



CCA Case No. 21250

Brennan Ball

Investigation Report and Finding

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Date: January 12, 2024

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COMPLAINT SUMMARY

Date: December 21, 2021

Time: 11:00am

Location: 3716 Montgomery Road

CCA Receipt: December 21, 2021

On December 21, 2021, CPD officers responded to an Emergency Communications Center (ECC) dispatch report of a bank robbery at Eagle Savings Bank at 3716 Montgomery Road. The bank employees provided ECC with a description of a suspect who was armed with a firearm.

Later that morning, Officers Jonathan Gordon and Shermel Davis observed a suspect, later identified as Mr. Brennan Ball, matching the employees' description on Wasson Way Trail. Officers Gordon and Davis attempted to stop Mr. Ball, but he displayed a firearm and continued to walk on the trail.

Officers Gordon and Davis followed Mr. Ball along the trail and issued several commands for him to stop. Mr. Ball continuously ignored the officers' commands. When Mr. Ball approached the end of the trail, he sustained a self-inflicted gunshot wound to his head. Officers present rendered aid until Cincinnati Fire Department (CFD) personnel arrived and transported him to the University of Cincinnati Medical Center (UCMC), where Mr. Ball succumbed to his injuries.

INVOLVED SUBJECT STATEMENTS

Brennan Ball

Mr. Ball, M/B/37, succumbed to his injuries and was pronounced deceased at UCMC.

INVOLVED OFFICER STATEMENTS

Officer Shermel Davis

Officer Shermel Davis, #P0547, M/B/41, is currently assigned to the Recruiting Unit, and he has been a CPD member since 2007. At the time of the incident, Officer Davis was assigned to the Special Services Section. He was on routine patrol, in uniform and operated a marked cruiser with Officer Gordon; his BWC was activated.

CCA interviewed Officer Shermel Davis on September 13, 2023 at 2:03pm. He provided the following information:

Officers Gordon and Davis were on patrol southbound on Madison Road near Buskins when a broadcast came out for a bank robbery. The robbery had occurred approximately 10 to 20 minutes prior to the broadcast; the broadcast included a description of a Black male suspect

wearing all black clothes with a blue bag and silver firearm. Officers Gordon and Davis approached Wasson Way Trail and observed a man, later identified to be Mr. Ball, matching the provided description, although his pants may have been a lighter color or beige. Mr. Ball also carried a blue bag. They made eye contact with Mr. Ball, who proceeded on the path.

Officers Gordon and Davis attempted to follow Mr. Ball on foot, but he was already at least 100 yards away. Officers Gordon and Davis re-entered the cruiser and followed him onto the trail in their cruiser. Officer Gordon drove and attempted to speak with Mr. Ball over the loudspeaker to stop, which caused Mr. Ball to turn. At that time, they observed the bag and firearm. They radioed the updated information to other officers.

They ordered Mr. Ball to stop but he continued to walk along the trail. Meanwhile, other officers arrived to assist with the pursuit; some stationed themselves near businesses beyond the trail, while others engaged on foot, including Officer Darryl Tyus. Officer Tyus remained near the rear driver door and Norwood Police Department (NPD) officers were on the passenger side. After Officer Tyus arrived near Floral Avenue, the officers gave Mr. Ball orders again, but he turned around with the firearm, facing the officers. The officers fanned out but continued to follow on foot; Mr. Ball turned back and continued to walk forward.

After Mr. Ball brandished the firearm at the officers, Officer Davis displayed his firearm and ordered Mr. Ball to stop and drop the firearm. As the foot pursuit continued, Officer Davis varyingly pointed the firearm at Mr. Ball or at the ground, with his finger on the side and not on the trigger. He did not discharge his firearm.

The officers arranged for Montgomery Road to be closed. Additional officers were positioned at the end of the trail. Occasionally, Mr. Ball would turn his head as though he were listening to music, but it was also evident Mr. Ball could hear the officers' commands. Officer Davis indicated there was communication amongst the officers and there were no concerns of crossfire. He was unaware of any less lethal options that were discussed to resolve the situation.

Approximately 100 yards from Montgomery Road, Mr. Ball noticed the officers ahead. Mr. Ball turned away from Montgomery Road towards the path and pointed his firearm. None of the officers shot, so Mr. Ball turned back towards the other officers, pointed his firearm at his head and pulled the trigger. Mr. Ball may have fired one or two shots and then collapsed. The officers near Officer Davis held their position while other officers approached, cleared the scene, and may have rendered aid. CFD was present and attended to Mr. Ball.

Officer Jonathan Gordon

Officer Jonathan Gordon, P#0794, M/B/57, is currently assigned to the Special Services Section, and he has been a CPD member since 1999. Officer Gordon was on routine patrol, in uniform and operated a marked cruiser with Officer Davis; his BWC was activated.

CCA interviewed Officer Gordon on September 13, 2023 at 2:32pm. He provided the following information:

Officer Gordon's initial statement corroborated the information provided by Officer Davis. He added that after their first attempt to contact Mr. Ball, they re-entered the Wasson Way Trail in their cruiser. Officer Gordon drove at a slow pace while Officer Davis walked alongside, using the passenger door for cover. He wanted to maintain a "safe" distance between Mr. Ball and the officers. As he drove, the officers continually provided commands for Mr. Ball to stop; Mr. Ball ignored the directives but did not attempt to say anything or run away.

