

# **Investigation: William Monroe**

**2012-2013**



**Portland Police Bureau  
1111 SW 2nd Ave.  
Portland OR 97204**



## CITY OF PORTLAND, OREGON



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### **CONFIDENTIAL MEMORANDUM**

September 5, 2012

To: Assistant Chief Lawrence P. O'Dea  
Operations Branch

From: Commander Robert Day   
Central Precinct

Subject: Commander's Review and Findings  
Officer Involved Use of Deadly Force  
IA Case #2011-B-0017; PPB Case #11-054666

### **Date and Time of Occurrence**

June 30, 2011 – 1022 hours

### **Location of Occurrence**

SW Naito Pkwy / SW Pennoyer St.

### **Involved Member**

Officer Dane Reister #31663 – Central Precinct

### **Involved Citizen**

William Kyle Monroe

### **Witness Officers**

Officer Stuart Palmiter #27244 – Central Precinct  
Officer Dean Halley #19498 – Central Precinct (PPB Retired)

### **Civilian Witnesses**

David DeMarkey  
Sacha Etzel  
Kawika Bernal  
Walter Jones  
Laura Jones  
Troy Anderson  
Steve Richeard (PPB Retired)  
Steve Buchtel (PPB Retired)  
Zebediah Krieger

David Krieger  
George Palmiter

### **Incident Summary**

Officer Reister was dispatched to a report of a suspicious person who was intoxicated and harassing children in a park. The subject, later identified as William Kyle Monroe, was reported to have a knife concealed up his sleeve. Officer Reister confronted Monroe, who ran from the area. Officer Reister chased Monroe for a short distance, and then fired his less-lethal shotgun at him. Monroe fell to the ground and officers took him into custody.

At that point, the officers realized Monroe had been hit with 00 buckshot, rather than less lethal rounds. Subsequent investigation revealed that Officer Reister had somehow loaded buckshot rounds into the less lethal shotgun, and had fired four of these rounds during the encounter with Monroe. Monroe sustained serious injuries as a result of the shooting.

A review of training records showed that Officer Reister attended the Bureau's Rapid Response Team (RRT) training for its less lethal munitions systems, which did not include less lethal shotguns. It was on the basis of this training that Officer Reister believed he was certified to carry the less lethal shotgun.

### **Scope of Review and Findings**

This review focuses on three areas of review:

1. Officer Reister's decision to use less lethal munitions on William Kyle Monroe.
2. Officer Reister's loading of the less lethal shotgun with 12 gauge buckshot rounds.
3. Officer Reister's qualification to carry the less lethal shotgun while on patrol.

In reaching my conclusions, I relied upon the administrative investigation, the criminal investigation and Grand Jury transcripts, and the Training Division's review of the case.

#### ***1. Officer Reister's decision to use less lethal munitions on William Kyle Monroe. (FORCE)***

**Directive 1010.10** states, in relevant part:

The Portland Police Bureau recognizes that members may be required to use deadly force when their lives or the life of another is jeopardized by the actions of others. Therefore, state statute and Bureau policy provide for the use of deadly force under the following circumstances:

- a. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury.
- b. A member may use deadly force to affect the capture or prevent the escape of a suspect where the member has probable cause to believe that the suspect poses a significant and immediate threat of death or serious physical injury to the member or others.
- c. If feasible, some warning has been given.

The use of statutorily defined deadly weapons, barricades and vehicle ramming, constitutes deadly physical force. Also, depending upon how they are used, flashlights, batons, body parts, and other statutorily defined dangerous weapons may constitute deadly physical force.

Members must be mindful of the risks inherent in employing deadly force, which may endanger the lives of innocent persons. A member's reckless or negligent use of deadly force is not justified in this policy or state statute. Members are to be aware that this directive is more restrictive than state statutes. Members of the Portland Police Bureau should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by engaging in actions that are inconsistent with training the member has received with regard to acceptable training principles and tactics.

**Directive 1050.00** states, in relevant part:

Only those members currently certified with the less lethal weapons and specialty impact munitions, as described below, are authorized to deploy them. The use of less lethal weapons and munitions are governed by the Bureau's use of physical force policy and procedure (refer to DIR 1010.20 Physical Force).

Less lethal weapon: A Bureau issued shotgun that is capable of delivering standard lethal 12-gauge shotgun rounds, but is intended to fire only less lethal specialty impact munitions. These weapons are conspicuously marked with orange stocks that are marked "less lethal" and with orange lighted forends to differentiate them from standard shotguns.

#### **Medical Treatment (1050.00)**

If a member strikes a subject with a specialty impact round, the member(s) at the incident will request EMS for a medical evaluation of the subject's injuries. The subject cannot be forced to accept medical treatment. All refusals for treatment must be documented in a report.

#### **Verbal Warnings (1050.00)**

Members will, if feasible, provide a warning to a suspect before shooting the suspect with a less lethal shotgun. The warning should be explicit. For example, a statement such as, "Stop, get on the ground or I'll shoot" would be adequate. Simply shouting "less lethal" or "bean bag" or the equivalent is not sufficient.

**Directive 1010.20** states, in relevant part:

The Portland Police Bureau recognizes that duty may require members to use force. The Bureau requires that members be capable of using effective force when appropriate. It is the policy of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.

The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law. The Bureau also places a high value on the use of de-escalation tools that minimize the need to use force.

The Bureau is dedicated to providing the training, resources and management that help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force.

It is the policy of the Bureau that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely. The Bureau expects members to develop and display, over the course of their practice of law enforcement, the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of allowable force.

Such force may be used to accomplish the following official purposes:

- a. Prevent or terminate the commission or attempted commission of an offense.
- b. Lawfully take a person into custody, make an arrest, or prevent an escape.
- c. Prevent a suicide or serious self-inflicted injury.
- d. Defend the member or other person from the use of physical force.
- e. Accomplish some official purpose or duty that is authorized by law or judicial decree.

When determining if a member has used only the force reasonably necessary to perform their duties and resolve confrontations effectively and safely, the Bureau will consider the totality of circumstances faced by the member, including the following:

- a. The severity of the crime.
- b. The impact of the person's behavior on the public.
- c. The extent to which the person posed an immediate threat to the safety of officers, self or others.
- d. The extent to which the person actively resisted efforts at control.
- e. Whether the person attempted to avoid control by flight.
- f. The time, tactics and resources available.
- g. Any circumstance that affects the balance of interests between the government and the person.

### **Finding - EXONERATED**

Officer Reister's decision to use the less lethal bean bag shotgun against Mr. Monroe was consistent with PPB policy and training. Please refer to pages 15-17 of the Training Analysis as well as the comments below from recorded interviews.

Witnesses reported suspicious behavior by Mr. Monroe and that he was armed with a knife.

Demarkey states in his IA interview, "**DEMARKEY:** Yes, I could see his left hand, but not his right. And we continued talking and then, you know, once we'd come to an agreement, you know, I extended my hand to shake...shake his hand and, you know, to seal the deal I guess and, you know, he pulled up his sleeve, handed his knife off to his left hand to shake...shake hands with his right. And at that point, oh, there was a knife up there, oh, okay".

He also said, "**DEMARKEY:** And so that certainly got me thinking, all right, you know, what's the best thing to do about this individual. And...and, you know, my thinking was, all right, we

have an irrational person who, for whatever reason, is being irrational, he's got a knife, he acted in a threatening manner, in a manner that raised concern."

BOEC dispatched this information as well, "He (Mr. Monroe) has been hassling kids at a camp here. He appeared drunk. They say he is a white male in his early 20s wearing a black baseball cap, all black clothing, white tennis shoes, and now they say he has a pocketknife in his right sleeve."

Therefore the initial responses by officers to consider less lethal options were appropriate. Officer Reister makes several observations that lead him to the decision to use the bean bag shotgun.

In his IA interview Reister says,

**"COURTNEY:** Um hm. And then a follow-up question to that is on the next page, when you arrive and locate the subject, you mention seeing a knife cupped in his right sleeve.

**REISTER:** Yes, Sir."

**REISTER:** ...so his position was he was...he was concealing the knife in his right sleeve, like this, he was hiding it from them. But once I exited the patrol car and announced myself, I had to announce myself to get his attention from them...

**COURTNEY:** Um hm.

**REISTER:** ...to me,...

**COURTNEY:** Um hm.

**REISTER:** ...at that point, he changes position 90 degrees and then hid the knife from me,...

**COURTNEY:** Um hm.

**REISTER:** ...so then I could no longer see the knife.

**REISTER:** ...kept it underneath his sleeve,...

**COURTNEY:** Um hm.

**REISTER:** ...so all I could see was the butt of the knife sticking out between his index finger and his thumb,...

**COURTNEY:** Um hm.

**REISTER:** ...and he hid it behind his right thigh and was working it back and forth between his right thigh, right belt line and...yeah, right belt line, right thigh, right pocket.

**COURTNEY:** Okay.

**REISTER:** And, at some point, he does bring his left hand over, his support hand over, to meet with his right hand, and he's working together...both hands together to manipulate that knife.

**COURTNEY:** Okay, so the blade was not extended...

**REISTER:** I don't know.

**REISTER:** But what I could see, what was visible to me, is very clear to me it was a knife. It reaffirmed what the caller was saying.

Officer Reister has seen the knife, and this is consistent with the information mentioned by dispatch. According to his testimony he attempted de-escalation techniques, talking to Mr.

Monroe and eventually challenging him. These actions are confirmed by witness officers and civilians in the area.

Officer Reister repeats some of his observations in his detective interview:

“...Suspect starts backpedaling and I believe suspect turns and, and it transitions to a run.

**Beniga:** Okay.

**Reister:** At which time I uh, I come up with uh, with less-lethal, um, but he quickly runs out of my range. And I'm like I can't, he's already 25 yards, 20 to 25 yards and he turns then and is backpedaling. He is very quickly outside of the effective range and if I hit him when it's on it's downward arc, that's only gonna encourage him to run more. And I didn't want that. I was so concerned about him running into the blocks, running into uh, a residential community, um, with a knife. An armed guy in the blocks where we can't find, uh, and I know those kids are close and that, that kids camp. I, I didn't want that. So – I wanted to stop that running. So I, I mean I thought about firing and recognized he was outside of my range, dropped it down and I said whoa, whoa, whoa. Because STU had, had uh, run kind of in front me, not, not in front of me, but aft- after uh, the bad guy, in the bad guy's path and um, so beanbag was no longer an, an option. It was outside of the effective range...

....So I escalate my verbal commands and I say, stop right now, get on the ground, do it now! Get on the ground, do it now or I will shoot. Get on the ground, I will shoot you. I said it at least two or three times and I yelled it. I even think I said, I, I believe you have a weapon. Get on the ground or I will shoot you. I, I gave him so many commands. And I uh, I knew I had a very good backstop and I uh, I pointed my less-lethal at uh, his beltline and I picked out a specific target, uh, his right upper (deep breath) right upper thigh. And I made the decision and I was ready to deploy less-lethal and use less-lethal if he made a move up the hill or back towards these houses I was gonna stop him. Um, he turned, he stopped and he bladed his body and he – the same stance that he gave back here, I couldn't believe he was doing that. Eh – couldn't believe it Fighting stance like he was gonna have a gun or like he was gonna leap two leaps and was on with a knife....”

