignoring him. Officer Rammell said the driver walked into the convenience store at the gas station and did not respond to Officer Rammell. Officer Rammell said he followed the driver into the store.

Officer Rammell said he approached the driver and asked his name and asked to see the driver's identification. Officer Rammell said the driver gave Officer Rammell "half answers" to his questions. Officer Rammell said he told the driver that the driver's car had a first degree felony arrest warrant associated with the registered owner. Officer Rammell said the driver told Officer Rammell it was the driver's uncle who had the warrant. Officer Rammell said during the discussion, the store clerk was holding the driver's identification and handed it back to the driver. Officer Rammell said he reached out and tried to take the driver's identification from the clerk as the driver walked away and out of the store.

Officer Rammell said he thought the driver was going to flee on foot. Officer Rammell walked out of the store following the driver who turned on Officer Rammell to engage him. Officer Rammell said the driver began "flexing" and poised towards Officer Rammell.

Officer Rammell said he drew his Taser and, with his legs, tried to sweep the driver off his feet. Officer Rammell said he fired his Taser at the driver but it was not effective. Officer Rammell said the driver ran to the driver's car and got in the passenger side. Officer Rammell said the driver was "scrambling" around inside the car as though he were searching for something. Officer Rammell said the driver's hands were moving around the glove box and the car floor and under the seat. Officer Rammell said he was concerned the driver was searching for a knife or a gun.

Officer Rammell said because he was worried the driver was trying to obtain a weapon, Officer Rammell drew his duty firearm and asked the driver if he wanted to be shot. Officer Rammell said he wanted to dissuade the driver from continuing to search for or produce a weapon. Officer Rammell said he couldn't see the driver's hands and remained worried that the driver would obtain a weapon and use it against Officer Rammell.

Officer Rammell said, in his experience, arresting wanted parole fugitives can sometimes be very difficult. Officer Rammell said he believed parole fugitives are sometimes the most desperate, dangerous and unpredictable people to arrest. Officer Rammell said: "I knew what his charge was-it's rare when you come across a first degree felony-and the severity of his crime, I perceived at the time he was going to do anything and everything to get away, even if that meant driving me into traffic, even if it meant finding a weapon in his car, that was my perception based on his charges and based on his demeanor."

Officer Rammell said he saw that the driver was getting ready to escape in the car. Officer Rammell said he reached in and tried to remove the keys from the

ignition. Officer Rammell said as he reached in, the driver hit him in the hands. Officer Rammell said he fought with the driver who climbed into the driver's seat. Officer Rammell said he was partially inside and partially outside the vehicle as he struggled with the driver. Officer Rammell said he punched and kicked the driver to try to prevent the driver from fleeing in the vehicle.

Officer Rammell said as the driver got into the driver's seat, he started screaming. Officer Rammell said even though the driver was screaming, he could hear the car's engine start. Officer Rammell said: "My concern was that if he got into the vehicle and started it, if I was anywhere near that car, he was going to take me with him into that intersection."

Officer Rammell said he was halfway inside the car with his upper body inside and his shoulders and knees in the way of the vehicle's frame when he heard the engine start. Officer Rammell said he was hanging on to the driver and to the vehicle, and he feared he would be dragged into traffic or run over by the car when the driver fled. Officer Rammell said: "when the engine started, my upper body was positioned in the way of the vehicle and if it moved forward, I would be carried with it." Officer Rammell said he was trying to remove Mr. Ortega from the vehicle when the engine started. Officer Rammell said: "time kind of slowed down for me, and I was waiting at any minute I would be carried into the intersection."

Officer Rammell said he feared that when the driver fled, it would not be a slow departure from the gas station, but rather a violent and fast jolt and that he would be carried out into the traffic in the street. Officer Rammell said he feared he would be killed or paralyzed if the driver dragged him out into traffic or ran over him with the car. Officer Rammell said he believed his options were to hold on and be dragged into traffic in the street, or let go and "possibly get my legs run over" by the fleeing car. Officer Rammell said: "watching the video⁹, it's only a few seconds, I think; but in my mind, I felt like it was a couple of minutes of feeling like I'm going to be thrown into this intersection, and I'm never going to walk again, because I'm going to fall out and hit something at a dangerous speed.