They continued slowly along the trail and were joined by Officer Tyus and NPD officers. They walked along the cruiser and used the cruiser doors for cover. Mr. Ball displayed a firearm and pointed it at his head. Officer Gordon repeatedly commanded him to “Stop,” and “Drop the gun,” which were ignored. Mr. Ball did not direct the firearm at the officers.

Mr. Ball walked closer to Montgomery Road. Near the rear of Dana Gardens, Mr. Ball shot himself and collapsed onto the ground. Specialist Michael Harper and Officer Roger Noe approached Mr. Ball and cleared the scene for CFD assistance. Mr. Ball was transported to UCMC.

OFFICER WITNESS STATEMENTS

Specialist Michael Harper

Officer Michael Harper, #PS597, M/W/46, is currently assigned to Central Business Section, and he has been a CPD member since 2001. Specialist Harper was on routine patrol, in uniform and operated a marked cruiser; his BWC was activated.

CCA interviewed Specialist Harper on October 9, 2023 at 9:56am. He provided the following information:

Specialist Harper’s initial statement corroborated the information provided by Officers Davis and Gordon. He added that he responded to Montgomery Road. Specialist Harper discussed tactics with other CPD officers present to ensure there were lethal and less lethal options for the officers when they encountered Mr. Ball. Some of the options included utilizing a canine, CEWs, bean bag rifles, and service rifles. Specialist Harper believed the officers present exhausted the available options to them to prevent the situation from escalating.

Prior to engaging Mr. Ball, Mr. Ball fired two rounds from his firearm; the second round was aimed at Mr. Ball’s temple and caused him to collapse. Specialist Harper and other officers approached Mr. Ball with their firearms drawn. They ensured the scene was clear and the firearm was removed from the immediate area before CFD was called in. CFD transported Mr. Ball to UCMC.

Officer Darryl Tyus

Former CPD Officer Darryl Tyus, #P0938, M/B/44, was a CPD member since 2007. Officer Tyus separated from CPD in February 2023 and was unable to be interviewed. CCA attempted to reach Officer Tyus by mail but there was no response. To date, CCA has not heard from Officer Tyus.

Officer Tyus was interviewed by Homicide Unit Officer Greg Gehring and Officer Carl Beebe. A summary of their interview is included below:

Officer Tyus was on duty, in uniform, and operating a marked police vehicle. Officer Tyus heard a broadcast for a reported bank robbery which occurred at the Eagles Savings Bank, located at 3420 Edwards Road. Officer Tyus heard the suspect was last seen heading north on Edwards Road.

Officer Tyus responded to the area of the bank and took a perimeter position on Michigan Avenue. While on the perimeter position, Officer Tyus heard a unit from the Mountain Bike Squad put themselves out with a possible suspect on the Wasson Way Trail. Officer Tyus immediately

responded to the Wasson Way Trail and Floral Avenue where he parked his vehicle and approached on foot.

Officer Tyus observed a subject walking west approximately thirty yards ahead of Officer Gordon and Officer Davis' vehicle. That subject is now known as Mr. Brennan Ball. Just as Officer Tyus arrived and started issuing verbal commands to stop, Mr. Ball turned and brandished a firearm.

Officer Tyus took cover next to Officer Gordon's vehicle as they continued to follow Mr. Ball. As Mr. Ball walked westbound, he took the gun and placed it against his head. At one point, Officer Tyus observed Mr. Ball turn toward them while holding the gun to his head. Officer Tyus made additional commands to drop the gun as Mr. Ball continued walking toward Montgomery Road.

As Mr. Ball approached the officers at Montgomery Road, he fired a single shot from his gun in an unknown direction. With the firearm to his head, Mr. Ball fired a second shot causing his body to drop to the ground. Officer Tyus observed Officer Harper and some other officers move up to Mr. Ball, where they pulled him away from the firearm.

Note: An examination of Officer Tyus's Department issued firearm revealed he did not discharge his firearm during the incident. A review of Officer Tyus's BWC revealed that his BWC captured most of the incident and the gunshots discharged by Mr. Ball.

WITNESS STATEMENTS

Officer Roger Noe

Officer Noe, M/W/49, #P0854 was interviewed by Homicide Unit Officer Greg Gehring and Officer Carl Beebe. A summary of their interview is included below:

Officer Noe was on duty, in uniform, and operated a marked police vehicle. Officer Noe heard a broadcast for a reported bank robbery which occurred at the Eagles Savings Bank located at 3420 Edwards Road. Officer Noe was advised that the suspect was last seen heading north on Edwards Road.

Officer Noe responded to the area and took a perimeter position on Michigan Avenue at Observatory Avenue. While on the perimeter position, Officer Noe heard a unit with the Mountain Bike Squad put themselves out with a possible suspect walking on the Wasson Way Trail. Officer Noe immediately responded to the area.

Unable to locate an access point to the officers on the trail, Officer Noe made his way to the parking lot next to the Wasson Way Trail at Montgomery Road. Officer Noe retrieved his patrol rifle and took a perimeter position near Officer Harper's vehicle.

Officer Noe along with other officers developed a quick plan of action regarding what to do when Mr. Ball approached. They identified Officer Dozier as the officer who would use a TASER if they needed a less lethal tool. They also requested an officer with a beanbag shotgun respond to their location.

As Mr. Ball walked toward Montgomery Road, Officer Noe observed him chamber a round, place the gun to his head, and fire a shot that missed. Mr. Ball pulled the slide of his firearm to the rear chambering another round. Mr. Ball then placed the gun back to his head and fired another shot causing his body to drop to the ground.

