

POLICE CIVILIAN REVIEW BOARD

Investigation Report

Internal Affairs Case Number C 2018-0011

Complainant: (Race/Gender)	C- Cody Belgard (Deceased) W/M
Alleged Policy Violation:	Improper Use of Force/OIS (S-S4) Failure to Activate Body Camera (S)
Subject Officer: (Race/Gender)	S- Det. William Chow (A/M) S1- Off. Stephan Masters (W/M) S2- Off. Ryan Sanders (W/M) S3- Off. Wilson Silva (H/M) S4- Off. Brian Sorenson (W/M)
Subject Officer's Years of Service:	S- 2 years S1- 5 years S2- 6 years S3- 2 years S4- 6 years
Date of Alleged Incident:	11/9/18
Date Investigation Requested:	11/13/18
Date Filed with Internal Affairs	11/13/18
Date Investigation Completed:	07/02/19
Panel Members:	Amber Liechty Jessica Andrew Sandy Walsh Dennis Busch Tyson Carbaugh-Mason
Date of Panel Meeting:	7/10/19
Interviews Conducted:	10

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 received extensive media attention wherein the names of the involved parties are already publicly known, and so, unlike the typical CRB report, true names will be used with the exception of citizen witnesses, unless their names have also been released.

This matter is an Officer Involved Shooting (OIS), and as such, an automatic review is triggered, one that does not require a complainant to be listed. The citizen who was involved in this matter, Mr. Cody Belgard died from the wounds he received in this incident.

The matter has already been reviewed by the SLCoDA's office and the results of that review are public knowledge. Also involved in the investigation of the OIS was the WVCPD. A public report/letter was prepared and made public by the DA's office and portions of it will be included herein. Since all of the officers, subjects and the single officer witness, were included in the DA's report, no separate section for each of them will be included herein as that would simply be repetitive. Those officers provided a statement to the OIS investigative team and these interviews were recorded and transcribed. CRB will not recount what was said except in arenas that the DA's investigation had not touched upon and that are important to CRB.

Det. Chow, one of the subject officers, failed to activate his body camera as he did not wear it on the day in question. Det. Chow had an issued body camera and this topic will be addressed later in this report.

The following is a brief summary of the tragic events from that night, as determined by the DA's investigation:

SUMMARY OF FACTS AND FINDINGS²

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 9, 2018, SLCPD officers ascertained the location of a vehicle, a Kia Spectra,³ that was being tracked by police. Previously, the vehicle had been used to flee from police officers and police had obtained a warrant to lawfully place a GPS tracking device on the car. In the prior instances of fleeing from police, a person named Matthew Peterson was suspected as the driver of the Spectra. On November 9, 2019, officers searched for the Spectra that they believed Matthew Peterson might be driving.

When SLCPD officers located the Kia Spectra in a Sugar House parking lot on 2274 S. 1300 E., officers observed a male enter the passenger side of the tracked car. SLCPD Detectives Chow and Wilkes, and SLCPD Officer Sanders approached the car and confronted the female driver (later identified as Brittnei Duran). The male passenger (subsequently identified as Cody Paris Belgard) made furtive

movements as though he had a gun in his waistband and took control of the car. The female driver was removed from the car, but the male passenger continued to reach in his waistband as he disregarded officers' commands to show his hands and leave the vehicle.

Mr. Belgard climbed into the driver's seat and rapidly pulled out of a parking spot, ramming his vehicle⁴ into Detective Chow's SUV that was parked behind him. After colliding with Detective Chow's SUV, Mr. Belgard sped out of the parking lot slightly hitting, but not seriously injuring Detective Wilkes as he fled.

¹ Utah Const. Art. VIII, section 16; Utah Code Ann. §§ 17-1Sa-203; *see also id.* at § 77-2-2(1) (defining "screening" as the "process used by a prosecuting attorney to terminate an investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted"). "Commencement of prosecution" is further defined as "the filing of an information or an indictment." *Id.* at § 77-2-2(3).

² The factual background and the conclusions set forth in this letter are based on the evidence of which we are currently aware. If additional facts become available, these conclusions may change.

³ It was later discovered that the vehicle in question belonged to Brittni Duran's mother.

⁴ Video footage of Mr. Belgard ramming his vehicle into Officer Chow's SUV is corroborated by civilian footage captured by D.Y.

Eventually, officers followed the GPS signal and tracked down and located Mr. Belgard at 816 N. Sir Philip Dr. in Salt Lake City, UT. As they arrived, officers issued several commands to Mr. Belgard to get down on the ground and show his hands. However, Mr. Belgard continued to stand upright, shifting his hands around in his waistband and pacing back and forth. Mr. Belgard gave officers no indication he was going to obey any of their orders. During this encounter, Mr. Belgard rapidly drew an object from his waistband and with a raised arm, pointed it at the officers. Officers believed Mr. Belgard intended to fire a gun at the officers. Officer Silva yelled: "He's got a gun!" and Officer Masters yelled: "He's pointing." Detective Chow, and Officers Masters, Sorenson, Sanders and Silva fired their weapons at Mr. Belgard, hitting him twice.