Officer Rammell said the driver put the car in gear and was about to flee. Officer Rammell said he believed he was about to be dragged into traffic in the street if he held on, or run over by the car if he let go, so he drew his firearm and fired one shot at the driver as Officer Rammell tried to position himself to avoid being run over by the car. Officer Rammell said as he fired, he tried to "get out of that zone of where [Mr. Ortega's] car would hit me or carry me."

Officer Rammell said as the car pulled away, he still had his gun out and realized he "was out of the way of the path of the vehicle" and that he "wasn't being dragged." Officer Rammell said he re-holstered his weapon and ran to his car radio to broadcast Mr. Ortega's direction of travel.

From the DA's letter, the following witnesses provided these statements:

Witness S.S.

On November 3, 2018, protocol investigators interviewed S.S., a woman who witnessed some of the OICI while at the gas station. S. S. said she saw a police officer and a man fighting near the gas pumps. S. S. said it looked to her like the officer was trying to get the driver out of a car. S. S. said the driver drove the car with the driver's side door still open. S. S. said as the car drove away, the officer drew his gun and fired one shot

Witness B.S.

On November 3, 2018, protocol investigators interviewed B.S., a man who witnessed some of the OICI while at the gas station. B.S. said he was inside his car waiting for his turn for the car wash at the gas station when he saw a police officer reaching inside a car. B.S. said the car started driving out of the gas station and he saw the police officer draw his gun and fire a shot. B.S. said to him, it looked like the car was driving away and, in his opinion, the officer didn't appear to be in danger.

Witness B. P.

On November 3, 2018, protocol investigators interviewed B. P., a man who witnessed some of the events while at the gas station. B. P. said he was inside the gas station convenience store when he was a man fighting with a police officer. B. P. said he saw the officer try to shoot the man with Taser, but the man ran to his car. B. P. said the man tried to get into the passenger side of the car, but the police officer was kicking and punching the man. B. P. said the man eventually got in the car and drove off. B. P. said he heard a pop

Witness S. K.

On November 3, 2018, protocol investigators interviewed S. K., a man who witnessed some of the events prior to the OICI. S. K. said he saw a police officer and a man struggling outside the convenience store. S. K. said he saw the man get away and get into a car at the gas pumps. S. K. said he saw the police officer with a gun and called 911.

Witness M.P.

On November 3, 2018, protocol investigators interviewed M. P., a woman who was waiting for a bus on 3300 South when she saw some of the events of the OICI. M. P. said she saw a police officer fighting with a man and heard the man yelling. M. P. said she saw the man get into a car and drive away and saw the officer shooting at the car's back tire.

Witness T.P.

On November 3, 2018, protocol investigators interviewed T. P., a man who was driving westbound on 3300 South when the OICI occurred. T. P. said he was stopped and waiting for a red light at 1100 East when he heard what he described as a squeaky alternator belt as a car engine revved. T. P. said he heard what he thought was a backfire and then squealing again. T.P. said he felt the back end of his vehicle move as a red car collided with his vehicle and another car on 3300 South.

Witness T.S.

On November 3, 2018, protocol investigators interviewed T. S., a man who was driving westbound on 3300 South when the OICI occurred. T. S. said he heard tires squealing and heard a shot fired. T. S. said a small red car collided with the front of his vehicle.

Evidence:

E SLCODA's letter was used as needed above

E1 Photographs

Among the photographs obtained and reviewed by investigators were photographs showing the impact of Officer Rammell's bullet against various parts of the car and the likely trajectory. Investigators documented damage from Officer Rammell's bullet to the side of the car's "B" pillar, as well as a hole in the clear plastic cover of the driver's instrument cluster.

Damage to the driver's door and "B" pillar indicate the driver's door was nearly closed when the bullet impacted the door and "B" pillar. The trajectory of Officer Rammell's bullet created a shallow angle relative to the longitudinal axis of the vehicle. Based on the bullet damage, it appears Officer Rammell fired towards the driver from a position outside Mr. Ortega's vehicle somewhere behind the driver's door.