Officers Noe and Specialist Harper moved up to Mr. Ball to secure the firearm and render aid. Officers Harper and Noe pulled Mr. Ball's body away from the firearm that was in his hand and underneath his body. Medics from the Cincinnati Fire Department arrived and transported Mr. Ball to UCMC for treatment.

Officer Noe was tasked with accompanying the medics to UCMC. When Officer Noe entered the ambulance, one of the medics handed him a bag of money that was in Mr. Ball's possession. Officer Noe took possession of the money and accompanied them in the ambulance to UCMC. Officer Noe gave possession of the bag and money to the criminalists when they arrived at UCMC.

Note: An examination of Officer Noe's Department issued firearm revealed he did not discharge his firearm during the incident. A review of Officer Noe's BWC revealed that his BWC captured most of the incident and the gunshots discharged by Mr. Ball.

Officer David Dozier

Officer Dozier was interviewed by Homicide Unit Officer Jeff Smallwood and Officer Eric Karaguleff. A summary of their interview is included below:

Officer Dozier, M/B/51, #P0142 was on duty, in uniform, and operating a marked police vehicle. Officer Dozier heard a broadcast for a reported bank robbery which occurred at the Eagles Savings Bank, located at 3420 Edwards Road. The suspect description was for a Black male, wearing all black, and armed with a silver handgun. Officer Dozier heard that the suspect was last seen on Edwards Road heading toward Erie Avenue.

Officer Dozier responded to the area of the bank to look for the suspect. Officer Dozier heard a unit with the Mountain Bike Squad put themselves out with a possible suspect walking on the Wasson Way Trail. Officer Dozier responded to the area to assist.

Officer Dozier made his way to 1832 Dana Avenue, behind Dana Gardens, so he could get to the Wasson Way Trail. Officer Dozier exited his vehicle and moved toward the Wasson Way Trail at Montgomery Road. As Officer Dozier approached the trail, he could see a firearm in Mr. Ball's right hand.

Officers Dozier, Noe, Specialist Harper, and Officer Remley took cover in a nearby parking lot away from any potential crossfire situation. As Mr. Ball approached, Officer Dozier could hear officers yelling commands to drop the gun. Officer Dozier heard a gunshot and observed Mr. Ball place the gun to his head. The gun clicked and Mr. Ball chambered another round, placed the gun back to his head, and fired a second shot. Mr. Ball's body dropped to the ground.

Officers Dozier, Harper, and Noe moved up to Mr. Ball's body to secure the firearm and render aid. Officer Dozier provided cover while Officers Harper and Noe pulled Mr. Ball's body away from the firearm. Medics from the Cincinnati Fire Department arrived and transported Mr. Ball to UCMC for treatment.

Note: An examination of Officer Dozier's department-issued firearm revealed he did not discharge his firearm during the incident. A review of Officer Noe's BWC revealed that his BWC captured most of the incident and the gunshots discharged by Mr. Ball.

EVIDENCE

CCA responded to the scene of the shooting and monitored the investigation being conducted by the Homicide Unit as well as the processing of the scene by the Criminal Investigations Section (CIS).

Police Documents

CCA reviewed all CPD-related forms, including but not limited to the Homicide Binder, ECC recordings of dispatch (including radio traffic and 911 calls), property receipts, arrest forms, crime scene diagrams, evidence examination worksheets, firearm report, Records Management System (RMS) reports, and the IIS Report.

Computer Aided Dispatch (CAD)

<u>Date</u>	<u>Time</u>	<u>Call Notes</u>
12/21/2021	10:32:06	HOLD UP ALARM, TELLER 1, 2, 3
	10:33:22	STAFF NOT AT LOC, NO SUSP INFO BUT ARMED WITH GUN
	10:34:02	SUSP: M/B/BLK JACKET, BLK JEANS, BLK GATOR OVER FACE *****ARMED WITH GUN***** L/S ON FOOT NORTH ON EDWARDS
	10:34:14	SUSP NO LONGER INSIDE, LOC, MB, BLK MASK, WEARING BLK SWEATER, BRN PANTS, UNK IF LEFT ON FOOT OR IN VEH
	10:44:32	BLUE DRAWSTRING BAG, DISPLAYED LONG BARRELED BLK HANDGUN WITH SILVER BARREL
	10:51:04	BLUE BAG WALKING ON WASSON TRAIL
	10:52:27	FOLLOWING IN CAR FROM DISTANCE
	10:52:36	CONTINUING TO WALK AWAY
	10:53:29	GUN TO HIS HEAD AND CONTINUING WALKING
	10:53:49	HAVE FIRE STAGE REF ARMED SUBJ WITH GUN TO HIS HEAD AT WASSON TRAIL NEAR DANA RAMP TO 71
	10:54:28	BLK JKT, KHAKI PANTS, CHANGED CLOTHING
	10:54:33	BRANDISHING GUN
	10:55:01	ONLY ONE ON TRAIL
	10:55:04	NOT COMPLYING
	10:55:09	GUN STILL IN RIGHT HAND
	10:55:53	GUN BACK TO HEAD AGAIN
	10:57:33	GUN STILL AT HEAD
	11:00:23	SUSPECT JUST SHOT HIMSELF
	11:01:39	OK ON LOC * IS SCENE SAFE
	11:02:06	FIRE HEADING IN
	11:03:04	GUN IS SECURE
	11:06:41	LEAVE M ONEY ON HIM NOW, RETRIEVE AT HOSPITAL
	11:08:15	SECONDARY LOCATION: UNIVERSITY ER

Digital Video Recording/Mobile Video Recording

DVR recordings were also provided for additional responding CPD units, including Lieutenant Eric Schneider, Sergeant William Hahn, Specialist Harper, and Officers Christopher Clarkson, Dozier, Tyus, Jason Ader, Jason Lindle, Jason Rice, Merlin Murrell, Jr., Perry Locke, Roger Noe, Scott Beasley, Stafford Thompson, and Timothy Watson. CCA reviewed the additional footage; nothing additional was gleaned from those recordings.