And finally, Reister's decision to fire is related to detectives as follows,

“Yes. (Deep breath) So I, I picked out a specific target, his, his right upper thigh. I fired once. No effect. I went to his other thigh. I fired again – no effect. He stom- he stayed on his feet. In my training, my less-lethal training I know not to shoot at the same spot every time because it can cause over penetration. Um, and serious physical injury so I, I alternated. And I know that in an altered mental state in his the behavior he was demonstrating he was – it was likely he would not feel pain. Um, so an- and, and I've used less-lethal in this situation before where someone has been in excited delirium or drug psychosis that they don't feel uh, one or two rounds. So I made a conscious decision to go to other target areas. But I, each time I pointed to the upper white, upper, upper thigh area. Um, my intent is large muscle mass is he's more likely to go down if I hit him hard uh, in a large muscle group than anywhere else in the upper uh, thighs. So that was my target area, I fired uh, once at each that he didn't go down. So then I, uh, again went alternate back and forth to each thigh. Um, each time...”

**2. *Officer Reister's loading of the less lethal shotgun with 12 gauge buckshot rounds. (PROCEDURE)***

**Directive 1050.00** states, in relevant part:

**Less Lethal Weapons, Standard Shotguns and Ammunition**

With the exception of SERT members, members will only load Bureau issued 12-gauge lethal rounds into Bureau issued shotguns and will only load Bureau issued less lethal specialty impact munitions into Bureau issued less lethal weapons. Under no circumstances will a member carry any standard 12-gauge lethal rounds on his/her person or utility belt while also carrying a less lethal weapon.

**Directive 315.30** states, in relevant part:

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Bureau. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absence without leave.

In addition to other indications of unsatisfactory performance, the following examples could be considered prima facie evidence of unsatisfactory performance: Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Bureau. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absence without leave.

**Finding - SUSTAINED**

There is no dispute that Officer Reister loaded a 12 gauge less lethal beanbag shotgun with lethal rounds. This is supported by his statements as well as the evidence at the scene and the injuries to Mr. Monroe. For the sake of brevity I will limit my supporting documentation to those areas. The answer to the questions of where the lethal rounds originally came from and why Officer Reister loaded them into a less lethal operating system is unknown.



IA interview-

**COURTNEY:** Okay. And then, you know, obviously, I've read your prior detective interviews and you've indicated you don't have a specific memory on how that less lethal got loaded with lethal rounds.

**REISTER:** No, Sir, I do not.

**COURTNEY:** Okay, and that's still the case today, I would assume.

**REISTER:** Yes, it is.

**COURTNEY:** Okay. As you sit here today, do you have any understanding as to how that might have happened?

**REISTER:** Since this has happened,...

**COURTNEY:** Um hm.

**REISTER:** ...it has been my...my mission and my job to try and...and get that answer.

**COURTNEY:** Right.

**REISTER:** To try to figure out how it happened, why it happened...

**COURTNEY:** Um hm.

**REISTER:** ...and to make sure it never happens again.

**COURTNEY:** Um hm.

**REISTER:** I take ownership of that and I've tried to do that."

Detective interview-

**Reister:** I saw blood coming from both legs. I looked down and my knee is still down there uh, on his shoulder and I'm making, I'm consciously making sure I'm not effecting the guys breathing. I'm, and I'm looking at him um, making sure he's breathing and, and I'm looking at his wounds and I'm looking at each leg and I'm thinking man, you know, he's wearing shorts and I'm thinking man those, those really over penetrated and I'm like what? Um, and, and it's not uncommon, I've seen at least two situations where uh, beanbag rounds have penetrated skin, there's a lot of blood and it looks really nasty. And where the, the, the beanbag round actually gets impaled in the skin and that's what it looked like. It looked like, um, something bulging out of the skin and that's what I thought, I was yeah, somebody said – um, man he's bleeding a lot. I said yeah, it's – those beanbag rounds, yeah, I guess they over penetrated. And uh, somebody takes their, uh, somebody gloves up and uh, I'm not sure who it was, uh – and lifts up the shorts and, and, and touches the blood of, on his leg. I'm like why are you doing that. You know, don't expose yourself, if, you know you got gloves on, just be careful with the blood. And uh, moves, you know, some skin away or – it, something's just not registering, something's not right. I realize. And I look at both legs and that looks similar wounds as the left leg. And I know I hit, I aimed and fired at each leg and um – and then Officer HAWKINSON walks up and he's, he uh, he looks at the guy, he's like man that's a lot of blood, what'd you shoot him with? Something to that affect. I'm like well, beanbags. Yeah, it looks like they over penetrated. And I'm, yeah, it's, that's a lot of blood, he said, and I agree, I said yeah. And then I look, I remember, and then I, now I'm concerned about the suspect. I look at the suspect and I see he's, he's turning white. And I get on the, on my mike, I say 850, uh, make sure cover's coming code-3, something to this effect, make sure cover's coming code-3, um, uh, he's turning pretty peaked, uh, think some drugs are on board. I think is what I said. And uh, I'm monitoring his, his breathing. I'm looking at him and uh, I'm looking at the blood and, and

HAWKINSON looks at me and now I'm confused and I, I lower my shotgun, um, it's slung at that time when I'm going to take him into custody I sling it first. So it's over my back and I, I roll my shoulder forward to look at the, to look at the ammunition on the side saddle. I'm like, beanbag rounds. And then, so I, I stand up and I start walking down the hill to where I start walking down the hill, I'm like, I, what's going on here? My mind is just sp- sp- spinning and I walk down the hill to where I believe I was standing and I see a spent 12 gage lethal round. And my heart sinks. And it makes sense. And my feelings of uh, of uh, relief that it was over, that it had, that we had safely uh, uh, stopped this guy before harming somebody went from relief to, oh my god, what just happened? A horrible mistake has been made. And uh – I see that round and it happens to be that a sergeant is standing right there, Sergeant MARTY SCHELL. And I look at the sergeant and I say immediately, I said Sergeant, *I fired lethal rounds. That's a lethal round, I fired lethal rounds.* I wanted him to know right away so that he knew what the deal, what was going on so he – I wanted that guy to get medical help.”

Officer Palmiter told IA:

“**PALMITER:** So I picked all that stuff up and dumped it back over here where he dropped the original stuff, and that's when I saw the knife. And then I went back over to where DANE was and Officer HAWKINS got there, and I asked DANE if he wanted me to pick up his less lethal shells, 'cause not...

**COURTNEY:** Um hm, sure.

**PALMITER:** ...being a less lethal operator, it's like with your cartridges, you've got to turn them in.

**COURTNEY:** Um hm.

**PALMITER:** And I went...I picked up one of the shells and I looked at it, and Officer HAWKINS said something about no, you better leave them there. And I looked at it and it was red and it was like, oh, shit.”

Oregon State Medical Examiner, Karen Gunson filed a report as well. Her quote from paragraph #2 supports this finding,

“Mr. Monroe received one penetrating shotgun wound to the right buttock, two perforating shotgun wounds to the back of the left thigh and a grazing wound to the front of the right thigh. The wound to the right buttock is round without pellet spread. This is seen both in the clothing and the skin wound. The pellets spread rapidly in the pelvis and abdomen causing pelvic fractures, perforation of cecum, transverse colon and bladder. A shot gun pellet 'was recovered from the liver. Multiple pieces of bone and metal were observed by the surgeons in the pelvis and abdomen. It is my opinion that the trajectory of the wound is from back-to-front and right-to-left.”

**3. *Officer Reister's qualification to carry the less lethal shotgun while on patrol. (PROCEDURE)***

**Directive 1050.00** states, in relevant part:

Only those members currently certified with the less lethal weapons and specialty impact munitions, as described below, are authorized to deploy them. The use of less lethal weapons and munitions are governed by the Bureau's use of physical force policy and procedure (refer to DIR 1010.20 Physical Force).

**Training and Certification (1050.00)**

The Training Division (Training) is responsible for training and (re)certification of members in the proper use and deployment of less lethal specialty impact munitions. Requests for training and certification shall come from the RU managers to Training via Training Applications. Training Applications will not be accepted until course dates have been announced. To obtain and maintain certification, members must qualify on the shotgun qualification course and the less lethal qualification courses at every tri-annual qualification range. Copies of (re)certification records will be distributed to the member's Unit/Division at the end of each qualification period. The member's RU manager can make exceptions to the member's maintenance of certification, if due to an assignment to a non-patrol unit or for an extended leave of absence.

**Deployment (1050.00)**

Once certified in less lethal, members will carry the less lethal designated shotgun in their patrol vehicles while in a uniform assignment. RU Managers will ensure that the less lethal designated shotguns are carried in a secure manner in the vehicles used by their members. RU managers may authorize certified members who are not working in a uniform capacity, such as DVD, to take a less lethal designated

**Finding - UNPROVEN**

This allegation has many different points of view, from current and former members. The greatest difficulty in establishing the legitimacy of Officer Reister's qualification is the amount of time that has passed since he began to carry the weapon until the shooting of Mr. Monroe. Training records indicate Officer Reister received about 150 hours of training on various less lethal operating systems during his career. Because of his assignment to RRT he trained as a grenadier with chemical munitions, SAGE, FN303 and possibly the less lethal bean bag shotgun. I use the term "possibly" regarding the less lethal shotgun because that is the issue in dispute.

We know that Officer Reister did not attend a formal, Less Lethal beanbag school, typically a 2-day certification for using the bean bag shotgun. This is confirmed by the Training analysis, "Although Officer Reister did not attend the designated less lethal 12 gauge course by the PPB training staff he did attend training titled "Less Lethal weapons training for RRT and "Sage/BB

cross train-recertification" these were designated as 10 hour classes and they were conducted by members of the RRT team who were also firearms instructors."

The classes referred to above, occurred on December 11, 2002. This was a 10-hour training day, yet 2 classes are listed, "Sage/BB cross train-recertification (RRT) and Less Lethal weapons training for RRT." None of the instructors present could explain why there would be 20-hours of training listed for a 10-hour day.

In his IA interview, Officer Reister says,

**"COURTNEY:** And the class was titled Less Lethal Weapons Training for RRT.

**REISTER:** Right.

**COURTNEY:** And then Sage/Beanbag Cross-Training Recertification for RRT.

**REISTER:** Yes.

**COURTNEY:** Do you have a specific memory of shooting the less lethal shotgun?

**REISTER:** I do not.

**COURTNEY:** Okay.

**REISTER:** I do not think that was done.

**COURTNEY:** Okay. Then this is...this is your signature and stuff on the training roster or on a firearms qualification record?