The following is a recitation of the facts as determined and stated in the DA's letter:

FACTS DEVELOPED DURING OICI INVESTIGATION

As noted previously, following Detective Chow, and Officers Masters, Sorenson, Sanders and Silva's use of deadly force, SLCPD properly initiated the OICI protocol, *see* Utah Code Ann. § 76-2-408(2)-(3), such that: (i) protocol investigators were called in to conduct an independent investigation of the officer's weapon discharge; and (ii) the protocol investigation's independent investigative findings were presented to the D. A.'s Office to screen for possible criminal charges.

On the evening of November 9, 2018, Unified Police Department of Greater Salt Lake ("UPD") Detective Van Leeuwen advised SLCPD Detective Chow that a Kia Spectra had been located at 2274 S. 1300 E., in the Sugar House area. The vehicle had been involved in prior police pursuits, and as such, a warrant for a GPS tracker had been obtained and the tracker had been placed on the vehicle. The suspected driver of the vehicle in the prior fleeing events was a man named Matthew Peterson.

⁷ Among the legal standards a prosecutor must follow is the requirement that "probable cause" must exist to believe an offense (i) was committed and (ii) was committed by the accused. *See, e.g.*, Utah R. Crim. P. 4(b). In making that determination, the DA's Office must evaluate all evidence that will be legally admissible for or against the accused, but may disregard evidence that likely will not be admissible at trial (e.g., a coerced confession).

When SLCPD officers responded to the parking lot to investigate the vehicle, they saw a man (subsequently identified as Cody Paris Belgard) get into the passenger seat of the car and a woman, (subsequently identified as Brittini Alexia Duran, apparently Mr. Belgard's ex-girlfriend) move into the driver's seat.

Officer Sanders and Detective Wilkes approached the vehicle and ordered the man and woman to put their hands up and exit. As the woman opened the car door, officers got her out of the car and immediately took her into custody, taking her to the ground. The man refused to comply with officers' orders. After the woman got out of the car, the man slid into the driver's seat. The man began reaching into the waistband of his pants as though he might be retrieving a concealed firearm. The officers, fearing the man was about to produce a gun, drew their weapons and ordered the man to stop. The man put the car in gear and rammed into Detective Chow's police vehicle, hitting, but not seriously injuring Detective Wilkes as he fled. During this encounter both Officer Sanders and Detective Wilkes had their weapons drawn,

but no shots were fired. As they observed the driver, officers noticed he did not match the physical description of Matthew Peterson, but they did not know the name of the driver at the time.

In a subsequent interview, (and as recorded by body-worn camera video) Detective Wilkes said he asked the woman from the car whether the man had a gun. The woman told Detective Wilkes that the man didn't have a gun-she said he was just acting like it⁸. Detective Wilkes said the woman's denial that the man had a gun didn't cause him to discount or disbelieve his concern based on his observations. Detective Wilkes said his purpose in asking was to confirm his belief, based on his observations of the man's behavior, that the man had a gun. Detective Wilkes said the man's behavior (including not complying with officer's commands, repeatedly reaching into his waistband when ordered (at gunpoint) not to do so, ramming a police car, fleeing the scene and other dangerous behavior) was consistent with an armed person.

Detective Chow broadcast on the police radio a request for dispatchers to "hold the air [a request to confine the channel to radio traffic dealing only with this incident] we've got a guy at gunpoint, not responding, reaching into [unintelligible]..."

The driver fled and police initially pursued him. Eventually, the pursuit was called off, in part due to the dangerously high speeds the driver achieved on surface streets, together with the fact that police could track the car's movements through the use of the OPS tracking device.

Because of the tracking device placed on the suspect vehicle, Detective Miller was able to locate the car and SLCPD responded to the area of 800 N. Philip Drive, in Salt Lake City. SLCPD K-9 Officer Pearce was the first to arrive on the scene and relayed information that a man had since exited the suspect vehicle and was walking through a homeowner's backyard. Around this time other officers arrived at the scene and began to confront the man. Officers on

⁸ Del. Wilkes asked Ms. Duran: "Does he have a gun?" Ms. Duran said: "No he does not, he's just acting like it, [unintelligible] he has no gun, he does not have a gun."

the scene yelled several commands to the man to "show us your hands" and to "get on the ground." In total, the officers issued commands to "see your hands" four times, "to get on the ground" eight times, to "drop it/put it down" one time and "don't move" one time.