Officer Gordon's DVR

Equipment number: 18338

Time: 15:52:40 – 00:00:00*

**The BWC camera time was not adjusted to EST Daylight Savings. The time stamps below are as shown on the camera.*

DVR showed Officer Gordon following Mr. Ball on the Wasson Way Trail. There were no other individuals on the trail. Mr. Ball, who wore khaki pants and a black jacket, walked at a standard pace several yards in front of the cruiser. At 15:52:58, Officer Tyus and two other officers entered the trail a few yards ahead of the cruiser and followed on foot. At 15:53:05, Mr. Ball appeared to place something to his head and turned to face the officers, while still walking ahead. The three officers drew their firearms and pointed them at Mr. Ball, while each took several steps backwards.

The audio activated at 15:53:10. One officer yelled multiple times, "Put the gun down!" Officer Gordon radioed Mr. Ball's actions to ECC. Two officers continued to walk slowly and followed Mr. Ball, several yards behind him but ahead of the cruiser. At 15:53:33, Officer Gordon advanced the cruiser ahead of the officers and advised them to get on both sides of the cruiser to have cover. The officers continued to yell commands for Mr. Ball to put the firearm down. Mr. Ball did not comply.

At 15:55:54, Officer Gordon reported Mr. Ball had placed the gun to his head again. At 15:56:42, Officer Gordon used the cruiser intercom and stated, "Cincinnati Police. Stop. Drop your weapon. Go to the ground. Comply with our commands." Mr. Ball did not comply and continued to walk forward. The officers communicated with each other to ensure Montgomery Road was closed and officers were situated not to be caught in potential crossfire. Mr. Ball replaced his weapon at his temple. At 15:57:21, Officer Davis yelled, "Put the gun down!" six times but Mr. Ball continued to walk with the weapon at his temple. At 15:58:08, Officer Gordon used the cruiser intercom again to tell Mr. Ball to stop, drop the weapon, and get on the ground. Mr. Ball continued to walk forward with the firearm at his temple. The officers continued to shout commands for Mr. Ball to stop.

At 15:59:44, Mr. Ball turned towards the cruiser and stopped briefly and then resumed walking towards Montgomery Road, where multiple cruisers were parked. Officer Gordon's cruiser stopped. At 15:59:51, Mr. Ball placed the firearm against his right temple and lowered it; at 15:59:57, a shot fired from Mr. Ball's weapon, and he continued to walk forward. An officer called, out, "Shots fired!" Officers continued to yell for Mr. Ball to drop the weapon. At 16:00:01, Mr. Ball had placed the firearm against his head and fired another shot. His body immediately collapsed onto the pavement. From Montgomery Road, multiple officers slowly approached Mr. Ball's body; Officer Gordon remained in the cruiser. The officers moved Mr. Ball's body to the middle of the pavement. Officer Gordon moved his cruiser closer to the incident scene as several officers approached from all directions and CFD arrived on scene.

CPD Body Worn Camera (BWC)

BWC recordings were also provided for additional responding CPD officers, including Lieutenant Stephen Bower, Sergeant Hahn, Specialist Harper, Officers Ader, Michael Bricker, Eric Gilbert, Karoline Harris, Matthew Mauric, Murrell, Jr., Locke, Noe, Thompson, Watson, CCA reviewed the additional footage; nothing additional was gleaned from those recordings.

Officer Davis

The events recorded by Officer Davis's BWC occurred on December 21, 2021 starting at 10:50:14 to 11:01:05, according to the BWC's timestamp. A review of that recording reveals the following:

Officer Davis activated his BWC as he and Officer Gordon followed Mr. Ball on the Wasson Way Trail. He maintained a position near the rear passenger door of the cruiser. Officer Gordon issued a command over the cruiser intercom for Mr. Ball to stop, but Mr. Ball continued to walk. At 10:51:27, Officer Davis re-entered the cruiser as they followed Mr. Ball across the I-71 overpass. Both commented that they observed Mr. Ball with a blue bag and recalled the description referenced a firearm. At 10:51:53, Officer Gordon used the cruiser intercom multiple times to direct Mr. Ball to stop. They radioed updates regarding Mr. Ball's behavior.

At 10:52:57, Officer Davis exited the cruiser. Mr. Ball walked several yards in front of the cruiser. As he walked closer, Mr. Ball turned around. Officer Davis took cover behind a nearby chain link fence. He raised his firearm and pointed it at Mr. Ball as Officer Tyus yelled commands for Mr. Ball to put the gun down. Officer Davis moved his firearm to the low ready position as he walked beyond the fence. He moved along the trail parallel to the cruiser but behind the chain link fence. Officer Davis radioed an update regarding the suspect's description.