**REISTER:** Yes, Sir.

**COURTNEY:** Okay. And it has a date 12/11/02. Then I'm confused, do you think something's in error here or how do we account for this?

**REISTER:** RRT never used the less lethal shotgun as a tool"

Reister went on to say,

**"REISTER:** And RRT used two less lethal weapon systems,...

**COURTNEY:** Um hm.

**REISTER:** ...and those were the 37mm Sage,...

**COURTNEY:** Um hm.

**REISTER:** ...which was a six-round multiple launchable system, and the 37mm single shot TL1. At no time did RRT use 12-gauge less lethal..."

Officer Reister reiterates these comments, even stating, "...but I have absolutely no recollection of bringing an 870 less lethal shotgun to any RRT training." (Line 800)

But, at the completion of this training day he agrees that he signs a qualification sheet certifying him as a less lethal shotgun operator.

IA interview-

**REISTER:** But this...you're asking where this qualifications record came from and whether RRT had it, I don't know, but what I do know is this form was provided to me by the trainers...trainer or trainers that day, and I believe that these boxes were pre-checked, these...I...I was handed the form to sign that I received the training that day and that these

box...these boxes indicating function check and qualification course on both weapons were pre-checked.

**COURTNEY:** Okay.

**REISTER:** So that's the clarification I want to make.

**COURTNEY:** Well, and usually on the firearms qualification record, it's standard practice, is it not, to have the firearms instructor check those,...

**REISTER:** Yes.

**COURTNEY:** ...not the student check those.

**REISTER:** Right.

**COURTNEY:** Okay.

**REISTER:** It's not my position to question...

**COURTNEY:** Right.

**REISTER:** ...the sergeant or the trainer.

**COURTNEY:** Um hm.

**REISTER:** If they say I'm receiving the right training, okay, I'll sign the form.

**COURTNEY:** Um hm.

**REISTER:** So I just wanted to make that clear

**COURTNEY:** Okay. But, again, you don't have a specific memory of shooting the less lethal shotgun on this day?

**REISTER:** Not on that day or any Portland Police given RRT training.

Finally, Officer Reister says that he was told by then Sgt Buchtel of the Training Division that he was certified,

IA interview-

**COURTNEY:** And then the next question would be who told you you guys were qualified with the less lethal shotgun?

**REISTER:** I hate to...I hate to do that. The instructor told us, and I'm not one to...I was a five year officer, I'm not one to question the sergeant of the Training Division, well respected, good man,...

**COURTNEY:** Um hm.

**REISTER:** ....good man, SERT guy, excellent leader.

**COURTNEY:** You're talking about Sergeant BUCHTEL?

**REISTER:** Yes, Sir.

**COURTNEY:** Okay.

**REISTER:** Good man.

**COURTNEY:** So he's the one that you remember told you you were qualified?

**REISTER:** Yes, Sir.

**COURTNEY:** Okay. And was that a result of a question by you or other class attendees are we qualified, or did he say, hey, you've had this training, now you're qualified to carry the less lethal?

**REISTER:** I don't know for a fact whether the...the specific question came up in the classroom portion. It very well could have. It may have. But it was clear, everyone attending that class was under the impression that we are now less lethal beanbag certified."

Steve Buchtel retired from PPB as a lieutenant. He was interviewed regarding this incident. These are his relevant response to the certification of Officer Reister for less lethal shotgun.

IA interview-

**“COURTNEY:** A grenadier, right. And so what I’m hearing you say is you never told anybody in that class that they were less lethal qualified just because they qualified with it at this training.

**BUCHTEL:** No.”

Investigator Courtney clarifies at the end of the interview,

**“COURTNEY:** Yeah, it does show up, but I mean would...I wonder if that counts. I’m just thinking out loud if that counts for one of your qualifications. You know, you’ve got to qualify with it so many times a year. But then, no, you qualify with the handgun so many times a year and you do that...

**BUCHTEL:** Yeah.

**COURTNEY:** ...in conjunction with the handgun, so...okay. Yeah, it just, you know, I think some people came away from that class thinking they were less lethal qualified and others didn’t, you know, so there was some sort of miscommunication (indecipherable). And you don’t remember any talk in the class, people talking about that or...

**BUCHTEL:** No, no...

**COURTNEY:** Okay.

**BUCHTEL...**I don’t recall that at all”

The other instructors for the class were Lieutenant Fender (officer at the time) and Captain Hamann (sergeant assigned to TOD in 2002).

Lieutenant Fender’s IA interview is more consistent with Lieutenant Buchtel,

**“COURTNEY:** Okay. Was there anything in this class...I guess, since you’re listed as an instructor there, did you let it be known or did you give information that students who attend this class were somehow certified to carry the less lethal shotgun on patrol?

**FENDER:** No because, at the time, that was like a two or three day class, and I would have never had told anybody, as an instructor, this one day class is now certifying you to be a beanbag operator, ‘cause that’s not what the class was designed for and that’s not what...the certification we’re trying to gather this for.

**COURTNEY:** And did you hear any other instructor there, Officer BUCHTEL or HAMANN, give that impression to students?

**FENDER:** I couldn’t say for sure. I don’t remember.

**COURTNEY:** Okay. Do you remember any talk amongst students? Did anybody approach you and say, hey, can we carry this on the street now, now that we’ve had this training or was there any kind of controversy there or...

**FENDER:** No, nobody came to me. I thought it was pretty clear that this was a Sage day.

**COURTNEY:** Okay.

**FENDER:** I don't remember anybody specifically coming up to me and saying, hey, can I carry the beanbag (indecipherable)."

Captain Hamann was under a different impression, his IA interview,

**"COURTNEY:** Okay. And then just explain for us, if you will, since RRT didn't use or utilize the beanbag shotgun, what was the purpose of having it out and shooting it on RRT training?

**HAMANN:** Well, I think the purpose was is that Sergeant BUCHTEL wanted to certify people to be able to carry the less lethal shotgun, and that they also needed to be certified to carry the Sage gun, and so I think that was the purpose of the day was to qualify people to carry the Sage gun, to deploy it with the Rapid Response Team.

**COURTNEY:** And do you know is that a separate certification? Was BUCTHEL trying to certify people to carry the less lethal for RRT purposes or would that translate into patrol purposes also?

**HAMANN:** Well, I can tell you that I left that training believing that I was cert...certified to carry the less lethal shotgun for patrol,..."

**COURTNEY:** And was that...did you believe you were less lethal beanbag qualified as a result of attending this class or a multitude of classes that you've had, culminating in these classes?

**HAMANN:** As a result of attending this class, I believed that I was certified to carry the less lethal shotgun.

**COURTNEY:** Okay, and how did you come to that belief? Was that something the instruct...BUCHTEL or...

**HAMANN:** My recollection is is that Sergeant BUCHTEL said that if we attend this course that we would be less lethal certified,...

**COURTNEY:** Okay.

**HAMANN:** ...and, you know, I don't know where that conversation took place. I have some recollection that we were talking about how we were gonna do this, that there was a conversation with MACIAG, and Sergeant BUCHTEL said I can take care of the less lethal portion, but, again, you know, I don't...

**COURTNEY:** 'Cause BUCHTEL was, again, assigned to Training at the time, so if he says that he can qualify people,...

**HAMANN:** Correct.

**COURTNEY:** And did you specifically have any conversations about this qualification, being less lethal qualified, with Officer DANE REISTER?

**HAMANN:** Not that I recall.

There were several students interviewed from this class. Some believed they were qualified and actually shot the bean bag shotgun during this training day. Others, like Officer Reister, do not recall shooting the bean bag shotgun at all but still felt they were qualified. Officer Reister believed he was certified to carry the less lethal shotgun. The inadequate record keeping by the Training Division, the amount of time since the class, and the many differing statements by students and instructors lead me to the conclusion the Police Bureau cannot prove or disapprove of this belief.

Initial DAF-366

Date 05/21/2012

PORTLAND POLICE BUREAU  
INTERNAL AFFAIRS  
Confidential Investigative Report  
Investigator Lynn Courtney #13609

Date: May 3, 2012  
IAD #: 2011-B-0017  
Comp: PPB

**Involved Subject:**

1. William Kyle MONROE

**Involved Bureau Members:**

	OFFICER	DPSST	ASSIGNMENT	CATEGORY	ALLEGATION(S)
1.	Dane REISTER	31663	Central Precinct	Force	#1
				Procedure	#2
				Procedure	#3
2.	Stuart PALMITER	27244	Central Precinct	Witness	
3.	Dean HALLEY	19498	Central Precinct	Witness	

**Civilian Witnesses Interviewed:**

1. David DEMARKEY
2. Sacha ETZEL
3. Kawika BERNAL
4. Walter JONES
5. Laura JONES
6. Troy ANDERSON
7. Steve RICKEARD (PPB Retired)
8. Steve BUCHTEL (PPB Retired)
9. Zebediah KRIEGER
10. David KRIEGER
11. George PALMITER

**Bureau Members Interviewed:**

	OFFICER	DPSST	ASSIGNMENT	CATEGORY	ALLEGATION(S)
1.	James DARBY	32384	Training Div.	Witness	



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2.	Sgt. Michael FORT	26379	Traffic Div.	Witness
3.	Jerry HIGGINBOTHAM	28713	CIU	Witness
4.	Det. Anthony MERRILL	35227	Detective Div.	Witness
5.	Det. Brad CLIFTON	37152	TOD	Witness
6.	Lt. Vince ELMORE	24002	Personnel Div.	Witness
7.	Tim EVANS	29606	Personnel Div.	Witness
8.	Jason HARRIS	34584	North Precinct	Witness
9.	Lt. Frank GORGONE	27542	East Precinct	Witness
10.	Criminalist Ken JONES	35447	FED	Witness
11.	Kerri OTTOMAN	29213	Central Precinct	Witness
12.	Sgt. Kyle NICE	26853	Personnel Div.	Witness
13.	Matthew NILSEN	28174	East Precinct	Witness
14.	Sgt. Kraig MCGLATHERY	26847	Detective Div.	Witness
15.	Sgt. Brian KELLY	29353	North Precinct	Witness
16.	Capt. Edward HAMANN	16415	DVD	Witness
17.	Sgt. Charlie FENDER	24190	OPS	Witness

**Applicable Directives:**

1. 1010.10 Deadly Physical Force
2. 1010.20 Physical Force
3. 1050.00 Less Lethal Weapons and Munitions
4. 315.30 Unsatisfactory Performance

**Areas of Review:**

1. Officer REISTER's decision to use Less Lethal munitions on William Kyle MONROE.  
(FORCE)
2. Officer REISTER's loading of the Less Lethal shotgun with 12 gauge buckshot rounds.  
(PROCEDURE)
3. Officer REISTER's qualification to carry the Less Lethal shotgun while on patrol.  
(PROCEDURE)

**Incident Overview:**

On June 30, 2011 at approximately 0955 hours, Kawika BERNAL called 911 to report a possible drunk male subject harassing him and other kids at Lair Hill Park in the 3000 block of SW 2<sup>nd</sup>

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Avenue. The subject was also mimicking and staring at him, which cause BERNAL concern, like he wanted to start a fight with him. BERNAL requested that police conduct an area check, even though the subject was walking away, as he felt this subject would return to continue to harass him and the kids in the park. BERNAL stated the subject was last seen walking eastbound on SW Hooker Street. BERNAL described the suspect as white male, early twenties, wearing all black clothing, black baseball cap and white tennis shoes. BERNAL stated he was helping his mother run a day camp for approximately 18 kindergarten age kids in the park and was concerned about this subject returning as he appeared to be high on something.