While officers issued commands at the man, the man reached

into his waistband and then began moving his hands back and forth inside his jacket. At one point, the man suddenly turned away from the officers then back toward them, with his arm raised and extended out towards Officer Masters. The man had a black object in his hand which he pointed in the direction of some of the officers. Officer Silva yelled: "Gun!" and Officer Masters yelled: "He's pointing!" Detective Chow, and Officers Masters, Sorenson, Sanders and Silva then fired a total of eight 9mm rounds and one 12-gauge shotgun slug. Two shots struck the man and he went down.⁹ Officers approached the man who had his hands under his torso. Officer Masters pointed his weapon at the man as other officers rolled the man on his side to control his hands. Officers attended to the man's injuries and rendered first aid. Officers discovered that the object the man had been pointing sideways at them was a large black cellphone. The man was transported to the hospital; he eventually died from injuries.

Witness Statements

Detective Wilkes

OICI protocol investigators interviewed SLCPD Detective Wilkes on November 9, 2018. Detective Wilkes said he was working with SLCPD Gang Unit investigating a vehicle believed to have fled officers in the past. Detective Wilkes said he and other officers arrived in a parking lot located at approximately 2100 South and 1300 East in Salt Lake City, Utah. There, the officers saw the car they believed had evaded officers in the past.

Detective Wilkes said he saw a female sitting in the passenger seat; eventually, a male walked up to the car and the female moved into the driver's seat and the male got into the passenger seat. Detective Wilkes said officers approached the car and challenged the occupants. Detective Wilkes said he saw the man put his left hand into his jacket in such a way as to make Detective Wilkes very concerned the man may have a gun in his pocket. Detective Wilkes said officers got the female out of the car, but the male refused to comply with orders and continued to move his hands around and slide into the driver's seat. Detective Wilkes said the man put the car in gear and backed up, colliding with a police vehicle. Detective Wilkes said the man then pulled forward and impacted a civilian vehicle in the parking lot. Detective Wilkes said the man backed up again and hit the officer's vehicle again and eventually sped off.

⁹ According to the autopsy report, two bullet entry points were located on Mr. Belgard's upper back area. One bullet entry point was on the left side of his upper back, which exited through his front left chest area. The second round remained in his upper right chest area. Both rounds were in the upwards direction.

Detective Wilkes said he opened the car door in an effort to detain the man, but was not successful. Detective Wilkes said as the man collided with vehicles during his escape, the car hit Detective Wilkes in the leg, but he was not injured. Detective Wilkes said other officers pursued the fleeing suspect.

Detective Chow

On December 11, 2018, OICI protocol investigators interviewed SLCPD Detective Chow. Detective Chow said he did not review any body camera or other footage prior to his interview with OICI protocol investigators.

Detective Chow recounted that on October 28, 2018 a driver of a Kia Spectra had fled from him. This vehicle had also been involved in prior police pursuits. A tracker was placed on the vehicle soon thereafter. Detective Chow explained that he had never met Matthew Peterson, the driver of the vehicle that fled multiples times in October 2018, or Cody Paris Belgard, the subject of the OICI.

On November 9, 2018, UPD Detective Van Leeuwen contacted Detective Chow and advised him that the tracked vehicle, the Kia Spectra, was in the Sugar House area. Detective Chow said he drove to the location and when he arrived at the Sugar House parking lot, he saw a woman sitting in the vehicle. Detective Chow explained that when a man, later identified as Mr. Belgard, approached the vehicle, a confrontation between the officers and Mr. Belgard ensued. During this encounter, Detective Chow said that Mr. Belgard behaved as if had an object in his waistband. Detective Chow said Mr. Belgard reached into his waistband several times as though he were reaching for a weapon.

Detective Chow had parked his SUV behind Mr. Belgard's vehicle, but Mr. Belgard rammed into Detective Chow's SUV multiple times before fleeing. Detective Chow stated that officers tried to locate Mr. Belgard, but eventually lost sight of the vehicle. However, because of the GPS tracker, Detective Chow was able to ascertain Mr. Belgard's location.

Detective Chow said when he first arrived at 800 N. and Philip Drive, Mr. Belgard aggressively approached him. Detective Chow said that he ordered Mr. Belgard to stop, but he did not comply. Detective Chow stated that Mr. Belgard continued to behave as if he had a gun as he reached into his waistband. Detective Chow stated that Mr. Belgard yelled at him: "You're going to have to kill me!" During this exchange, Mr. Belgard began to transfer his hands between his hoodie pockets to the waistband area. At this time, Detective Chow broadcast on the police radio that officers try to use less lethal measures to subdue Mr. Belgard.

When other officers arrived on the scene, Detective Chow explained that Mr. Belgard was still making furtive movements and was not complying with officers' commands. At one point, Detective Chow stated that Mr. Belgard suddenly turned away and then back toward the officers with his right hand extended toward them. Detective Chow heard shouts and then shots fired. Detective Chow was between twenty to thirty feet from Mr. Belgard when he fired two shots from his handgun but does not know where the other shots came from, or if they came from Mr. Belgard. Detective Chow said that he feared for his own life and the lives of the other officers.