At 10:55:10, Officer Davis caught up to the cruiser from beyond the fence. He maintained a position behind the cruiser. An NPD officer maintained a position by the rear passenger door. Officer Gordon attempted to issue commands through the cruiser intercom while other officers yelled their directives. Two additional NPD officers arrived behind Officer Davis, one with a service rifle who moved to the rear passenger cruiser door. Officer Davis remained at the back of the cruiser by the trunk. At 10:59:59, a gunshot was heard; at 11:00:01, a second gunshot was heard. Officer Davis's BWC did not capture Mr. Ball's actions. The remaining BWC footage was not relevant to the allegations.

Officer Gordon

The events recorded by Officer Gordon's BWC occurred on December 21, 2021 starting at 10:51:39 to 11:03:13, according to the BWC's timestamp. A review of that recording reveals the following:

Officer Gordon's BWC was activated while he was in the cruiser. Officer Gordon remained in the cruiser throughout the incident, so the BWC showed only the cruiser's dashboard and did not capture any footage of Mr. Ball's actions.

At 10:53:05, Officer Gordon radioed that Mr. Ball had a gun to his head but was continuing to walk. He advised Mr. Ball to be noncompliant with their commands. Officer Gordon drove the cruiser at a slow pace and directed other CPD officers, who were on foot, to use the cruiser as cover. Multiple officers made several commands for Mr. Ball to put the gun down. At 10:55:48, he radioed Mr. Ball had put the gun to his head again.

At 10:56:41, Officer Gordon used the cruiser's cruiser intercom and said, "Cincinnati Police. Stop. Drop your weapon. Go to the ground. Comply with our commands." He communicated with other officers to ensure Montgomery Road was closed and the end of the trail was cleared to

prevent any potential crossfire. At 10:58:06, Officer Gordon resumed contact by cruiser intercom and stated, "Sir, put the gun down. Stop. Drop the weapon. Get on the ground." Officer Gordon maintained a slow pace behind Mr. Ball. At 10:59:07, Officer Gordon used the cruiser intercom and stated, "Sir, stop before you get to Montgomery Road. Drop the weapon. Go to the ground. Comply with our commands."

At 10:59:43, Officer Gordon noted that Mr. Ball had stopped. He advised nearby officers to use the cruiser's doors as cover. At 10:59:54, Officer Gordon again used the cruiser intercom to direct Mr. Ball to drop the weapon. A gunshot was heard and at 10:59:57, Officer Tyus yelled, "Shots fired!" At 10:59:59, Officer Gordon used the cruiser intercom to state, "Drop your gun." At 11:00:01, Officer Gordon said, "All right, okay." Within seconds, other officers indicated Mr. Ball had shot himself. At 11:00:16, Officer Gordon radioed Mr. Ball was on the ground and officers were approaching. The remaining footage was not relevant to the allegations.

Officer Tyus

The events recorded by Officer Tyus's BWC occurred on December 21, 2021 starting at 10:53:23 to 11:05:22, according to the BWC's timestamp. A review of that recording reveals the following:

Officer Tyus activated his BWC while in his cruiser. At 10:52:49, he entered the Wasson Way Trail on foot. Mr. Ball walked on the Wasson Way Trail path several yards ahead of Officer Tyus. Officer Tyus walked on the grass, near the buildings and maintained a walking pace. He called out to Mr. Ball to put the gun down twice. At 10:52:57, Officer Tyus withdrew his firearm from his holster and pointed it at Mr. Ball. Officer Tyus reiterated his earlier command several times, but Mr. Ball was unresponsive. Officer Tyus followed Mr. Ball on foot at a walking pace. His firearm remained pointed at Mr. Ball as he issued commands for Mr. Ball to put the firearm down.

At 10:53:33, Officer Gordon instructed the officers to use the cruiser as cover. The rear driver's side door was open. Officer Tyus put his firearm in the low ready position and took cover behind the door. Once in position, Officer Tyus pointed his firearm at Mr. Ball while maintaining pace with the cruiser at the rear driver's side. Officer Tyus followed alongside the cruiser as he and other officers continued to issue commands for Mr. Ball to stop without success.

At 10:59:47, Officer Tyus yelled, "Shots fired!" and moved behind the cruiser door. The BWC was obscured and did not capture the second shot. When Officer Tyus moved from behind the door and lowered his firearm, Mr. Ball was collapsed on the pavement. The remaining footage was not relevant to the allegations.

Officer Dozier

The events recorded by Officer Dozier's BWC occurred on December 21, 2021 starting at 10:50:43 to 11:07:21, according to the BWC's timestamp. A review of that recording reveals the following:

Officer Dozier activated his BWC while in his cruiser. Once he arrived on scene, the BWC captured his conversations with other CPD officers regarding tactics for when Mr. Ball arrived at Montgomery Road to ensure they had lethal and less-lethal options, to include CEW, service rifles, mace, and a canine.

Officer Dozier took a position in a parking lot adjacent to the Wasson Way Trail. At 10:59:56, a shot was heard, and an officer reported, "Shots fired! Shots fired! Shots fired!" Officer Dozier took cover behind a vehicle. He withdrew his firearm from the holster and kept it at the low ready. Alongside several other officers carrying service rifles, he approached the trail with his firearm at

the low ready. Mr. Ball's body appeared collapsed on the ground. The two officers ahead of Officer Dozier moved Mr. Ball's body away from the firearm Mr. Ball had been holding. CFD personnel assessed Mr. Ball to indicate he was breathing but did not have a pulse. An officer slid the firearm from Mr. Ball's feet to the side of the path. The remaining footage was not relevant to the allegations.

NPD Body Worn Camera (BWC)

CCA reviewed the BWC footage from eight NPD officers. No additional information was gleaned.