E2 Rammell's body camera footage: Body-Worn Camera Recording

Officer Rammell was wearing a body-worn video camera which captured some of the events surrounding the OICI. In the recording, Officer Rammell is seen struggling with Mr. Ortega. The video depicts Officer Rammell firing a shot before Mr. Ortega closes the driver's side door¹⁰ as he flees from the scene. The recording does not show Officer Rammell firing at a rear wheel as recounted by one of the witnesses.

A frame-by-frame analysis of Officer Rammell's body-worn camera reveals the sequence of events as they unfolded during the OICI. As shown on the video, Mr. Ortega starts his vehicle's engine while

Officer Rammell is holding on to Mr. Ortega's upper torso. At the time, Officer Rammell is partially inside the vehicle. Although the situation is very dynamic, Officer Rammell's upper body appears to be briefly inside the car at the moment Mr. Ortega starts the engine. Very shortly after Mr. Ortega starts the car's engine, Officer Rammell is seen withdrawing himself from the interior of the car. At the point in time at which Mr. Ortega puts the car into gear and speeds off, Officer Rammell appears to be entirely outside Mr. Ortega's car. A very small amount of time has elapsed when Mr. Ortega's car has moved a few feet and Officer Rammell's weapon appears in the video frame. Officer Rammell's weapon appears to fire as the car's rear door passes Officer Rammell.

A review of the body-worn camera recording appears not to corroborate Officer Rammell's account of the events moments prior to, during, and immediately after Officer Rammell fires his weapon. In saying this, we do not suggest that Officer Rammell either intentionally or inadvertently misled investigators or misrepresented any fact. We acknowledge the situation leading up to, during and after Officer Rammell's use of deadly force was dynamic and chaotic. As discussed more fully below, we believe Office Rammell's statements and answers to investigator's questions reflected his honest beliefs and feelings about the events, but are not corroborated by the objective, observable facts.

Allegations:

As in all OISs, an automatic review of the matter is initiated. The allegation in this matter is "Excessive Force" was used in that the officer fired his weapon a single time at a fugitive fleeing in a vehicle.

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:

The facts in this case are well known via evidence and statements of participants and witnesses. It has been established that Officer Rammel located, confronted and attempted to take into custody a Parole Fugitive who was sought on a very serious 1st Degree Felony. The officer first attempted to restrain the subject, then unsuccessfully deployed his Taser against the retreating/fleeing subject, the officer then struggled with the subject inside of the subject's vehicle, and finally, as the subject began to drive away, Officer Rammel fired a single shot which struck the car but not the subject. It must be remembered that this even happened very, very quickly with little to no time to reflect upon what was occurring.

Officer Rammel stated in his interview his reasonable concern about being drug by the car into the roadway where he would/could like sustain serious injuries, or worse. The video recording shows that just prior to discharging his weapon, Off. Rammel was physically struggling with the subject with his upper body inside of the car. The officer explained that he had a reasonable fear that the subject was attempting to arm himself, which was of great concern to the officer.

It is clear however, that as the subject started up the car Officer Rammel withdrew from the interior and was standing outside of the vehicle. It is also clear that based upon where the car was parked and pointed, that the car could not strike the officer with the front portion of the vehicle as the "front bumper" area was roughly six feet in front of the now standing officer. The only possible contact, based upon the position of the officer and the vehicle, could happen if the officer fell to the ground and rolled underneath the vehicle or if the subject stomped on the gas and was able to cause the rear area of the car to skid into Officer Rammel, which would be highly unlikely as the car was just starting to move and did not have the necessary momentum associated with either a planned or accidental, skid. In other words, the physical locations of the officer and the car basically eliminate any chance of the vehicle being used as a weapon.

Panel Findings:

As to the allegation that S used Excessive Force, the Panel makes a finding of "Sustained"

The Panel makes a finding that this matter is in the public eye and therefore recommends that this report be made be made public.

Kevin Parke
Panel Chair

12/18/19