

# POLICE CIVILIAN REVIEW BOARD

## Investigation Report

Internal Affairs Case Number S 2020-0007

Complainant: (Race/Gender)	C- Michael Nance (W/M)
Alleged Policy Violation:	Excessive Force: OIS
Subject Officer: (Race/Gender)	S- Off. Hayden Cassity (W/M) S1- Det. Kristopher Jeppsen (W/M)
Subject Officer's Years of Service:	S- 6 years S- 13 years
Date of Alleged Incident:	2/10/20
Date Investigation Requested:	2/10/20
Date Filed with Internal Affairs	2/10/20
Date Investigation Completed:	9/25/20
Panel Members:	Amber Liechty Turner Bitton Kevin Parke Sandy Walsh Teresa Garrett
Date of Panel Meeting:	9/30/20
Interviews Conducted:	4

**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 extensively covered in the media both at the time of occurrence and more recently when the DA's letter was publicly released. As such, the names of the involved parties have already been released and therefore this report will use their names.

This matter was investigated by the DA's office in association with the Unified Police Department, as per protocol. The statement of facts comes directly from the DA's letter which

lays them out. Some minor changes to the DA's letter may occur due to formatting and/or parts have been removed as they are either not necessary for this review or are conclusionary in nature.

The following comes from the DA's letter and reflects the OICI investigation:

### **FACTS DEVELOPED DURING OICI INVESTIGATION**

As noted previously, following the officers' use of deadly force, SLCPD properly initiated the OICI protocol, *see* Utah Code Ann. § 76-2-408(2)-(3), such that protocol investigators were called in to conduct an independent investigation of the officers' weapons discharge, and the protocol investigation's independent investigative findings were presented to the DA's Office to screen for possible criminal charges against the involved officers for their use of deadly force.

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.

In the early morning hours of February 10, 2020, SLCPD officers received a 911 call with no one apparently on the line. In the background, dispatchers could hear a man and a woman talking-the man was talking about not letting the woman leave the apartment, there was discussion about a knife, the man saying I don't want to kill you, and information that led dispatchers to believe the man in the background attacked the woman. About this same time, SLCPD dispatchers also received a call from a woman we refer to as "N. Y." who told dispatchers that she received a text from her friend named Natalie Thurber. N. Y. said that Natalie's boyfriend, "Tyson," was trying to kill Natalie. N. Y. told police dispatchers that Natalie lived in apartment 103 but did not have the street address of the apartment building.

Police dispatchers used technology to narrow down the location of the phone call coming from the man and woman, and sent officers to the area of 115 South, 300 East on a report of an "unknown problem." Officers arrived in the area of two multi-story apartment buildings about five minutes after dispatchers received the first call with the man and woman on the line. It was about 3:45 a.m.

SLCPD Officer Jeppsen got out of his patrol car and walked around the area of the apartment buildings, trying to ascertain which apartment unit the call for help was coming from. Officer Jeppsen saw a light on inside a basement apartment. Officer Jeppsen walked to the apartment window and heard what he later described as a quiet scream and gurgling from a woman inside the apartment. Officer Jeppsen said he heard a man tell the woman to be quiet. Officer Jeppsen stepped away from the window and used his police radio to tell dispatchers that he believed he located the call for help and identified the specific address. Other officers headed to the location.

Officer Jeppsen said he could hear that the situation inside the apartment was getting worse. The man inside the apartment was saying: "Shut up, shut up" and the

woman's gurling continued. Officer Jeppsen drew his firearm and kicked the glass out of the apartment's window. Inside the apartment, Officer Jeppsen saw a man standing and a woman kneeling facing Officer Jeppsen. The man had both arms around the woman and was "choking her out." The woman had her arms on the man's arms trying to pull his arms away from her throat. Officer Jeppsen ordered the man to "drop it!"

The man immediately released the woman, said "Ok," and backed up and around the corner of the room. The man was behind a wall separating the room from a hallway. The woman looked at Officer Jeppsen and said: "Help." SLCPD Officer Miller had arrived on scene and walked up behind Officer Jeppsen.