Photographs

CCA reviewed several photographs of the bank robbery incident scene, the Wasson Trail incident scene, and evidence processing.

Robbery Description Forms

Bank staff and witnesses to the initial robbery completed forms to describe the suspect and list any details associated with the suspect's actions. The descriptions provided included a Black male wearing a black top, black or brown pants, with a blue drawstring bag.

Hamilton County Coroner's Report

The Hamilton County Coroner's Report stated Mr. Ball sustained a perforated contact gunshot wound to the head with an entrance wound of the right temporal scalp, with soot deposition within the wound track. An exit wound was observed on the left frontotemporal scalp. It noted minor blunt impact injuries of the face and extremities. The toxicology report recorded acute methamphetamine and recent/subacute cocaine intoxication.

The Cause of Death was listed as a Gunshot Wound of the Head. The Manner of Death was listed as a "suicide (shot self during confrontation with police)." The report was signed by Dr. Anne Laib on March 2, 2022.

SIGNIFICANT DISCREPANCIES AND CLARIFICATIONS

Several CPD officers were present during the incident and provided additional interviews and/or Police Officer Notes to the Homicide Unit. CCA reviewed the notes and interviews for CPD Officer, Lieutenant Eric Schneider, and Officers Joseph Keating, William Remley, Michael Schneider, and Thompson. Further, CPD observed the interviews of Norwood Police Department Sergeant Kim Brucker and Officers Tia Bomske, Mike Castanias, Brad Chapman, and Brian Hoffman. Nothing additional was gained from these notes.

AUTHORITIES

I. CPD Procedure §12.554 Investigatory Stops (Revised 08/19/2021)

Information:

There are three levels of police/citizen contact.

The first level is a consensual encounter. A police officer may approach any person in a public place and request to talk to him. So long as the person is free to leave whenever he wants, no Fourth Amendment seizure has occurred, and no reasonable suspicion or probable cause is required.

The next level is the "Terry" type encounter. Here the officer has reasonable suspicion to believe the citizen is committing or has committed a crime. Based on this reasonable suspicion, the officer may forcibly stop and detain the citizen for a brief investigatory period. Although a citizen is required to properly identify oneself during the stop, failure to answer investigatory questions asked by the officer cannot provide the justification for detaining a person past the period necessary to complete the brief "Terry" type investigation. Once the reasonable suspicion is determined to be unfounded, the citizen must be released.

The third level of police/citizen contact is the arrest. The arrest occurs when the citizen is no longer free to leave, and the officer has the intent to arrest. The arrest must be supported by probable cause to believe the citizen is committing or has committed a criminal offense.

Information or descriptions resulting from anonymous tips is not sufficient probable cause to stop and search individuals. Officers must carefully develop reasonable suspicion in cases involving anonymous tips. Officer's observations while on the scene, securing more complete information from the anonymous caller and other circumstances which would tend to support the information received are all ways that officers can use to articulate reasonable suspicion allowing a "Terry" stop. Every "Terry" type stop does not automatically authorize a frisk. If a frisk is conducted, the officer must be able to articulate specific facts which led them to believe the individual could be armed and dangerous.

Access to the Contact Card Database for query purposes is available at select computer terminals in investigative units throughout the Department. The law prohibiting the handcuffing of charged and pregnant offenders does not apply to original arrests or detainments, even if there is a warrant or capias unless the offender has been previously processed and booked, e.g., is out on bond. Refer to Procedure 12.600, Prisoners: Securing, Handling, and Transporting.

Policy:

No law enforcement agency should condone or promote the use of any illegal profiling system in its enforcement program. Criminal elements exist in every segment of our society. An officer whose enforcement stops are based on race or ethnicity is engaged in a practice which undermines legitimate law enforcement and may face claims in Federal courts of civil rights violations. To focus on a single segment of society is to limit enforcement efforts.

Awareness is the key to success in criminal interdiction. Observations must be evaluated in the aggregate - not isolation. An officer must use all senses while avoiding the development of tunnel vision. An important factor to remember when conducting an enforcement stop is to take the time to do it right. Do not rush through the stop or an important indicator of illegal activity may be missed.

Except in exigent circumstances, when a citizen is stopped or detained and then released as part of an investigation, the officer will explain to the citizen in a professional, courteous manner

why he or she was stopped or detained. For purpose of the above sentence, the term “exigent circumstances” refers only to those conditions occurring after the stop had been made which, for safety reasons, would make it unreasonable for the officer to remain at the scene of the stop to explain the basis for the stop.

II. CPD Procedure §12.550 Discharging of Firearms by Police Personnel (Revised 06/22/2017)

Policy:

The most serious act in which a police officer can engage is the use of deadly force. The authority to carry and use firearms in the course of public service also carries with it the highest level of responsibility. Respect for human life requires that police officers exhaust all other reasonable means before resorting to the use of firearms and then only when an officer reasonably believes that such use of firearms is necessary to protect the officer or another from the risk of serious physical harm or loss of life.

In considering the use of firearms, understand that you are responsible for your acts and that you may be required to justify your acts in a court of law. The Hamilton County Prosecutor’s Office will determine the legality of actions taken. You are not required to retreat in lieu of the justifiable use of deadly physical force.

The safety of innocent persons is of paramount importance. Where there is substantial risk to the safety or life of an innocent citizen, the safety of the citizen should take precedence over the apprehension of the suspect.