A few minutes later BERNAL observed the subject walking back toward the park and called 911 again to advise the subject had returned. This call was followed shortly thereafter by another call to 911 from Dave DEMARKEY, who identified himself as the Finance and Operations manager at Cedarwood Waldorf School, which is across the street from Lair Hill Park. DEMARKEY stated one of the teachers at the school was running a Hawaiian camp in the park for five year old kids and had previously called about a strange guy in the park. He wanted to provide additional information on how the subject was walking southbound on Barbur Blvd. and how he had observed a pocket knife concealed up his sleeve. DEMARKEY told the 911 call taker how he didn't think it would take much for something bad to happen with this guy and how this guy needed some help.

Officer Dean HALLEY, district car 870, was initially dispatched on the call at 10:10:35 hours. When the Bureau of Emergency Communications (BOEC) received the update from Mr. DEMARKEY about the subject having a pocket knife, Officer HALLEY was asked if he wanted a cover car to start to the area. He radioed he did at which point Officer Julie STEVENS, district car 882, was assigned to the call at 10:19:59 hours. Officer Dane REISTER, district car 850, came on the air at 10:20:39 hours to advise he was in the area and wanted a description of this subject and wanted information on what the suspect was supposed to be doing. Radio replied, *"He has been hassling kids at a camp there. He appeared drunk. They say he is a white male in his early 20s wearing a black baseball cap, all black clothing, white tennis shoes, and now they say he has a pocketknife in his right sleeve."* At 10:20:48 hours Officer HALLEY put himself on scene in the area. At 10:22:07 hours Officer REISTER advised radio he was out with the subject who matched the description at SW Natio Parkway and SW Curry Street. At 10:22:43 hours Officer REISTER advised radio he was challenging the subject with Less Lethal and how he was not complying. He further advised he saw the subject stash something in his pocket but he couldn't see it. A few seconds later Officer REISTER asked radio if they had a victim at all. Radio advised they did have a victim of harassment who wanted phone contact. Radio did not know if anyone had contacted that victim yet. At 10:25:40 Officer Stuart PALMITER, district car 741, put himself out on scene followed at 10:26:20 hours by Officer Daniel SPIEGEL in district car 730. Shortly after Officer PALMITER arrived at the scene, Officer REISTER fired four rounds from his Less Lethal shotgun at this subject. The subject fell to the ground as officers approached and took him into custody.

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At 10:27 hours Officer PALMITER came on the air and requested a Code 3 ambulance to respond. A few seconds later Officer REISTER advised radio they were 10-61 (suspect in custody) and to continue medical Code 1 stating he had a male white, about 20, bleeding in the leg. A few seconds later Officer REISTER came back on the air requesting Code 3 medical stating he was turning pretty white and peaked. He added how there might be drugs on board. At 10:30 hours Officer SPIEGEL advised radio medical responders did not need to stage but instead come right in. He described the subject as bleeding pretty good from the leg and if they could hurry up that would be great. At 10:32 hours Officer SPIEGEL again advised radio he did not hear the ambulance coming and emphasized the need for them to hurry, that this was serious. At 10:33 hours Officer SPIEGEL again advised radio the subject had arterial bleeding, how he was bleeding out, and that they needed an ambulance right now. An ambulance arrived on scene shortly thereafter and transported this subject to the Oregon Health Science University (OHSU) for treatment of his injuries.

After officers approached this subject and took him into custody, they noticed he was bleeding from injuries to his legs. The amount of blood loss seemed inconsistent with an injury from a Less Lethal bean bag round. Officers on scene discovered empty red colored 00 buck shell casings in the grassy area where Officer REISTER fired his Less Lethal shotgun. It became apparent the subject, later identified as William MONROE, had been shot with lethal shotgun rounds. Supervisory and Investigative personnel were notified and Detectives took charge of the investigation.

As a result of the criminal investigation, detectives found Officer REISTER had inadvertently loaded his less lethal shotgun with lethal shotgun rounds prior to discharging the weapon four times at William MONROE from a distance of 30 to 36 feet. Four empty less lethal shotgun rounds were found at the scene; with a fifth live lethal shotgun round found that had apparently been ejected from the weapon. According to detectives, MONROE was struck and wounded with at least three of those rounds. Two were discovered to have entered the back of his upper left thigh area and exited out the front with one entering his upper right hip/buttock area. Based upon an examination of MONROE's clothing it appeared the fourth round could have grazed the front of his shirt.

Detectives subsequently interviewed all known police and civilian witnesses to this event including two separate interviews with Officer Dane REISTER. The first interview occurred on July 6, 2011 and a follow up interview occurred on October 5, 2011. In those interviews Officer REISTER told detectives he made a horrible mistake and how he felt awful about it. He stated it was not his intent to load lethal rounds into his less lethal shotgun.

In examining this incident from an administrative point of view, Internal Affairs looked at relevant policies in the Bureau's Manual of Policy and Procedure (2009) which included Deadly Physical Force, Directive 1010.10 and Less Lethal Weapons and Munitions, Directive 1050.00. This Internal Affairs review also looked at Officer REISTER's certification status with the less

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+ CONFIRMED  
BY COURTNEY

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lethal shotgun as to whether or not classes he attended as a member of the Bureau's Rapid Response Team (RRT) actually qualified him to carry this weapon.

**Investigative Narrative:**

***Officer REISTER's decision to use Less Lethal munitions on William Kyle MONROE.  
(FORCE)***

***Officer REISTER's loading of the Less Lethal shotgun with 12 gauge buckshot rounds.  
(PROCEDURE)***

***Officer REISTER's qualification to carry the Less Lethal shotgun while on patrol.  
(PROCEDURE)***

As mentioned previously, Central Precinct officers were dispatched on June 30, 2011 at approximately 0930 hours to a report of a subject harassing the complainant and other children in Lair Hill Park in southwest Portland. Radio gave officers updated information on how another caller reported seeing a pocket knife in the subject's right sleeve. No information was broadcast on this subject using or threatening anyone with this knife.

**Witness Kawika BERNAL**

Kawika BERNAL was identified as the initial complainant on this case. He called 911 to report he was at Lair Hill Park running a camp with a bunch of kids and how there was a subject in the park harassing them, causing problems, looking for trouble. He wanted to know if an officer could come over and speak with him. The 911 operator transferred him to a non-emergency line where he again explained his reason for wanting an officer to respond. He stated he was running a camp with his mom and had about 18 kids in the park when they encountered this subject who was harassing them and trying to start an altercation with him. BERNAL provided a description of the suspect as a male white, early 20's, wearing a black hat, all black clothing and white tennis shoes. He was last seen walking out of the park toward SW 1<sup>st</sup> Ave and SW Hooker Street. The BOEC call taker told BERNAL to call back if the subject returned.

A couple minutes later BERNAL did call back to advise the suspect had returned to the park and how they could use an officer out there pretty quick. He advised the suspect was currently near SW Barbur Blvd. and SW Hooker St. and how he had taken his black sweater off and had on a red shirt. When asked what the suspect was doing BERNAL told the call taker he had tried to start an altercation with him previously and how it looked like he was under the influence of

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something. The BOEC call taker told BERNAL they would send an officer out and asked if he wanted contact with an officer if they couldn't locate him. He told the call taker he did and how he at least wanted to talk with the officer on the phone.

During a subsequent interview with detectives BERNAL explained further the concerns he had about the suspect. He described him as acting real strange, pulling flower stems out of the trash can and throwing the stems on the ground near an unknown couple seated on a bench. BERNAL stated it appeared as if something was affecting his mind and how he got a weird vibe from him. The suspect started to mimic BERNAL as if he wanted to get a reaction from him or possibly start a fight. BERNAL told the suspect he couldn't be starting fights as they were trying to watch the kids in the park and how he needed to just leave the area. The suspect told BERNAL he had a right to be in the park at which point BERNAL's mom, Sasha ETZEL, told the suspect he didn't have a right to be there and to please leave. When he refused to do so, she told BERNAL to get on his phone and call 911.

As part of this investigation I contacted Kawika BERNAL who is currently living in Eugene, Oregon attending school. I identified myself to BERNAL and stated my reason for calling, asking him if he still remembered this incident. He told me he did and how he already gave statements about what he remembered and didn't have much else to say. He did tell me he couldn't tell that day if the suspect was drunk or on drugs but knew something wasn't right with him. BERNAL told me he didn't see the suspect with a knife that day and did not observe the shooting under investigation. He apologized and indicated he couldn't remember much more other than what he had already provided to detectives.

**Witness Sacha ETZEL**

Sacha ETZEL was interviewed by detectives and explained how she was running a summer day camp for children at Lair Hill Park. She stated she was responsible for 18 children in this camp ranging in age from four to eight years. While in the park she was approached by the suspect who asked her for a drink. She referred him to a nearby water fountain and noted or sensed this suspect was either high, mentally ill or both. She then watched him walk to the play structure area and noted he was clenching his fists and acting very odd. ETZEL stated she then observed the suspect remove some flowers from a trash can and lay them down near the feet of a mother in the park. He then walked back over to ETZEL and asked her if he could hang out. She told him there were too many small children she was looking after and did not think that was a good idea.

ETZEL told detectives she noted the suspects body language begin to change. He rustled about but kept his arms to his sides while his hands were balled up in fists. She believed his adrenaline level was rising as he told her a man across the playground wanted to fight him. That man he was referring to was her son, Kawika BERNAL. ETZEL told the suspect BERNAL did not want

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to fight him as he was just standing there. She stated he talked through clenched teeth and how he stood in a bladed position as if trying to hide something in his hand. She then told him it would be best if he were to leave the park. The suspect told her he had a right to be there and how she was "freaking him out." ETZEL stated she had a feeling the suspect was armed with some sort of weapon, possibly a gun, however she was quick to add she didn't see any weapons, how it was just a feeling she had. She stated she was feeling nervous being around the suspect and asked her son to call 911. ETZEL tried to calm the suspect down as in her words, "I didn't want to freak the guy out because I knew he would attack me." She also told a patron of the park to go and notify a school administrator of the incident. (It should be noted that this day camp ETZEL was running involved kindergarten students from the Cedarwood Waldorf School next to the park at 3030 SW 1<sup>st</sup> Avenue). The suspect was observed to walk out of the park prior to David DEMARKEY, a school administrator, showing up at the scene. She briefed DEMARKEY about her contact with the suspect but never saw him after that.