After Mr. Belgard fell onto the ground, Detective Chow stated that an officer approached Mr. Belgard and put his foot on Mr. Belgard's back because he was moving furtively and was still not showing the officers his hands. The officers believed that Mr. Belgard was still armed and intended to use his gun against them. Detective Chow then assisted with medical aid.

Officer Sanders

On December 11, 2018, OICI protocol investigators interviewed SLCPD Officer Sanders. On November 9, 2018, Officer Sanders was briefed by Officer Chow that a vehicle used in prior police pursuits had been located at a Sugar House parking lot via a tracking device. Detective Wilkes and Officer Sanders then drove to the Sugar House parking lot, where officers initially confronted a man subsequently identified as Mr. Belgard.

Upon arriving in the parking lot, Detective Wilkes and Officer Sanders surrounded the vehicle Ms. Duran and Mr. Belgard were in, told the occupants to get out of the car. Officer Sanders explained that Mr. Belgard behaved "as if he had a gun," hiding his hands in and moving them around in his waistband. At this point, Officer Sanders explained that he pulled Ms. Duran from the vehicle, fearing that she

would be caught in potential crossfire, if Mr. Belgard did draw and fire a weapon. Soon thereafter, Mr. Belgard, still not complying with officer commands, rammed his vehicle into Detective Chow's SUV before fleeing. Officer Sanders said that Detective Wilkes was slightly injured by Mr. Belgard's vehicle.

Officer Sanders said he pursued Mr. Belgard, but lost sight of him. However, Officer Sanders eventually arrived at Sir Philip Drive, where Mr. Belgard was located by a police tracker. Upon arrival, Officer Sanders stated that Mr. Belgard's demeanor was aggressive and angry. Officer Sanders said that Mr. Belgard yelled at the officers: "Just shoot me!"

Officer Sanders explained that Mr. Belgard would put his hands in his pockets and then move his hands around in the general waistband area. Based on Mr. Belgard's movements, Officer Sanders believed that Mr. Belgard was armed and was reaching for a gun. Eventually, Officer Sanders said Mr. Belgard pulled out an object and that he believed was a gun and canted it "similar to what you would see when a gang member holds a gun." Officer Sanders said Mr. Belgard held the object in his right hand.

Officer Sanders said that Mr. Belgard pointed the object toward Detective Chow and Sanders. Officer Sanders said that he took cover behind a police vehicle. Officer Chow said he heard Officer Masters yell: "Gun!" Officer Sanders recounted that he heard some shots fired but did not know if Mr. Belgard had fired his weapon. Mr. Belgard still stood during this time and pointed an object at Officer Sanders and Detective Chow. Officer Sanders said he feared for his own life, the lives of other officers and civilians during this exchange.

Officer Sanders said that he then pointed his handgun at Mr. Belgard and fired one shot.

Officer Sanders said that after Mr. Belgard fell to the ground officers both secured him and began applying medical aid. Officer Sanders explained that he searched for a gun at the scene, but instead found a large smart phone on the ground.

Officer Masters

On December 11, 2018, OICI protocol investigators interviewed SLCPD Officer Masters. On November 9, 2018, Officer Masters explained that he responded to 800 N. and Philip Drive, the eventual scene of the shooting, after hearing through dispatch that an officer's vehicle and Detective Wilkes had been hit by a fleeing vehicle.

After hearing of the incident, Officer Masters saw Mr. Belgard's vehicle traveling westbound recklessly at a high rate of speed. He pursued the vehicle, activated his lights and sirens, but the driver failed to yield and was lost in heavy traffic. However, Officer Masters said that once Officer Pearce located where Mr. Belgard was, he relayed this information to Officer Masters and Officer Masters headed to Sir Philip Drive.

Officer Masters said when he arrived, he saw Officers Chow and Sanders on Sir Philip Drive with their guns drawn, pointed at Mr. Belgard. Officer Masters explained that Mr. Belgard aggressively walked toward Officers Chow and Sanders, even though their guns were drawn.

Officer Masters said he loaded a slug in his shotgun and gave commands to Mr. Belgard to get on the ground. At this time, Mr. Belgard stopped moving forward, but then began pacing and put his hands in his waistband.

Officer Masters stated that he considered using a taser to stop Mr. Belgard, but knew the distance was too great and Mr. Belgard wore very thick and loose clothing. He concluded that a taser would be especially ineffective if alcohol or drugs were in his system. Eventually, Officer Masters stated that Mr. Belgard made a drawing motion towards the officers behaving as if he had a gun. Mr. Belgard then pointed, at the time what Officer Master's perceived was a gun, directly at him.

Ultimately, Officer Masters said he pulled the trigger on his shotgun, but the round did not discharge because the shotgun's safety was on. Officer Masters said he heard another officer yell out: "Gun!" Next, Officer Masters said he yelled: "He's pointing. He's pointing!" Officer Masters said he heard gunshots being fired, but Mr. Belgard remained standing while pointing, what Officer Masters believed was a handgun. Officer Masters said that he feared for his own life, the lives of the other officers, and the public's safety. Officer Masters fired his shotgun and Mr. Belgard fell to the ground (a shotgun slug did not enter Mr. Belgard's body).