Officers should attempt to use non-confrontational verbal skills, empathy and/or active listening to stabilize a person in crisis or when confronted with a situation where control is required to effect an arrest or protect the public’s safety. The suspect should be allowed to comply before force is used unless this causes unnecessary danger to the officer or others. De-escalation may also incorporate the use of additional time, distance and resources as well as persuasion, command presence, repositioning, and warnings, to reduce the intensity of a potentially violent situation to decrease the potential need to use force.

Police officers may not use deadly force merely to prevent escape in misdemeanor cases. The use of deadly force to prevent escape of felony suspects is constitutionally unreasonable except where the escape presents an immediate risk of death or serious physical harm to another.

Where the suspect poses no immediate threat of death or serious physical harm to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. If an officer uses unnecessary and/or excessive force, or acts wantonly and maliciously, he could be found guilty of assault, even of culpable homicide if he kills the person he is attempting to arrest.

At such time as a police officer perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, **with finger outside the trigger guard** and have it ready for self-defense. **The finger is only to be placed on the trigger when on target and ready to engage a threat.**

An officer has a duty to intervene to stop, prevent and report the use of excessive force by another officer when it safe and reasonable to do so.

Self-Defense: A police officer is authorized to use that force reasonably necessary to protect himself or others from death or serious physical harm at the hands of another.

- There must be an apprehension of real or immediate danger based on an overt and/or constructive act by another.

Warning Shots: Officers should only use warning shots if convinced a warning shot will possibly save a life or alleviate the need of taking a life. As with any shot an officer fires, the officer must know it will not endanger innocent bystanders. Supervisors should report and investigate warning shots as outlined in Section A.

Felonies: When all other reasonable means at the officer's disposal have failed, the use of firearms is authorized, only under the following circumstances, as a last resort to apprehend a fleeing felon:

- The officer has probable cause to believe the suspect has committed or is committing a felony, and
- The suspect presents an immediate risk of death or serious physical harm, either to the officer or another person if not immediately apprehended.
- If possible, the officer will give verbal warning before using the firearm.

By itself, notification by Emergency Communications Section (ECS) resulting from a general information broadcast or computer query that a subject is wanted will not provide authority for the police officer to use a firearm.

All Other Felonies and Misdemeanors: In all other felonies or misdemeanors, police personnel will not fire shots even if the perpetrator attempts or succeeds in his attempt to flee.

Juveniles: A police officer will not discharge a firearm at a person known to be or suspected of being a juvenile (person less than 18 years of age) except under circumstances which come within the provisions of the self-defense policy.

Information:

The Police Chief has authorized a comprehensive review of critical firearm discharges by Department employees. A Critical Firearm discharge is defined as:

All shots fired by Department employees with the exception of:

- Beanbag Rounds.
- 40mm foam rounds.
- At animals.
- While hunting.
- Training accidents when proper safety procedures were followed.

The review will begin at the Police Chief's direction. If a criminal investigation is warranted, the review will commence after the completion of any criminal investigation or court proceedings into the matter.

To facilitate this process, the Police Chief has established a Firearm Discharge Board (FDB) to conduct all such reviews. The Board's review will include Criminal Investigations Section (CIS) and Internal Investigations Section (IIS) investigative files and interviews of the principal CIS and IIS investigators. The review will be concluded within 90 days of commencement. The FDB will act as a quality control mechanism for all critical firearm discharges, with responsibility to return to the Police Chief all incomplete or mishandled shooting or firearm discharge investigations. The FDB will have the authority and responsibility to recommend to the Police Chief investigative protocols and standards for all critical firearm discharge investigations.

The core members of the board will consist of a CPD command staff officer, the Police Training Section Commander, the SWAT & Tactical Coordination Unit Commander, the affected bureau commander, and an attorney from the Solicitor's Office. All appointments will occur on or about the first day of January and be effective for one year.

The Inspections Section Commander will serve as the chairperson of the CFB. The chairperson is responsible for coordinating all meetings and ensuring all relevant material compiled during any criminal or administrative investigation is reviewed. The chairperson is also responsible for submitting a written report to the Police Chief within the established timelines.

The Police Chief may appoint additional FDB members as needed. The Police Chief will appoint a replacement member in the event a board member retires or is no longer able to fulfill membership duties. The Police Chief may disqualify a FDB member at any time.

All efforts will be made to conclude reviews within the established timelines. If the Police Chief determines extenuating circumstances exist, the Police Chief may extend the established timelines.

Proceedings by the FDB are to be conducted informally, directed towards the issues of the appropriateness of Department policies and procedures, member's judgment, and the training adequacies with respect to the member's knowledge, skill, and resources. The chairperson will determine what evidence is relevant and reliable, without regard for technical or formal rules of evidence. The chairperson will determine the need to call witnesses and may order witnesses to be separated during the review.

The chairperson will prepare a final report to the Police Chief that will become part of the investigation file. The report will include a description of the incident (including all uses of force), a summary and analysis of all relevant evidence, proposed findings and analysis to support those findings. In particular, the board will determine: a) whether all uses of force during the encounter were consistent with Department policy and training, b) whether the officer(s) involved employed proper tactics, and c) whether lesser force alternatives reasonably were available.

On or before the first day of February, the FDB chairperson will prepare and present to the Police Chief a summary report reviewing each closed critical firearm discharge from the preceding year. This report will include analysis of patterns and problems discovered during the review.