ETZEL told detectives this incident scared her to the point of not wanting to come back to the park anymore. She mentioned how this incident upset her a great deal and wasn't even sure she could come back to work again. She did add how she hated to admit it but was glad the suspect was shot as he would not be coming back at her for a while.

On February 28, 2012 Investigator Cordes TOWLE and I contacted ETZEL at the Cedarwood Waldorf School. ETZEL again told us during this interview how she believed the suspect was armed based upon the way his sleeve was covering his hand. She also told us how she knew something was wrong or not right with the suspect but couldn't tell if it was due to drugs or mental illness. She described the suspect's odd behavior and how he was causing her son, Kawika BERNAL, concern like he might want to fight him. I found her statements to be consistent with those she made to detectives immediately after this incident.

ETZEL was obviously traumatized by this ordeal as she broke down and cried during our interview while recalling details of this encounter. She told us how this incident has "rattled my world", and how she has since accepted a new teaching position in Hawaii as a result. She told us how she wished the officers would have shown up earlier that day so none of this would have happened.

During our interview with ETZEL I placed an aerial Google map of Lair Park in front of her and had her identify where in the park she first saw the suspect and the direction he was last seen walking. The original map is included in this IA case file.

**Witness David DEMARKEY**

David DEMARKEY was identified as another witness who called 911 about this suspect after

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the two earlier calls to 911 by Kawika BERNAL. DEMARKEY called to provide additional information that the suspect was armed with a knife that he had concealed up his right sleeve. He added the suspect did not display the knife or threaten anyone with it, that it was merely concealed at this point. DEMARKEY, who is the Finance and Operations Manager for the Cedarwood Waldorf School, told the BOEC call taker how the suspect was now walking south on Barbur Blvd. DEMARKEY reported how he talked with the suspect who he stated seemed to be on his own planet. He told the call taker how it wouldn't take much for something bad to happen with this guy and how he felt he needs some help.

DEMARKEY was subsequently interviewed by detectives and described being notified of a subject bothering one of his teachers and some students at nearby Lair Hill Park. He went to the park and contacted the teacher, Sacha ETZEL, who talked of her interaction with this subject and his potential for violent behavior. DEMARKEY stated he checked the area and found the suspect walking towards him on SW Woods Street at SW Barbur Blvd. DEMARKEY engaged the suspect in conversation to express concerns he had with him scaring people in the park. The suspect talked about his concern for the children and people trying to recruit them into a cult. DEMARKEY noticed his right hand sweatshirt sleeve being pulled over his right hand as if trying to conceal something. DEMARKEY went to shake the suspect's hand when he saw the suspect holding a folding Swiss Army type knife with the blade extended in his right hand. He described the blade as being approximately three inches long. The suspect switched this knife to his left hand and then shook DEMARKEY's hand. DEMARKEY stated at no time did the suspect threaten him with the knife. DEMARKEY then left and returned to the park where he called 911 to report the additional information on the suspect possessing a knife.

On February 22, 2012, Investigator Cordes TOWLE and I interviewed David DEMARKEY at the Cedarwood Waldorf School. DEMARKEY told us how he was notified of a problem Sacha ETZEL was having with a subject in the park by one of the parents who came to the school asking if anyone was available to come over and help her. DEMARKEY stated, *"Well, what happened there was SACHA was...was very concerned about this individual. He acted in a very strange manner. She felt...she was scared...about his conduct and, you know, felt, you know, felt threatened and she was...she was afraid that he, you know, that while he had left where the kids were, that he might be circling back and coming back to, you know, to create another incident, because there had been something of a confrontation between him and her son, who's a grown man, but, you know, you're always protective of your kids. And so she asked me to go out around the perimeter of the park and see if I could find him."*

DEMARKEY told us he was walking around the perimeter of the park to the point he was walking north on Barbur Blvd. as the suspect was walking south approaching him on the sidewalk. He wasn't sure if this was the suspect or not and as he passed him, the suspect stepped out into the bicycle lane allowing him to pass on the sidewalk. When DEMARKEY looked over his shoulder at the suspect after he passed, the suspect turned and said, "Hey man, did I sketch you out?" DEMARKEY didn't know how to interpret that comment other than the suspect



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asking if he was shook up. They then approached each other and had a conversation after the suspect told him he had passed the test. DEMARKEY told us he got the suspect to agree to be on his way and leave Ms. ETZEL and the children in the park alone.

DEMARKEY told us he extended his hand to the suspect to seal the deal if you will. He noted that the suspect had the sleeve of his sweater completely covering his right hand. When he went to shake hands with DEMARKEY, he told us the suspect pulled up his sleeve exposing a Swiss army type knife with the blade extended in his right hand. The suspect then transferred the knife to his left hand prior to shaking hands with DEMARKEY. I again confirmed and wanted to be sure I understood that the blade of the suspect's knife was out and extended. He confirmed that fact stating, *"Yeah, yeah. I mean you don't just walk down the street unless...that way unless you're...well, not walk down the street that way unless you're intending to use it as a weapon."* I asked DEMARKEY if the suspect ever closed the blade of the knife or put it away in a pocket. DEMARKEY told us he didn't see that.

DEMARKEY told us his impression of the suspect was he was suffering from some sort of mental illness as opposed to being high on drugs. He did say the last he saw the suspect he was walking southbound from the area on SW Barbur Blvd.

**Witnesses Walter and Laura JONES**

Witness Walter JONES lives with his wife Laura JONES at 11 SW Pennoyer Street, apartment #B which is the first residence west of SW Naito Parkway Frontage Road. SW Natio Parkway Frontage Road runs next to SW Naito Parkway at this location. Both JONES' provided taped interview statements to detectives immediately after the incident occurred. Walter JONES was identified as seeing Mr. MONROE as he walked southbound on SW Naito Parkway Frontage Road next to his residence prior to police arriving on scene. JONES stated he was on the back patio with his young daughter when he saw MONROE stop and lean up against a sign post just east of his rear deck area. The sidewalk at this location is elevated approximately ten feet above the level of his rear deck.

It appeared to JONES that MONROE was upset about something and gave him a little wave when he looked in his direction. MONROE responded by giving a peace sign. His stated his daughter knows some sign language and signed "hat" after observing MONROE to be wearing one. At this point a police car pulled up on SW Naito Parkway Frontage Road. An officer got out of his car and ordered MONROE to take a seat. MONROE asked why, not following the officers instruction. JONES believed the encounter was escalating as the officer retrieved a bright orange shotgun from his car. At this point JONES took his daughter inside the house and told his wife Laura JONES what was going on.



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Walter JONES did not see any weapons on MONROE and did not hear any further verbal exchanges between the officer and MONROE once he went inside. He did hear later what he thought was two gunshots but his wife Laura thought it was five shots.

On February 27, 2012, Investigator Cordes TOWLE and I contacted JONES at his residence and interviewed him on his rear patio where he was when first observing MONROE walk by. I asked JONES if he initially thought MONROE was acting suspicious. He told us, *"I don't know about suspicious but his body language was aggravated. Like my first thought was maybe he, maybe he had been in a fight with his girlfriend or something. That was what crossed my mind or that he was looking for a fight. He seemed upset."* JONES went on to say, *"My daughter knows a little bit of sign language. That's how we introduced her to speaking and so she signed hat and he oh. I had to explain to him what she was doing and he said something along the lines of they don't understand me or they'll never understand me. I was like oh it's sign lang., you know, I didn't know where he was at. I was trying to communicate. To bring him down from wherever he was. Whatever was going on."* I asked JONES if he believed MONROE was intoxicated, high, or mentally disturbed. JONES replied again how he just thought he was upset, like he was in a fight or wanted to get into a fight.

JONES told us when the officer arrived on scene he gave MONROE a clear order to sit down is what he remembered. MONROE blatantly refused the order asking the officer why. The officer was very direct telling MONROE because he said so. The officer retrieved the orange colored shotgun from his vehicle he believed due to MONROE not following orders or paying any attention to the officer. When the shotgun came out, he took his daughter and went inside the house.

Laura JONES was interviewed by detectives and mentioned how she was inside their apartment when her husband came in and told her what was going on outside. Laura JONES heard a command to sit come from outside but assumed it was someone giving a command to a dog. Once told by her husband what was happening, she did look out a window and observed an officer with a rifle in his hands confronting MONROE. MONROE appeared relaxed and might have been leaning against a pole. She told her husband they needed to get back away from the windows and let the officer do his job. She couldn't identify any specific communications between the officer and MONROE but later heard five muffled gunshots.

While talking to Walter JONES I took some photographs of the view JONES had from his rear patio deck to the sidewalk up on SW Naito Parkway Frontage Road. Included in these photographs is the sign post JONES mentioned MONROE leaned against at one point. These photographs are included in the IA case file for review.

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**Witness Troy ANDERSON**

Witness Troy ANDERSON lives in the apartment next to Walter and Laura JONES at 11 SW Pennoyer Street, apartment #A. ANDERSON provided a taped statement to detectives which I read and reviewed and found how he was sleeping upstairs in his bedroom when he heard some guy shouting, "Don't hurt me, don't hurt me." ANDERSON could tell there was scared emotion in his voice and thought someone was getting the "shit" beat out of them. ANDERSON looked out his bedroom window which faces east toward SW Naito Parkway. Once seeing some police cars outside, he went downstairs and out the front door which faces south toward a park area and parking lot for the Caro Amico Italian Restaurant.

Once out his front door, he observed officers following MONROE in a walking type pursuit. He stated they were not running but moving rather slowly. He believed there were two or three officers one of which was armed with an orange colored bean bag shotgun. He heard officers giving commands to MONROE approximately three times to get on the ground all to no avail. It then looked like the officers shot MONROE three or four times in the legs before he fell to the ground. ANDERSON stated he didn't think he saw any weapon in MONROE's hand but added that his hands were down and not up like he was surrendering.