After Mr. Belgard fell to the ground, Officer Masters observed that Mr. Belgard was still moving, and approached with caution to secure Mr. Belgard. Officer Masters then assisted with medical aid.

Officer Sorenson

On December 11, 2018, OICI protocol investigators interviewed SLCPD Officer Sorenson. On November 9, 2018, Officer Sorenson was handling an unrelated call when he was informed that Mr. Belgard had rammed a police vehicle. Officer Sorenson then drove to and arrived on Sir Philip Drive, parking behind Officer Master's car.

Officer Sorenson exited his vehicle and began to point his taser at Mr. Belgard. At this point, Officer Sorenson was around twenty feet away from Mr. Belgard, which according to Officer Sorenson, is too far of a range to be effective. Officer Sorenson tried to move closer to Mr. Belgard to deploy the device more accurately. As soon as Officer Sorenson pointed the taser at Mr. Belgard's chest, Officer Sorenson said Mr. Belgard aggressively gestured in a way that indicated he had a handgun toward Officer Sorenson and Masters.

After believing Mr. Belgard had a gun, Officer Sorenson said he pulled out his own handgun and heard another officer shout: "He's got a gun!" and "He is pointing!" Officer Sorenson then fired four rounds from his handgun, stating that he feared for his own and the lives of the other officers. After Mr. Belgard fell to the ground, Officer Sorenson assisted with medical aid after Mr. Belgard was shot.

Officer Silva

On December 11, 2018, OICI protocol investigators interviewed SLCPD Officer Silva. On November 9, 2018, Officer Silva had just finished an unrelated police call, when he heard Detective Chow yelling on the radio that his vehicle had been rammed and that Detective Wilkes' leg¹⁰ had been struck by Mr. Belgard's vehicle. Officer Silva said he heard on the radio that the driver had been reaching into his waistband area. Officer Silva said he heard on the radio that officers tracked the vehicle to the area of Sir Michael Drive at about 800 North, 1900 West in Salt Lake City. Officer Silva said he drove to the area to assist other officers.

Officer Silva explained that as he traveled to the area, he heard over the police radio that the fleeing driver (identified as Cody Belgard) was located on Sir Philip Drive. Officer Silva said he heard on the police radio that Mr. Belgard was not showing his hands. Officer Silva said he heard officers on the police radio say that Mr. Belgard was not complying with officers ordering him to get on the ground.

¹⁰ Officer Silva said he believed Detective Wilkes was not seriously injured in the collision.

Officer Silva said that he arrived at Sir Philip Drive and parked behind the other officer vehicles. Officer Silva said that he saw Mr. Belgard throw his hands up with an air of: "Leave me alone." Officer Silva said that, due to information he received about Mr. Belgard's prior conduct, including Mr. Belgard reaching in his pockets and ramming a police car, Officer Silva drew his police firearm from his holster as he got out of his police car.

Officer Silva stated he heard officers yelling commands to Mr. Belgard to get on the ground, but he saw that Mr. Belgard was aggressive and noncompliant. Mr. Belgard kept putting his hands inside his waistband, and it looked to Officer Silva like Mr. Belgard was deciding what to do next. Officer Silva said Mr. Belgard kept moving his hands inside his waistband, where, as Officer Silva believed, was a common place for people to keep a firearm on their person. Officer Silva said he believed that Mr. Belgard was concealing a weapon from officers. At one point, Officer Silva stated that Mr. Belgard turned to him and Officer Masters and "punched" his right arm out with a black object in his hand acting as if he possessed a weapon. Officer Silva believed that Mr. Belgard had a firearm in his hand.

Next, Officer Silva said that he vocalized seeing a firearm on Mr. Belgard. Officer Silva said he believed Mr. Belgard would start shooting a gun at the officers at "any minute or second." Officer Silva said he wondered why other officers had not started shooting. Officer Silva said he saw Officer Masters move backwards and seek for cover, which confirmed to Officer Silva that Officer Masters had seen the same thing (a gun) and perceived a similar threat. Officer Silva explained that he feared for his safety, the other officers and the public's safety and then fired his gun once. Officer Silva said Mr. Belgard had his hand punched out and pointed towards Officer Masters when Officer Silva fired his weapon. Officer Silva said he fired at Mr. Belgard to stop the threat he perceived Mr. Belgard presented to the officers¹¹.

After officers fired their weapons, Officer Silva saw Mr. Belgard fall to the ground.

Officer Silva said he recalled some of the officers wanted to approach Mr. Belgard who was now on the ground. Officer Silva said he was still very concerned for the officers' safety since he

believed Mr. Belgard still had a gun and was lying on top of his hands. Officer Silva said he couldn't see Mr. Belgard's hands so he moved to his left and warned officers of his concerns.