Procedure:

A. Shots Fired

1. Report all shots fired by police personnel to an on-duty supervisor immediately regardless of circumstances. Personnel having knowledge of a shot fired by another officer will report the incident to an on-duty supervisor immediately. This includes:
 - a. Shots fired at or taking effect against an individual.
 - b. Warning shots.
 - c. Shots fired at animals.
 - d. Accidental discharges.
 - e. Shots fired from any firearm by off-duty personnel except:
 - 1) Target or competition shooting
 - 2) Hunting
 - 3) Military service

ANALYSIS

Allegation 1: Death in Custody

CPD Procedure §12.554 Investigatory Stops states officers who have developed reasonable suspicion to believe the citizen is committing or has committed a crime forcibly stop and detain the citizen for a brief investigatory period. A review of bank employees' statements and witnesses' statements confirm the description provided of the bank robbery suspect, which matched Mr. Ball's description at the time of the encounter. Mr. Ball's distance from the bank was consistent with the time elapsed since the bank robbery had occurred.

Officers Gordon and Davis had reasonable suspicion Mr. Ball may have been involved with the reported robbery at Eagle Savings Bank. When Officers Gordon and Davis attempted to initiate the investigatory stop, Mr. Ball refused to comply, brandished a firearm, and continued to walk on the Wasson Way Trail. CPD Procedure §12.545 Use of Force states a police officer's right to make an arrest, or an investigatory stop necessarily carries with it the right to use some degree of physical coercion, or threat thereof, to effect it. Officers Gordon and Davis re-evaluated their situation and received additional assistance before re-engaging Mr. Ball. They followed Mr. Ball with the cruiser and on foot, while using verbal commands for him to stop and displayed their firearms without effect. Recorded footage showed that when Mr. Ball approached the end of Wasson Way Trail, he shot his firearm twice and created a self-inflicted gunshot wound to his head.

The involved officers had not escalated the encounter beyond an investigatory stop nor placed Mr. Ball in custody. The officers did not physically contribute to his death. A critical review of the available evidence indicates that CPD's actions were within their policies and procedures and did not materially contribute to Mr. Ball's death.

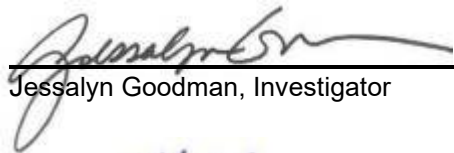
Review of the body camera footage showed several officers pointed their firearms, including Officers Davis and Tyus. Officer Davis's and Tyus's display of firearms is governed by CPD Procedure § 12.550 Discharging of Firearms, which states that at such time as a police officer

perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, with finger outside the trigger guard and have it ready for self-defense. The observation of Mr. Ball's firearm, noncompliance of the officers' commands, and recent involvement in a felony crime made it reasonable to believe that Mr. Ball presented a continued risk of substantial harm to the citizens and officers. Accordingly, CCA concluded that Officers Davis and Tyus were in compliance with CPD's policies, procedures, and training when they pointed their firearms at Mr. Ball.


FINDINGS

Original Allegations

No.	Allegation	Subject Officer	Involved Citizen	Finding
1	Death in Custody	Shermel Davis	Brennan Ball	Unfounded
2	Death in Custody	Jonathan Gordon	Brennan Ball	Unfounded



Jessalyn Goodman, Investigator



Makiedah Messam, Interim Director

**PREVIOUS
CONTACTS AND
COMMENDATIONS**

Officer Shermel Davis

Previous Contacts with CCA

Officer Davis had one previous contact with CCA in the past three years.

Case Number	Allegation	Finding
19157	Improper Procedure (BWC – Turned on Late)	Sustained
19157	Discourtesy	Sustained

Previous Contacts for CCA Referrals

Officer Davis had one allegation referred to CPD for investigation in the past three years.

Case Number	Allegation	CPD Finding
19098	Lack of Service	Unfounded

Previous Contact with IIS

CCA is unaware of any additional previous contact by Officer Davis with IIS.

Commendations

Officer Davis received four commendations in the past three years.

Date	Source of Commendation Received
02/04/2019	Other Law Enforcement
06/17/2020	CPD
06/17/2020	CPD
07/29/2021	Citizen

Officer Jonathan Gordon

Previous Contacts with CCA

Officer Gordon had one previous contact with CCA in the past three years.

Case Number	Allegation	Finding
20148	Improper Procedure	Exonerated
20148	Improper Search	Exonerated
20148	Improper Entry	Exonerated

Previous Contacts for CCA Referrals

Officer Gordon had one allegation referred to CPD for investigation in the past three years.

Case Number	Allegation	CPD Finding
21174	Improper Procedure	Sustained

Previous Contact with IIS

CCA is unaware of any additional previous contact by Officer Gordon with IIS.

Commendations

Officer Gordon received four commendations in the past three years.

Date	Source of Commendation Received
01/28/2019	Citizen
02/04/2019	OLE
01/11/2020	CPD
01/11/2020	CPD

Officer Darryl Tyus

Previous Contacts with CCA

Officer Gordon had no previous contacts with CCA in the past three years.

Previous Contacts for CCA Referrals

Officer Gordon had five allegations referred to CPD for investigation in the past three years.

Case Number	Allegation	CPD Finding
19130	Discourtesy	Not Sustained
19130	Procedure Violation	Exonerated
19130	Other – CPD Code	Sustained
20047	Discourtesy	Unfounded
20047	Lack of Service	Sustained

Previous Contact with IIS

CCA is unaware of any additional previous contact by Officer Gordon with IIS.

Commendations

Officer Tyus received two commendations in the past three years.

Date	Source of Commendation Received
01/04/2019	Citizen
02/04/2019	OLE