As part of this investigation I have tried calling ANDERSON and contacting him at his residence. I had left a business card on his door which generated a call back from him on February 29, 2012. ANDERSON went over details of his statement which I found to be consistent with what he had told detectives earlier. He told me he remembered the officers giving MONROE the same command to get on the ground over and over. ANDERSON went on to say, *"...he was moving away from them and then they were yelling at him to get on the ground or stop or whatever. And so he turns around and he's trying to...he's using his hands in a, you know, in a beckoning, not a beckoning sort of way, more of like a stop there, like, you know, don't...like putting his hand out to try to get them to not come any closer to him."* When asked how many officers he saw confront MONROE he answered there were three. I then asked him if any of the officers had any weapons out at the time. He responded, *"When I first saw them, no, they were just yelling at him, and then one of them must have had the shotgun by, you know, down his leg or whatever, 'cause I couldn't...they weren't all separated, like they were standing pretty close to each other, and it must have been one of the officers was telling him to, you know, get down on the ground, and he was not listening to what they were saying, but he warned them to...he was trying to get them to like (indecipherable). Like he was like, no, like, you know, I didn't do anything, like you don't need to come after me, you know. I don't know about like...not in those words, but his...his body language was very like, you know, like, you know, get away from me, and..."*

ANDERSON told me he observed this incident from his front porch which is estimated as 100' away. He stated he never got the impression MONROE was drunk or intoxicated, just that he

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was in extreme fear. ANDERSON stated he has fired a shotgun before and when the shots went off it didn't sound like a live round or 20 gauge round to him. He believed there were three or four shots fired at MONROE with the last one or two coming as MONROE moved behind some bushes out of his sight. He estimated the officer was between 30 and 50 feet from MONROE when first firing his weapon and how MONROE was facing the officer at the time the first round went off. He believed a round struck MONROE on the outside of his left calf and how he started hobbling after that trying to get away. MONROE didn't make it more than 30' before he fell to the ground.

ANDERSON told me he couldn't remember if the officers were giving MONROE commands between any of the shots. I asked ANDERSON if he thought officers gave MONROE enough opportunity to surrender. ANDERSON replied, *"I don't think that they used concise enough words, personally. I think that they, you know, if you say this one, you know, get down on the ground, get on the ground, if it doesn't work after, you know, one or two times, it's like, you know, maybe get on your knees or, you know, take small...you know, people are, you know, officers are trained to, you know, psychology and things to get people to do what you want, even when they're, you know, in stressed situations and, you know, to use, you know, less words and, you know, like I think that they were mad that he was...that he wasn't doing what they were saying."* I asked ANDERSON if he saw what MONROE was doing at the moment the first round was fired and if he had placed his hand behind a back or in a pocket or anything else to cause the shot to be fired at the moment it did. ANDERSON told me not that he could remember.

**Witness Zebediah KRIEGER**

Witness Zebediah KRIEGER did not provide a recorded interview for detectives so there was no interview transcription for IA to review. KRIEGER was mentioned in a report as standing next to his father David KRIEGER at the time of the incident and had nothing further to add other than what his father had told detectives.

On March 1, 2012 I conducted a recorded interview with Zebediah KRIEGER who was working on a house with his father David at 3635 SW Condor Street, which is directly west of the incident. I asked KRIEGER if he did in fact witness MONROE getting shot. He replied, *"Yeah. No, we saw the guy get shot. Yeah, we were...we were across the street and up like two flights of stairs, but we heard, you know, some yelling and some stuff for help, so we like...we came over to the top of the stairs and we saw the guy running and then we saw the cops, and we're like, oh, they got it covered, and then were like...we like heard bang, bang. Well, we heard, you know, get down on the ground, get down on the ground, then we heard bang, bang, bang, bang, bang, you know, and, yeah."* KRIEGER stated they had an elevated view of the incident from where they were.

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I asked KRIEGER what he first remembered seeing when he looked over the stairs toward the direction of the cry for help. He responded, *"Well, when we looked down the stairs, we saw the guy coming towards the berm. We saw some other like city worker guy or like somebody in a orange vest, you know, coming at him, but then we saw the police, so we're like, oh, we stopped what we were doing, you know, and just watched, because we're like, oh, the police are there, so..."* I asked him to tell me how the officers approached this guy. He told me, *"Yeah, 'cause he...he was coming toward the berm and then the police yelled at him to get down, and then like I guess he did turn around and then kind of was like flailing his hands. It doesn't look like...it didn't look like he like just put his hands up in the air, but he was like flailing his hands around, so...and then they yelled at him to get down on the ground a couple times or whatever, and then they...they shot him."*

KRIEGER told me the officer with the orange shotgun had it pointed at MONROE the whole time and how MONROE was trying to run away from the officers and up the berm there. KRIEGER told me he heard the officer tell the guy at least three times to get on the ground before the shooting happened. I asked him if he saw or noted anything this guy did at the time the shots were first fired. KRIEGER stated, *"Yeah, he wasn't putting his hands up in the air and getting on the ground and...Well, his hands weren't like up in the air and they were kind of just like moving around like in front of him in like his, you know, midsection, so..."* KRIEGER estimated the officer was 25-30' away from the subject when he fired his weapon.

I asked KRIEGER if he actually saw MONROE getting hit with the rounds. He told me, *"Yeah, the dude got hit and it was like the first time he got hit, he like he started like kind of dancing, like...like, you know, flailing around. He was still up, and then they shot him again, he was still up. And they shot him the third time, he was still up. He didn't go down until the fourth shot."* KRIEGER told me he only saw two officers confront this guy. He also mentioned a subject there who was wearing an orange vest who he believed might have been a city worker. Witness David KRIEGER was the only other witness who mentions a subject being there who was wearing an orange or pink vest. David KRIEGER however told me it was the subject wearing the vest who had the shotgun and fired it at MONROE. It could be from the distance the KRIEGER's observed this incident that the orange paint on Officer REISTER's less lethal shotgun could have been mistaken for an orange vest.

**Witness David KRIEGER**

Witness David KRIEGER was interviewed by detectives and I have reviewed their report summarizing that interview. I did not find that this interview was recorded as no interview transcription report was found in the detective case file. On March 13, 2012, I conducted a recorded telephone interview with David KRIEGER who currently resides in Eugene, Oregon.

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On the day of this incident, David KRIEGER told me he was up in Portland working on a house at 3635 SW Condor Street, which is west of SW Barbur Blvd and elevated slightly from the general area where the shooting occurred.

KRIEGER told me his attention was drawn to this incident when he first heard some noise or screaming going on outside. Since he was inside the house doing some remodeling, he wanted to go check on his truck which was parked in front since he was worried about his tools inside. Once walking out the upper door of the residence the screaming turned to loud screams for help. KRIEGER looked east across SW Barbur Blvd. to a field there he observed a man in an orange or pink vest. He assumed it was a highway worker or city worker taking care of that triangle park area next to the Caro Amico Restaurant. He thought whatever was going on would be called in or taken care of by that worker.

Moments later he realized one of the subjects there had a stripe down the leg of his pants which indicated to him the police were on the scene. He admitted his view was obstructed by the trees but believed this officer was standing next to the guy wearing the orange or pink vest. He believed he saw three police officers there in addition to the city worker. KRIEGER told me the guy who had been screaming was trying to walk up a trail to SW Barbur Blvd. and noted how he was being very vocal and moving his hands. KRIEGER stated, *"The people who were in the group started moving towards him and told him to stop and he kept moving. His hands were, you know, moving around. As I told the grand jury, agitated looking. About that time, the one guy who had the pink...the orange vest, you know, lowered something else that was colored orange, later I hear it's pink, and there was shotgun shots."* I wanted to make sure and confirm that the person who he described as wearing the orange or pink vest was the same person he observed lowering and firing the shotgun. He confirmed that fact telling me it was.

KRIEGER went on to say, *"And they fired the shotgun at him. And they didn't fire it once, they fired it, you know, four times. And he screamed 'ow' so loud we could hear him across the street. And he kept running and jumping, and running like he was still trying to get away from them. 'Cause what it looked like to me, he wasn't running to attack them, but he was running to flee."* KRIEGER stated the person who shot the suspect was approximately 20' feet away from him at the time and how the suspect didn't fall to the ground until after the fourth shot. I asked him if he could tell what this subject was doing at the time the first shot was fired, specifically if he could tell where the suspect's hands were. He told me he had no recollection of where his hands were.

KRIEGER told me he heard officers give the command for the suspect to stop at least twice. I asked him if he heard any other commands besides stop. He stated, *"Yes, you know, I think there was, you know, after the shots or as, you know, stop, get on the ground, I think, you know. I don't think it was just stop."* He went on to add, *"He didn't comply after he had got hit the first time either."* I asked KRIEGER if the officers gave the suspect any commands after the first shot

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was fired or in between the shots. KRIEGER told me, *"I would say that they were still giving him commands to get on the ground. Stop, get on the ground."*

KRIEGER told me the officers investigating this case had no idea he and his son had witnessed the shooting. When he came back from a lunch break he could see reporters in the area and at that time walked up to an officer and told him he was a witness to the incident. He told me he wanted to make it known that he hadn't witnessed any wrong doing by the officers from his vantage point. He pointed out how at that time he believed the suspect had been shot with bean bag rounds and it wasn't until watching the news later that night that he learned live rounds had been fired.

**Witness George PALMITER**

George PALMITER is the 18 year old son of Officer Stuart PALMITER who was on a ride along with his father on the date of this incident. PALMITER provided a taped interview statement to detectives inside the mobile precinct parked near the scene. I have reviewed that interview and found that PALMITER learned from his father how they were going to a call involving a person with a knife. They responded with overhead lights on and were the third police car on scene. He stated his father parked off of SW Naito Parkway and SW Curry Street and told him to stay behind them as he got out of the car. Once out of the car PALMITER stated his father drew his taser out and how he observed Officer REISTER holding an orange colored shotgun that was not yet pointed at the suspect. PALMITER told detectives he got out of the car and stood slightly behind the car on the right side. As his father and Officer REISTER approached the suspect he noted how he started becoming more upset, telling the officers there was nothing wrong here.

The suspect became more distressed and started running away down the sidewalk screaming for help. The suspect eventually ran up a hillside into some treed area as his father, Officer REISTER and Officer HALLEY gave chase. The suspect then stopped and turned around to face the officers. PALMITER stated the suspect was trying to get away with officers yelling at him to get on the ground, stop, cease and desist. He stated the suspect ignored those commands as he held his hands out like he was getting ready to run away again.

Approximately fifteen seconds later the suspect started moving backwards as officers tried walking toward the suspect. PALMITER stated the suspect started to run prior to hearing five shots go off. He recalled the suspect jumping around and heard him yell "ow" or something similar. After the first shot the suspect started running and then fell to the ground as the other shots were fired. PALMITER stated the officers gave the suspect a warning prior to the shots being fired. He believed he heard "bean bag" and someone saying they will shoot. He did not see the suspect with any weapons in his hands at any time.

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After the suspect was shot, officers approached him and handcuffed him. At that time his father told him to come up and see what happens when someone gets hit with a bean bag round. As he approached the suspect he saw a large amount of blood and did not want to get closer. He noticed a red colored shell casing on the ground and heard someone say something about a live round. He then noted the demeanor of his father and Officer REISTER become more distressed and serious.