As Officer Jeppsen looked to see Officer Miller, he heard two pops from inside the apartment. He turned back to the apartment and saw the woman on the ground and not moving. Officer Jeppsen said he looked back and saw Officer Miller drop to the ground and grab his chest. Officer Jeppsen turned back to the apartment and saw the muzzle of a gun appear around the corner of the wall behind which the man had gone. Officer Jeppsen aimed his weapon at the wall where he believed the man was located and fired his police weapon several times. When he stopped firing, Officer Jeppsen said he heard a man screaming.

When Officer Cassity arrived at the apartment building, he saw Officer Jeppsen and Officer Miller standing outside a basement apartment window. In his interview with protocol investigators, Officer Cassity said he heard two gunshots and saw officer Miller fall down and saw blood coming from underneath Officer Miller. Officer Cassity went to the window with Officer Jeppsen and heard another gunshot emanating from inside the apartment. Officer Cassity aimed his police weapon at the wall where he believed the gunshot came from and fired.

Officer Miller survived his gunshot wound injury and was interviewed by protocol investigators. During his interview, Officer Miller said he did not fire his weapon during the incident. Investigators informed Officer Miller that their review of body-worn camera footage appeared to show Officer Miller fire one shot from his police firearm. Investigators also determined that Officer Miller's weapon was down one round. It appears that Officer Miller was shot very close in time or contemporaneously with his weapon discharge. We don't know whether being shot caused a sympathetic reaction or whether the trauma of being shot caused Officer Miller not to remember his weapon discharge.

Mr. Nance was apprehended and treated for his gunshot wound injuries. He survived. On February 20, 2020, the D. A.'s Office charged Mr. Nance with one count of Criminal Homicide, Aggravated Murder, a First Degree Felony; one count of Attempted Criminal Homicide, Aggravated Murder, a First Degree Felony; one count of Aggravated Kidnapping, a First Degree Felony; and one count of Aggravated Assault, a Third Degree Felony. All persons accused of wrongdoing are presumed innocent unless and until proven guilty in a court of law.

## Witness Statements

### *Officer Jeppsen*

On February 19, 2020, OICI protocol investigators interviewed Officer Jeppsen with his attorney present. Officer Jeppsen said that in the early morning hours of February 3, 2020, he was dispatched on a report of a domestic violence incident. Officer Jeppsen said police dispatchers informed officers that a man was not letting a woman leave an apartment, that the man had injured the woman, and the man was threatening the woman with a knife. Officer Jeppsen said that dispatchers received the information third hand and did not have an exact location of the incident. Officer Jeppsen said he drove his police car to the reported area of the domestic violence. Officer Jeppsen said he got out of his police car and searched the area between two apartment buildings for clues to the incident location.

Officer Jeppsen said as he looked around the exterior of an apartment building located at 125 South, 300 East, he saw a light on in a basement apartment. Officer Jeppsen said he put his ear to the window and heard what he described as a quiet scream and gurgling from a woman coming from the basement apartment. Officer Jeppsen said he heard a man telling the woman to be quiet in a very aggressive manner. Officer Jeppsen said he walked away from the basement apartment window to use his police radio to notify dispatchers that he believed he located the domestic violence incident and updated the address of the occurrence as 125 South, 300 East. Officer Jeppsen said he didn't want to reveal his location to the occupants. Officer Jeppsen said other officers responded to the location.

Officer Jeppsen said when he returned to the basement apartment window, he could tell the situation was getting worse. Officer Jeppsen said he heard the man saying: "Shut up, shut up" and the woman gurgling. Officer Jeppsen said he drew his police firearm from the holster and kicked the basement window in. Officer Jeppsen said he saw a man, later identified as Michael Tyson Nance, and a woman later identified as Natalie Thurber inside the apartment. Officer Jeppsen said Mr. Nance had both his arms around Ms. Thurber's neck, choking her. Officer Jeppsen said Ms. Thurber was kneeling on the floor and had her hands on Mr. Nance's arms trying to pull them down. Officer Jeppsen said Ms. Thurber couldn't breathe. Officer Jeppsen said both Mr. Nance and Ms. Thurber were facing him.