Officer Silva said he saw Officer Masters cover Mr. Belgard with his shotgun as other officers secured Mr. Belgard and handcuffed him. Officer Silva said that he approached Mr. Belgard cautiously and assisted administering medical care.

Officer Pearce

On November 12, 2018, OICI protocol investigators interviewed SLCPD K-9 Officer Pearce. On November 9, 2018, after hearing that Mr. Belgard had fled from officers in Sugar House over the police radio, Officer Pearce said that he began searching for Mr. Belgard as he

¹¹ On Officer Silva's body-worn camera recording, Officer Silva can be heard cautioning officers approaching Mr. Belgard after he went down, warning other officers Mr. Belgard still had the gun Officer Silva believed he had.

was in the area of 800 N. and Sir Philip Drive at the time. Officer Pearce stated that he did not want to encounter Mr. Belgard "head on" and so he began driving on another road, Sir Michael Drive. Soon, Officer Pearce passed an individual who had a similar demeanor and physical makeup to Mr. Belgard. Officer Pearce realized that this was the individual officers had been looking for.

In his interview, Officer Pearce said that as he passed Mr. Belgard on Sir Michael Drive, he had a bad feeling about the situation due to Mr. Belgard's demeanor and hearing that Mr. Belgard had rammed a police car. Officer Pearce said he felt like Mr. Belgard was "desperate" as police officers entered the area and surrounded him, and Officer Pearce said he felt like Mr. Belgard would do anything to flee from the officers.

After Officer Pearce passed Mr. Belgard, he relayed Mr. Belgard's location to the other officers. Officer Pearce continued to observe Mr. Belgard from a distance before officers arrived on the scene. When the officers arrived on the scene, Officer Pearce explained that he saw several officers give Mr. Belgard commands, but Officer Pearce did not have a clear view of the situation at the time. Officer Pearce stated that he did hear officers verbally identify themselves as police and repeatedly tell Mr. Belgard to show his hands loudly and

clearly. As Officer Pearce was about to walk over with his dog to the scene, he heard gunshots fire and saw Mr. Belgard fall to the ground.

Officer Pearce was unsure if Mr. Belgard was in possession of a gun as Mr. Belgard was laying on his hands, so he moved Mr. Belgard with his boot. Officer Pearce explained that he was then able to move Mr. Belgard's hands and put them in handcuffs. Officer Pearce observed other officers administer medical aid and an ambulance arrive shortly thereafter.

Officer Sullivan

On November 12, 2018, OICI protocol investigators interviewed SLCPD Officer Sullivan. On November 9, 2018, Officer Sullivan heard about the police pursuit of Mr. Belgard over dispatch, and so he and his training officer headed toward Sir Philip Drive.

Officer Sullivan and his training officer heard gunshots as they drove up to the scene and did not observe any events that happened prior to the shooting. Officer Sullivan said that he helped secure Mr. Belgard after he had been shot. Officer Sullivan discovered a pocket knife with the blade closed in Mr. Belgard's right front pocket.

Witness O. K.

Protocol investigators interviewed O.K., who lived across the street from the OICI scene.

O. K. said he saw police yelling at a man. O. K. said the man pulled out a gun and pointed the gun at the officers. O. K. said after the man pointed the gun at the officers, the officers shot the man.

Witness C. S.

On November 9, 2018 protocol investigators interviewed witnesses C.S. C.S.'s front yard is the location where Mr. Belgard was standing in front of and eventually shot on November 9, 2018.

Around 8:00 p.m., on November 9, 2018, C.S. said that she heard yelling outside her house. C.S. heard officers telling a man to get down. C.S. had been watching television in her bedroom the time but walked to her front window to see what was happening. C. S. said she observed police officers yelling at a man standing on the sidewalk of her residence. C.S. stated that she observed the man's hands to be in

the front pockets of a hooded sweatshirt and said the man did not have his hands up.

C.S. said she heard officers tell the man to get down on the ground two or three times. C.

S. said she heard approximately five gunshots. C.S. stated that she did not observe the shooting firsthand, as she had gone into her kitchen after hearing yelling.

Witness Brittni Duran

On November 9, 2018 protocol investigators interviewed witness Brittni Duran. Ms. Duran explained that she had met up with Mr. Belgard to discuss having her mother's car, the Kia Spectra, returned to her. Ms. Duran said Mr. Belgard had refused to release the car after Ms. Duran and Mr. Belgard had broken up a few weeks prior. Ms. Duran explained that they were parked in the Michael's store parking lot at 2236 S. 1300 E. in the Sugar House area so that Ms. Duran could use the restroom.