After reviewing George PALMITER's detective interview, I then contacted him by phone on March 21, 2012 and conducted my own follow up recorded interview. I wanted to clarify from PALMITER if he heard any commands given by officers after the first shot was fired, specifically if any commands given to the suspect between those shots. PALMITER told me, *"Not in between the shots. Once the shots...once the however many shots were fired went off there were, he went down and there weren't any...any commands in between because it was a rapid succession."* I asked him if he could tell me what the suspect was doing immediately prior to the first shot being fired. He told me he was fleeing. I asked him where the suspects hands were and he told me it was just kind of how you would move your hands if you were running away. But added his recollection is not great at this point. He further added he was back by the police car where his vision was somewhat obscured.

I asked PALMITER if he observed anyone in the area who might have been wearing an orange vest. He told me he did not. I also asked him about his initial impression of the suspect; whether he believed he was high, intoxicated or suffering from any kind of mental disability. PALMITER replied, *"My init...my initial impression, and this might just be my bias, was that he was either high or intoxicated. Mental disorder wasn't the first thing that came to my mind, based on, you know, dress, appearance and behavioral characteristics."*

**Officer Dean HALLEY #19498**

Officer Dean HALLEY was interviewed twice by Detectives. The first interview occurred on June 30, 2011 with a follow up interview occurring on October 24, 2011. I have reviewed those interviews and learned that Officer HALLEY was dispatched to Lair Hill Park on June 30, 2011 regarding a subject harassing students at that location who was reported to be either high or intoxicated. The call was later updated with information how the subject may be armed with a knife. Officer HALLEY stated he heard Officer REISTER assign himself to the call and subsequently advise he was out with the subject at SW Naito Parkway at SW Curry Street.

Officer HALLEY stated he arrived on scene and observed the subject, later identified as William MONROE, at the corner of SW Naito Parkway and SW Pennoyer Street. Officer REISTER was outside of his patrol vehicle giving MONROE commands to put his hands up and get on his knees. Officer REISTER was armed with the less lethal shotgun at the time which he had



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pointed up in the air and not at MONROE. MONROE seemed belligerent, failing to comply with commands as he then ran south away from the officers.

Officer HALLEY told detectives how Officer PALMITER, who had arrived on the scene after he did, and Officer REISTER gave foot chase. Officer HALLEY stated he jumped into Officer REISTER's patrol car to follow in a vehicle. Officer HALLEY described MONROE running out into the street prior to turning around and running into a grassy area and up an embankment near the Caro Amico restaurant. MONROE stopped at the base of the embankment and turned to face officers. Officer HALLEY stated he told MONROE to get down on his knees as Officer REISTER was also repeatedly telling MONROE to get on his knees or he would shoot him. MONROE continued to ignore these commands and at one point said something about how if you put your gun down I'll put mine down. Officer HALLEY added how he did not see nor did MONROE display any weapon.

Officer HALLEY told detectives that he heard Officer REISTER tell MONROE to get down and stop prior to the first round being fired. At the time the first shot was fired, MONROE had just moved laterally to the north five or six feet. Officer HALLEY believed three shots were fired by Officer REISTER in a span of ten to fifteen seconds. He stated MONROE was heard to groan "ow" and bend over indicating to him he was being struck by the rounds. It was Officer HALLEY's belief that Officer REISTER was still giving him commands in between the shots being fired. It was not until the last shot was fired that MONROE fell to the ground. No shots were fired after MONROE fell to the ground.

Officer HALLEY believed Officer REISTER was approximately thirty feet away from MONROE at the time the shots were fired. After MONROE fell to the ground he heard him say how he couldn't believe they shot him. Officer HALLEY stated he did not see the specific injuries on MONROE but noted blood around and below his waist area. After the shooting, when walking away to locate witnesses, he noted a red shotgun shell casing on the ground and realized what occurred.

On April 10, 2012 I interviewed Dean HALLEY who had subsequently retired from the Bureau several weeks after this incident. I explained to HALLEY how I had reviewed his prior interview with detectives and just had some follow up questions to ask. I pointed out how he described MONROE as being belligerent when first contacted. I asked him to explain what he meant by belligerent. He stated, *"He would not...he would not...REISTER was giving him verbal, you know, commands, something...it was very typical of what I hear. Specifically, I don't remember, but it was along the lines, you know, let me see your hands, let me see your hands, you know, sit down, you know, it was...I don't remember specifically, but it was trying to get him to comply. It was DANE was trying to get more control, verbal control, of the situation. Giving him commands so that can happen. And he wasn't...he was not complying with those and he was...he made counter-demands, oh, no, you sit down or you do this and you do that, well, you know, if you do this, then I'll come down and talk to you type of thing. So he was making...you*



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*know, he's making demands of DANE REISTER, and not following DANE'S commands, but...but again, specifically, I don't remember what...what they specifically were."*

I asked HALLEY if he knew what caused MONROE to run away when officers first contacted him. He believed it was the officers moving around the car to approach him to try and close the distance. It was like MONROE didn't want officers getting close to him. I asked him if he observed MONROE discard anything from his pockets when he ran away. He told me he did not as far as he could tell. I asked HALLEY about his impressions of MONROE's mental state. HALLEY told me he couldn't tell if MONROE was intoxicated, suffering mental illness or both. He did say MONROE responded to officers and understood what they were saying.

I asked HALLEY if he had information that day about MONROE threatening people with a knife or was the information only that he had a knife. He responded, *"This is what I...this is what I remember. So we got...we got a call earlier in the day, not much earlier, it was within a half hour of the sec...we got a call, it was this crazy person and, you know, there's a daycare or it's a day camp up there in...there's a park, I forget the name of it now, I think it's...Lair Hill, yeah, there was...there's a day camp, a bunch of, you know, elementary school kids were there in the summertime doing whatever they do, and...and this guy shows up and he's...and he's intox...I think that's where the intoxication came from, because the...because the complainant in that call said he was intoxicated. And he was acting very erratic and he was...he was concerned...they were concerned about him and they wanted him moved along. And so I...I...that was my district and I respond, and he's gone by the time I get there. And I never actually make contact with the people the first time, because they said he was gone. I was looking up and down Barbur and I thought, I don't know where he is. And I may have...I was out of the area when the second call came in, and I don't remember if I cleared the first call. We got a second call on this same guy, and this time he came back and he was...he was menacing them with a knife. And I don't know if those were the exact words that they used in the call history, but he was...he was threatening somebody or had a knife out, you know, the teachers there at the school were concerned because this guy was armed with a knife."*

I asked HALLEY if he remembered what precipitated the first round being shot by Officer REISTER. He replied, *"My sense...I remember him backing up. Distance, I don't know. They were asking me that the last time I talked, like how far. I'm guessing. I have no idea. I was...I was just watching this guy's hands and I...and he was moving...he's kind of at a 45 degree angle going uphill. And as we tried to close in on him, he was...he would scurry uphill a little bit more. And that's what I remember him doing. He was just...he wasn't...he was just trying to...he didn't want us to apprehend him."* HALLEY told me he got the sense MONROE was going to run out of the area soon and how every time they would try and close the distance on him he would back to keep that separation. I asked him if he remembered MONROE putting his hands in his pocket or behind his back immediately prior to that first shot. He told me he didn't but added he wasn't concerned about not seeing his hands. Later in the interview he did say if MONROE put his hands in his pocket he would have been concerned knowing that he was

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reported to be armed with a knife. HALLEY stated he was not qualified to carry the less lethal shotgun but from what he understood Officer REISTER was in policy and would have been fine in using the less lethal shotgun that day except for the fact it was loaded with live buckshot rounds.

HALLEY stated other than trying to continue talking with MONROE or having officers deploy up on Barbur Blvd. in an effort to try and corral him, there weren't many other options available. He did admit that, knowing he was armed with a knife, his idea of corralling him might not be that good of an idea. HALLEY told me he believed they were close to the maximum distance for use of the taser and in fact might have been out of taser range so that was also not an option.

**Officer Stuart PALMITER #27244**

Witness Officer Stuart PALMITER was interviewed three separate times by detectives. The first interview occurred on June 30, 2011, the second interview taking place on July 1, 2011 and the third on October 4, 2011. In addition Officer PALMITER provided sworn testimony before the Grand Jury who examined this case. I have read Officer PALMITER's interview transcription reports and learned the following:

On June 30, 2011 Officer PALMITER was in uniform operating a marked patrol unit assigned to district 741. Officer PALMITER's 18 year old son, George PALMITER, accompanied him on patrol as a ride along that day. He remembered hearing a radio call about some campers being threatened by a guy who had a knife up his sleeve. He proceeded to assist on the call driving code 3 along SW Naito Parkway to the scene and heard Officer REISTER over the radio say he was with the suspect, giving him commands, but he wasn't complying. When Officer PALMITER arrived he was the third car there behind Officer REISTER and Officer Dean HALLEY.

Once on scene he saw the suspect, later identified as William MONROE, standing on the sidewalk off SW Naito Parkway just north of the intersection of SW Pennoyer Street. According to Officer PALMITER, MONROE seemed agitated and was not following commands Officer REISTER was giving him. Officer REISTER was outside of his vehicle, armed with a less lethal shotgun, when Officer PALMITER arrived. Officer PALMITER moved up to Officer REISTER's location and observed the suspect to be "Lit up". Officer PALMITER described MONROE's eyes as being the size of pie plates and how he appeared to be under the influence of drugs. He couldn't remember the specific commands Officer REISTER was giving him but noted he wasn't complying with them at all. He started to back away from the officers and was 20-25' away as Officer PALMITER drew his taser but realized he was too far away from him to be effective. He remembered the suspect uttering something that did not make any sense.

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Officer PALMITER did not see any weapons on the suspect but remembered how it was reported how he had a knife up his sleeve. As Officers tried to close the distance to the suspect, he started to back up away from them. He then ran southbound with Officer PALMITER leading the pursuit. He observed the suspect reach into his pockets where he discarded some unknown items to the ground. Officer REISTER then asked why they were chasing the suspect since they did not have him identified as committing a crime. Officer PALMITER stated he hesitated but realized they needed to talk to the suspect to find out what was going on. He believed they needed to deal with the suspect as they had a report he was threatening others with a knife.

The suspect ran out into SW Natio Parkway where Officer PALMITER observed him discard some other unknown items from his pockets to the street. The suspect then ran west into a grassy area where the grass and bark meet with officers in pursuit. He stated he drew his taser again as Officer REISTER was on his right hand side with the Less Lethal shotgun. The suspect again said something which didn't make sense which caused Officer PALMITER to conclude he was high on drugs. He remembered the suspect telling Officer REISTER he would talk to him and Officer REISTER said 'OK, we will talk to you too.' He remembered the suspect telling Officer REISTER he would talk to him if he would put the gun down. Officer REISTER told him he wouldn't do that but they still needed to talk. The suspect then said something that didn't make sense but he couldn't remember what that was. Officer REISTER told the suspect if he put his hands in his pockets again he was going to shoot him. Immediately after saying that the suspect went to put his hands in his pockets at which point Officer REISTER fired his less lethal shotgun at him.