Officer Jeppsen said he immediately pointed his weapon and ordered Mr. Nance to "Drop it!" Officer Jeppsen said Mr. Nance let go of Ms. Thurber's neck and said: "OK." Officer Jeppsen said Mr. Nance backed up around the corner of a wall separating the room from a hallway and disappeared around the corner. Officer Jeppsen said Ms. Thurber looked up at him and said: "Help."

Officer Jeppsen said he looked around the area to see whether other officers had arrived to assist with the situation. Officer Jeppsen said he saw Officer Miller walking up to the window from behind. Officer Jeppsen said as he looked at Officer Miller, he heard

"pop" and then another "pop" and turned to see Ms. Thurber on the ground inside the apartment, not moving. Officer Jeppsen said he turned back to Officer Miller and saw Officer Miller fall to the ground and grab his chest. Officer Jeppsen said he heard Officer Miller say: "I got shot." Officer Jeppsen said everything happened very fast, and that as his mind caught up to what had just occurred, he realized the sounds he heard were gunshots and that Ms. Thurber and Officer Miller had probably just been shot.

Officer Jeppsen said, prior to Ms. Thurber being shot, he didn't recall seeing the gun appear from behind the wall in the apartment, but, when he viewed his body-worn camera recording prior to the interview with protocol investigators, he acknowledged the recording captured the images of a gun appearing from behind the wall. Officer Jeppsen said he took a firing position at the window and saw the gun appear again from behind the wall. Officer Jeppsen said he believed Mr. Nance was behind the wall holding the gun. Officer Jeppsen said he saw Mr. Nance firing the weapon-as Officer Jeppsen said: "popping off rounds." Officer Jeppsen said he selected a spot on the wall behind which he believed Mr. Nance stood with the gun and fired his weapon at the spot on the wall. Officer Jeppsen said he was trying to get Mr. Nance to stop shooting at the officers. Officer Jeppsen said when he stopped shooting, he heard someone scream in a way he had never heard before.

Officer Jeppsen said he positioned himself in a way to best assess the situation and evaluate Ms. Thurber's condition. Officer Jeppsen said he advised police dispatchers of the situation and asked for medical personnel to stage prior to their arrival.

### ***Officer Cassity***

On February 19, 2020, OICI protocol investigators interviewed Officer Cassity with his attorney present. Officer Cassity said he heard police radio dispatchers send officers on a report of a domestic violence incident in which woman was overheard in the background saying she wanted to leave, a man saying she couldn't leave, and the man strangling the woman. Officer Cassity said dispatchers sent out an update saying a friend of the woman texted police that the woman's boyfriend was trying to kill the woman and a knife was involved. Officer Cassity said dispatchers didn't have an exact address of the incident; Officer Cassity said dispatchers pinged the phone in which the conversation was overheard to obtain an approximate location.

Officer Cassity said when he arrived in the area, the officers were discussing and coordinating which apartment buildings they were going to search. Officer Cassity said he was across the street looking in another apartment building when he heard Officer Jeppsen call out on the radio that he had located the incident. Officer Cassity said he heard Officer Jeppsen say that he had a male at gunpoint. Officer Cassity said he sprinted across the road.

Officer Cassity said when he arrived at the 125 South 300 East apartment building, he saw Officer Jeppsen and Officer Miller facing a basement apartment

window. Officer Cassity said he walked towards Officer Miller. Officer Cassity said as he passed Officer Miller, he heard one gunshot, a slight pause, and then another gunshot. Officer Cassity said he looked around and saw Officer Miller fall onto his back and saw blood coming out from under Officer Miller. Officer Cassity said he heard Officer Miller say on the police radio that he had been shot. Officer Cassity said he then heard a volley of gunshots. Officer Cassity said it sounded like some of the shooting was coming from officers outside the building and some of the shots were coming from inside the apartment.