After using the restroom and returning to the vehicle, Ms. Duran said Mr. Belgard was no longer inside the vehicle. Ms. Duran said Mr. Belgard walked towards the car. Ms. Durand said after Mr. Belgard got in the car, police officers arrived in the area and came up to the car. Ms. Duran explained that the officers ordered them to put their hands up and get out of the car. Ms. Duran said that Mr. Belgard acted like he had something in his pocket as the officers surrounded the car. Ms. Duran said Mr. Belgard was "playing with his pockets," which caused officers to yell loudly for him to show his hands. Ms. Duran said that didn't remember many details after she was outside the car. Ms. Duran said she told officers that Mr. Belgard did not have gun on his person-that he was just acting like he had a gun-but he may have had a knife.

Mr. Belgard, Ms. Duran relayed, believed he had "serious warrants" out for his arrest and that he had not checking in with his probation officer. Ms. Duran said Mr. Belgard told her he did not want to go back to jail and that if he were stopped by the police, he would act as though he had a gun. Ms. Duran said she asked Mr. Belgard why he would do that. Ms. Duran said Mr. Belgard replied that he didn't want to go back to jail. Ms. Duran explained that Mr. Belgard had expressed this sentiment on the day of the OICI as well as prior to it.

Physical Evidence

Protocol investigators inspected and photographed the OICI scene as well as the Sugar House parking lot at 2274 S. 1300 E., where officers initially encountered Mr. Belgard and where Mr. Belgard fled from police officers in his vehicle (Kia Spectra). Investigators documented the succession of events prior to, during and after Mr. Belgard was shot by Officers Chow, Masters, Sorenson, Sanders and Silva. Investigators noted that after leaving the Sugar House parking lot, Mr. Belgard entered the I-215 ramp, traveling northbound, and exiting on 700 North. Eventually, Mr. Belgard arrived on 816 N. Sir Philip Drive, where Mr. Belgard got into a second altercation with officers and was shot and killed.

Inside the Kia Spectra, protocol investigators observed and photographed the contents of Mr. Belgard's car. Investigators found one glass pipe, nine pieces of foil, an iPhone, two glass pipes with paraphernalia and a bottle of pills.

Investigators inspected the 9mm handguns used by Detective Chow, and Officers Sorenson, Sanders and Silva. Investigators also inspected the shotgun used by Officer Masters. Investigators determined that four rounds were fired from Detective Chow's handgun, four rounds were fired from Officer Sorenson's handgun, two rounds were fired from Officer Sander's handgun, one shot had was fired from Officer Silva's handgun and one shot was fired from Officer Master's shotgun.

Investigators reviewed video recordings of the OICI, including body-worn cameras and dash camera recordings from patrol cars. We reviewed body-worn camera¹² recordings and/or dash camera recordings of Officers Masters, Silva, Sanders, Sorenson, Wilkes, Pearce, Haskell, Winegar, Jensen, Livsey, Mackay and Marquez. The body-worn camera and dash camera recordings are consistent with the officers' statements and appear to corroborate the timeline of events as outlined in witness statements.

Sugar House Parking Lot Body-Worn Camera Footage

OICI protocol investigators obtained and reviewed body-worn camera video from Detective Wilkes and Officer Sanders. Detective Wilkes' body-worn camera recorded his remarks to Mr. Belgard while Mr. Belgard was in the passenger seat of his vehicle in the Sugar House parking lot. Detective Wilkes commanded Mr. Belgard to put his: "Hands up! Hands up! Hands up... get your hands out of your pockets! Get out of the car!" Officer Sanders then asked Detective Sanders what Mr. Belgard was doing and he replied: "Getting in the driver's seat."

Detective Wilkes kept commanding Mr. Belgard: "To get out of the car!"

Detective Wilkes' body camera also recorded Brittani Duran exclaiming: "Cody please just get out, Cody just get out please!" with Detective Wilkes asking Ms. Duran: "Does he have a gun?" to which Ms. Duran responds: "No. He is just acting like it. He does not have a gun. He does not have a gun. Nothing."

Officer Sanders' body-camera footage from the Sugar House parking lot is consistent with Detective Wilkes' footage and is consistent with the facts as believed to be.

Sir Philip Drive Body-Worn Camera Footage

OICI protocol investigators obtained and reviewed body-worn camera video from Officer Masters. Officer Masters' body-worn camera recorded his commands to Mr. Belgard after Officer Masters had exited his police vehicle. Officer Masters is recorded stating: "Get on the ground! Get on the ground now! Get on the ground! Get on the ground bro. He is pointing. He is pointing." Officers then proceed to fire their weapons. Officer Masters then stated: "He is coming up. Get your hands down! Yeah, we are good, Pearce, we are on you, coming up. Hey, keep your hands down!" Officer Masters repeatedly told Mr. Belgard to keep his hands down as he is fidgeting on the grass. Office Masters then stated: "We need medical now. He is hit. **He** is hit in the chest. I don't think officers are hit. Roll him over, check his chest, he has a torso wound right there... "

Officer Masters' body camera also recorded a fellow officer asking Officer Masters after Mr. Belgard has been shot: "Where's our gun?" To which Officer Masters replied: "I don't know. I think it was a fucking cellphone."