Officer Cassity said when the shooting stopped, he ran over to the window and was at an angle to Officer Jeppsen. Officer Cassity said a K.9 officer brought his dog up to look into the window, too, and then backed off. Officer Cassity said he heard another shot from inside the apartment and saw Officer Jeppsen returning fire. Officer Cassity said he saw a man run inside the apartment and heard a loud bang. Officer Cassity said he decided he needed to use deadly force to prevent the man from shooting him and the other officers. Officer Cassity said he believed the man was shooting at the officers through the wall that he was behind. Officer Cassity said he believed that if he didn't use deadly force, the man would shoot him and Officer Jeppsen and they would not be able to rescue Officer Miller who had already been shot. Officer Cassity said he fired his weapon three or four times at the wall where he believed the man was.

Officer Cassity said he stopped shooting to assess the situation and he heard what sounded like a man cry out in pain from inside the apartment. Officer Cassity said he saw a woman on the ground partially in the hallway and there was blood underneath the woman. Officer Cassity said he and other officers tried to assess the building and containment. Officer Cassity said he moved to the back of the building to hold containment until he was relieved.

### ***Officer Miller***

On February 25, 2020, OICI protocol investigators interviewed Officer Miller with his attorney present. Officer Miller said he was on duty on February 3, 2020 when he heard police radio dispatchers notify officers of suspicious circumstance call. Officer Miller said after the initial description, dispatchers provided updated information about the call several times. Officer Miller described the call as "an open 911 call," by which he meant that rather than someone speaking directly to a dispatcher, call takers could hear things in the background. Officer Miller said the call escalated as dispatchers heard things in the background of the call. Officer Miller said dispatchers informed officers that an assault was underway, that a knife was involved, and that someone was screaming for help.

Officer Miller said he headed toward the call as a back-up officer because of the escalating nature of the call. Officer Miller said he arrived on scene and got out of his car. Officer Miller said he saw Officer Jeppsen and Officer Cassity who had already arrived at the apartment building. Officer Miller said officers were looking for the

apartment from which the call came. Officer Miller said two K.9 officers arrived and joined the search for the right apartment. Officer Miller said many other officers arrived in the area to help with the search.

Officer Miller said he heard another officer had found the right apartment. Officer Miller said he headed towards the apartment. Officer Miller said he saw Officer Jeppsen standing outside a basement apartment window. Officer Miller said he saw Officer Jeppsen kick out the window of the basement apartment and challenge someone at gunpoint. Officer Miller said he heard Officer Jeppsen announcing police presence and yelling commands at someone inside.

Officer Miller said he was standing off to the side of Officer Jeppsen. Officer Miller said he looked inside the apartment and saw a man and a woman. Officer Miller said he heard: "one or two pops and my leg felt weird and then the next thing I knew I was on the ground." When asked to clarify the sound he heard, Officer Miller said he thought the sound was gunshots, but they sounded muffled. Officer Miller said he believed the gunshots came from within the apartment. Officer Miller said after he went down to the ground, several people surrounded him and dragged him off. Officer Miller said his perception of time changed.

In his interview, protocol investigators asked Officer Miller if he fired his weapon and Officer Miller said: "No." Protocol investigators asked him whether he didn't remember or whether he did not fire, and Officer Miller said he did not fire his weapon. Protocol investigators informed Officer Miller that their weapon download count appeared to show that his weapon was down one round, and a review of body-worn camera recordings indicated he fired his weapon. Officer Miller said it was possible that he fired his weapon and had no recollection of doing so.

### ***Other Witnesses***

Protocol investigators interviewed several other police officers and two security guards who were in the area during the incident. None of the witnesses' accounts materially differed from the testimony of the three officers set forth above.