OICI protocol investigators obtained and reviewed body-worn camera video from Officer Silva. Officer Silva's body camera recorded fellow officers on the police radio explaining Mr. Belgard's actions on Sir Philip Ave.: "He is walking towards us... (Inaudible) He is not listening. He is not listening. He is keeping his hands in his pockets... (Inaudible)" After Officer Silva arrived and exited his vehicle, his body-worn camera picked up other officers shouting: "Get on the ground now! Don't be stupid dude. It is not worth it man. It is not worth it. Get on the ground bro."

Officer Silva's body-worn camera recorded his statement to

officers surrounding him: "Shit, he has a gun!" Contemporaneous with Officer Silva's statement is Officer Masters (captured on Officer Silva's body-worn camera recording) yelling: "He's pointing, he's pointing!" Officer Silva's camera recording him also saying: "Watch out. He still has that gun. He still has the gun. Keep your hands down. I can't see his hands."

OICI protocol investigators obtained and reviewed body-worn camera video from Officer Sorenson. Officer Sorenson's body-worn camera recorded his remarks to a fellow officer asking whether Mr. Belgard had a gun on his person: "I don't know. He pointed, I don't know what he had. Put your hands down now!"

D.Y. Cellphone Footage

On November 9, 2018, a bystander, D.Y., filmed Officers Sanders, Chow and Wilkes' initial encounter with Mr. Belgard in the Sugar House parking lot. Footage corroborates witness and police officer accounts of Mr. Belgard ramming his vehicle into Officer Chow's SUV and then fleeing the scene.

Evidence:

E: The WVCPD was the lead investigative agency involved in the review of this matter and as such, they prepared a *PowerPoint* presentation. This report is the basis of the DA's letter and as such is summarized above. Therefore, this report will not be recounted herein.

E1: SLCoDA's office prepared a publicly listed letter, which is listed above. Since this letter is attached, above, there is no need to also place it here.

E2: The body camera videos were summarized above and will not be recounted. S failed to activate his body camera.

Allegations:

This matter was an Officer Involved Shooting and as such, it triggers an automatic review.

It is alleged that S failed to activate his body camera.

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:

As to the failure of S to activate his body camera, S admitted in his interview that he left it behind in the charger when he responded to assist in the ongoing matter. S admitted to doing so intentionally due to issues with the unit that he did not like. His unit has since been replaced with a wireless version of the body camera, that does not restrict him in any manner and it is expected he will wear it at all times in the future.

As to the OIS, this was a tragic situation in all ways. The central issue surrounds the perception of the five officers, as that is what the *Deadly Force Policy* states:

Authority to Use Deadly Force

Peace officer's use of deadly force:

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

- The officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death.
- 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; and
 - 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.
- 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.

If feasible, a verbal warning should be given by the officer prior to any use of deadly force.

Considerations in Use of Deadly Force

Deadly force shall only be exercised when all reasonable alternatives have been exhausted or appear impractical. Officers should consider:

- Other methods of effecting an arrest.
- The direction in which the firearm is to be discharged because of the possibility that innocent persons or property may be struck.
- The age of the suspect and the offense committed.
- Light conditions (extreme caution must be used at night or when other conditions obscure the officer's vision).
- The danger of firing while running or jumping.

The following policy is the salient portion of the overall policy where it says:

- 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.

All five of the officers felt C was armed and had taken up a stance as if to use a gun on themselves or other officers. Witness “O.K”, a citizen who observed the situation also stated that he felt that C was armed with a gun. C’s former girlfriend, Brittini Duran said the following:

Mr. Belgard, Ms. Duran relayed, believed he had "serious warrants" out for his arrest and that he had not checking in with his probation officer. Ms. Duran said Mr. Belgard told her he did not want to go back to jail and that if he were stopped by the police, he would act as though he had a gun. Ms. Duran said she asked Mr. Belgard why he would do that. Ms. Duran said Mr. Belgard replied that he didn't want to go back to jail. Ms. Duran explained that Mr. Belgard had expressed this sentiment on the day of the OICI as well as prior to it.

The testimony offered by the officers is supported by O.K.’s observations and the account provided by Ms. Duran provides some understanding into what C was thinking at the time of the confrontation. It must be remembered that the scene was at night and that the lighting was not good for anyone.

Ms. Duran’s account also provides insight into why C fled the initial contact scene and backed into a police vehicle as well as brushing the leg of an officer with his car. Clearly C did not want to return to prison and was willing to flee, even if by doing so, someone would be endangered. It also allows for insight on why C made the reported movements to retrieve a non-existent weapon.

Panel Findings:

As to the allegation that S, S1, S2, S3 and/or S4 used “Improper Force”, the Panel makes a finding of “Exonerated”

As to the allegation that S “Failed to Activate” his body camera, the Panel makes a finding of “Sustained”

The Panel makes a finding that this matter is/is not in the public eye and therefore recommends that this report be made made public.

Panel Chair, Dennis Busch

7/10/19