### **Physical Evidence**

Protocol investigators inspected and photographed the OICI scene where Mr. Nance was shot. Investigators also downloaded and reviewed body-worn camera footage from Officer Jeppsen's, Officer Cassity's, and Officer Miller's body-worn cameras. Investigators also viewed body-worn camera recordings made by other officers on scene, each of which recorded some aspects of the incident. The recordings made by the officers' body-worn cameras corroborate the witnesses' statements of the OICI events.

Investigators downloaded and inspected the involved officers' weapons, as well as the weapons of other officers on scene who did not use deadly force. Investigators

downloaded and inspected Officer Jeppsen's weapon, a Glock Model 21 .45ACP caliber handgun. Officer Jeppsen's download inspection determined he likely fired nine shots from his weapon. Investigators also recovered nine spent (empty) .45ACP cartridge casings from the scene. Investigators downloaded and inspected Officer Cassity's weapon, a Glock Model 17 9mm caliber handgun. Officer Cassity's download inspection determined he likely fired four shots from his weapon. Investigators also recovered four spent (empty) 9mm cartridge casings from the scene. Investigators downloaded and inspected Officer Miller's weapon, a Glock Model 17 9mm caliber handgun. Officer Miller's download inspection determined he likely fired one shot from his weapon. Investigators determined that no other officer used deadly force during the incident.

Investigators located and recovered a 9mm caliber handgun and three spent (empty) 9mm cartridge casings and one 9mm cartridge from inside the apartment.

**Evidence:**

- E: The District Attorney's letter has been publicly released with portions used above.
- E1: Firearms Scores: these records were reviewed and nothing of interest was noted.
- E2: Photographs: photographs of the scene as well as photographs of C at the hospital were made.
- E3: Multiple body cameras were activated and captured the events, as described above.

**Allegations:**

This matter is an OIS and as such, it triggers an automatic review. The allegation is that the officers used Excessive Force, to wit, they fired at and struck Mr. Nance.

**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:**

First off, it is important to recognize the outstanding work of Off. Jeppsen in locating the crisis apartment. With minimal information, he used outstanding investigative initiative to deduce which of the multiple apartments was containing the assault upon the female. Although there



were no indications of a gun being present, only a knife according to the information provided by Dispatch, Off. Jeppsen put his ear to the window to confirm the choking noises he was hearing. By doing so, he placed himself in great harm in an effort to save another human being. PCRB commends Off. Jeppsen for his initiative and bravery in this rapidly unfolding human tragedy.

As events unfolded, there was zero opportunity to deescalate this matter. Once Off. Jeppsen breached the window, he was confronted with a scene wherein Mr. Nance appeared to be choking a female to death. He gave the only commands he could in order to save her life, at least until Mr. Nance shot her.

In viewing the body camera footage, the incident was described accurately in the above recounting. It was plain to see Mr. Nance fire twice to start the exchange of gunfire. It appears that his first round was fired at the female, who died of her wound, inside the apartment while the second one appeared to be fired at the breached window, striking Off. Miller.

Off. Jeppsen returned fire, aiming at the wall which Mr. Nance was concealed behind. Off. Cassity joined Off. Jeppsen in returning the fire of Mr. Nance, who was struck by police bullets and was heard by the officers to be screaming inside of the apartment. Off. Miller was evacuated from the crisis scene by other officers. As the officers were scrambling to establish containment on Mr. Nance, he was able to exit the apartment and attempted to escape. He was stopped and detained by a private security officer nearby and eventually taken into custody and transported to the hospital where he received treatment for his wounds.

The evidence is overwhelming that Mr. Nance was attacking a woman in his apartment when Off. Jeppsen intervened. Although information gathered by Dispatch indicated the possible existence of a knife, Mr. Nance retreated from his initial confrontation with officers and obtained a handgun. Mr. Nance then opened fire killing the woman in his apartment and striking Off. Miller before officers returned fire, striking and wounding him.

**Panel Findings:**

As to the allegation that S used “Excessive Force”, the Panel makes a finding of “Exonerated”.

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

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Kevin Parke  
Panel Chair  
By Richard Rasmussen

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9/30/20