Officer PALMITER stated Officer REISTER fired two rounds at the suspect who yelled and then ran up the bank a little bit. Officer REISTER moved up a little bit and fired another round at the suspect who was still not obeying commands and trying to move further up the slope. Officer REISTER fired one or two more rounds at which point the suspect went down. Officer PALMITER believed the suspect was hit with the first shot in his side but believed the next three rounds missed. He talked about seeing dirt kicking up on the bank behind the suspect where the rounds hit. The last shot he believed hit the suspect in the leg causing him to fall to the ground. Officer PALMITER couldn't remember Officer REISTER giving commands to the suspect but couldn't remember specifically what they were.

Once approaching the downed suspect Officer PALMITER stated he helped handcuff the suspect who he described as still moving and screaming. He then called for code three medical assistance as he saw a lot of blood on him considering he had been shot with bean bag rounds. He then went to retrieve the items discarded by the suspect in the street which included a 2 inch bolt, a ¾ inch metal object and some miscellaneous papers. He took those items over to the other items the suspect had discarded which included a Swiss army type knife with none of the blades or implements extended. Officer PALMITER then went to pick up the less lethal shell casings but was told by another officer not to do so. He then looked at the shell casings and saw they were red colored indicating they were live rounds.

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Officer PALMITER stated the suspect was approximately twenty five feet away from Officer REISTER when the shots were fired. He again stated he had his taser out at different times during this incident but felt the suspect was too far away for it to be effective. He stated all of the rounds fired by Officer REISTER occurred in less than one minute and how he didn't, nor did he hear Officer REISTER, give any commands to the suspect between shots.

On March 20, 2012 Investigator Cordes TOWLE and I interviewed Officer Stuart PALMITER regarding his earlier statements given to detectives. Officer PALMITER again stated he arrived after Officer HALLEY as cover for Officer REISTER at SW Natio Parkway at SW Pennoyer Street. He stated Officer REISTER already had his less lethal shotgun out but it was at the low ready and not pointed at MONROE. I noted in his interview with detectives how he described MONROE as being agitated. I asked him to describe what he meant by agitated. He responded, *"He was moving back and forth, he wasn't standing still, he looked frantic, he was waving his arms around a lot, he was talking, but he wasn't making any sense. Officer REISTER would ask him a question and he would answer with something that had nothing to do with the question."* Officer REISTER was giving MONROE commands such as "put your hands up", which MONROE seemed to be completely disengaged from.

Officer PALMITER made an initial assessment that MONROE was either high on drugs or mentally ill. I asked him if there is any way to tell the difference and he responded, *"Absolutely not."* He told us he initially pulled his taser out but was too far away from MONROE for it to be effective. He also noted the wind was blowing and the loose clothing worn by MONROE which would hinder the taser effectiveness. With MONROE failing to comply with commands, officers started moving up a little to close the distance when MONROE backed up a little prior to sprinting away down the sidewalk. All of a sudden MONROE stopped and started discarding things out of his pocket but Officer PALMITER told us he was too far away to tell what those items were. When the incident was over and in going back to where MONROE discarded things, he discovered a Swiss army knife lying on the westside of the sidewalk in some grass. The blade to the knife was closed.

Officer PALMITER did remember when they initially gave foot chase. Officer REISTER asked him what they were chasing him for because they don't even have a crime. Officer PALMITER stated, *"And I stopped dead in my tracks when he yelled that. And it's like (makes screeching sound), and it's like...and I had to think about it for a second and then it's like, no, this guy's a threat, I've had him threatening people with a knife, I've got a crime, but I don't even need a crime, I just...he's out there and he's out of control, he's got a knife and threatening people, we need to get a hold of him."* MONROE continued running out into the middle of the street where he was seen discarding other unknown items from his pocket. MONROE then ran west into a grassy area and started running up a berm leading to SW Barbur Blvd. At this point he stopped prior to turning around to face the pursuing officers.

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Officer PALMITER stated he pulled his taser out of the holster but realized MONROE was too far away for the taser to be effective. He also noted the wind to be blowing and MONROE's baggy clothing which would also hamper the taser's effectiveness. Officer PALMITER noted they were 25 or more feet away from MONROE who seemed to retreat a few steps as officers took steps forward trying to close the gap. Officer PALMITER went on to say, *"Him and DANE are talking, you know, he's trying to negotiate with us somehow and DANE, basically, you know, we're not gonna hurt you, you know, we need to talk, that sort of thing. And...and DANE gives him the instructions, he says if you put your hands in your pockets again, I'm gonna shoot you."* The words were hardly out of Officer REISTER's mouth when Officer PALMITER observed MONROE place both of his hands back into his pants pockets. At that time Officer REISTER fired his less lethal shotgun at him.

As Officer REISTER fired, he observed MONROE run up the embankment. He believed Officer REISTER fired two rounds and then two more. Officer PALMITER believed MONROE was hit in the buttocks and leg area. Officer PALMITER told us that after the shooting, both he and Officer HALLEY handcuffed MONROE at which point he saw a lot of blood and called for a code three ambulance. After MONROE was in custody Officer PALMITER went over to where he saw MONROE dump stuff from his pockets and discovered a knife that he discarded. He went back over and asked Officer REISTER if he wanted him to pick up the less lethal shell casings from the ground. At that time Officer HAWKINS told him no, he better leave them there. He then noticed that the shell casings were red in color and realized what occurred.

I asked Officer PALMITER if MONROE ever mentioned anything about having any weapons. He told me not that he could remember. I asked him specifically if he remembered MONROE saying anything about how if they put their gun down then he would put his down. Officer PALMITER stated he was not aware of MONROE making any statement like that. He did mention something about MONROE telling Officer REISTER how if he put his gun down how he would cooperate but Officer REISTER told him that was not an option.

Officer PALMITER told us there were no other less lethal options available to officers to use on MONROE to get him in custody. He was too far away for the taser and pepper spray. He said that the officers needed to keep a distance from MONROE due to reports of him being armed with a knife. I asked Officer PALMITER, based on his 20 year police experience, if he would ever approach an armed suspect who refused to cooperate with verbal commands. He responded, *"No. And you don't want to put people down range in case you do have to shoot them. So I guess the short answer to your question, there's...we were doing the best we can with the resources we had and I don't think we could've done anything better or different than what we did. We had a great backstop, 'cause it was hill, it was dirt, it was below the sidewalk and everybody by 15 feet, so DANE picked a great place to do...use the less lethal at the time and, you know, the idea was to take him into custody."* Officer PALMITER added how they did the best they could when dealing with someone who he believed was mentally ill and armed with a knife.

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**Officer Dane REISTER #31663**

Once this call was dispatched over the air, Officer Dane REISTER advised radio he was not far from the call and requested a description of the suspect and clarification on what the suspect was supposed to be doing. Radio responded, *"He has been hassling kids at a camp there. He appeared drunk. They say he is a white male in his early 20s wearing a black baseball cap, all black clothing, white tennis shoes, and now they say he has a pocketknife in his right sleeve."* Less than two minutes later Officer REISTER advised radio he was out at SW Naito Parkway at SW Curry Street with a subject who matched the description. Officer REISTER also broadcast, *"I'm challenging him with less lethal. He's not complying. He stashed something in his pocket I can't see it."* A few seconds later Officer REISTER asked radio if they had a victim at all on this call. Radio responded they did have a victim of harassment who wanted phone contact but radio did not know if that contact had been made yet. A few minutes later Officer REISTER fired four rounds from his less lethal shotgun at this suspect after which he was taken into custody. The suspect, who was later identified as William MONROE, was observed to be bleeding from wounds to his upper thigh and hip area. It was just moments later officers on the scene, observing spent lethal shotgun rounds in the grass, realized that MONROE had been struck with lethal buckshot instead of less lethal rounds. Medical units responded shortly thereafter and transported MONROE to OHSU for treatment of his injuries.

In two separate interviews with Detectives, Officer REISTER described his observations, thoughts and actions as it related to this call including his decision to deploy his less lethal shotgun. Critical to this review is how lethal shotgun rounds were inadvertently loaded into his less lethal shotgun that day. In both detective interviews Officer REISTER stated he had no independent knowledge or recollection of loading the shotgun other than what his standard practice was. Detectives specifically asked him if he recalled looking at each round as he loaded the shotgun that morning. He replied, *"No I don't. It was just part of my routine."* He recalled selecting a less lethal shotgun that morning from the armory and remembered conducting a function check on the weapon. After roll call he walked over to his patrol vehicle in the basement parking garage of SW 1<sup>st</sup> Avenue and SW Jefferson Street. In doing so he was carrying his unloaded less lethal shotgun and AR-15 rifle.

Once at his patrol car he secured his weapons in the vehicle which included placing the less lethal shotgun in the shotgun rack. He then drove to the basement of the Justice Center to retrieve his duty bag from where he had left it from his prior overtime shift. Once obtaining the duty bag he did not specifically recall retrieving his less lethal rounds from inside the bag and loading the gun. He did say it was his practice to keep his less lethal rounds in a clear evidence bag or jail property bag that he kept in the top right quadrant of his duty bag. He would keep his lethal shotgun rounds in the manufacturers' boxes in the bottom of his duty bag. He kept his binoculars in between or as a divider between the lethal and less lethal rounds. He indicated he



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kept six less lethal rounds in the clear evidence bag that he uses to load his less lethal shotgun with. In addition he kept four or five additional less lethal rounds in another clear evidence bag. He indicated after loading his less lethal shotgun he would place the empty clear evidence bag that contained the less lethal rounds, up over the visor in the patrol car. That empty evidence bag as Officer REISTER described was in fact found in his vehicle when searched immediately thereafter by detectives. Detectives also found two clear evidence bags in Officer REISTER's duty bag which contained less lethal shotgun rounds. One bag had six less lethal rounds and the other bag had four less lethal rounds.

In trying to understand how these lethal rounds were inadvertently loaded into the less lethal shotgun, detectives examined Officer REISTER's previous work day which occurred on June 25, 2011 when he worked an overtime shift from 2200 hours to 0400 hours in the Old Town area. During that shift he worked with a partner, Officer Stacy DUNN in a walking beat assignment. On that shift Officer REISTER stated he made the decision to take the lethal shotgun out instead of the less lethal shotgun. He described his reasons for making that decision and added how he hadn't taken a lethal shotgun out on patrol for two, three or even five years previously due to the fact he takes his AR-15 as a long gun option. Officer REISTER told detectives he had no recollection of unloading the lethal shotgun at the end of that shift. His practice was to place the lethal rounds back in the manufacture box that he kept above the visor. He told detectives he never keeps lethal shotgun rounds in the clear plastic evidence bags. He was asked if it was possible he could have placed the lethal shotgun rounds into a clear plastic bag at the end of his shift that night. He stated it didn't make any sense for him to do that and how if he had seen himself do that he would have immediately stopped. It was assumed if Officer REISTER loaded lethal shotgun shells into the less lethal shotgun there should be an empty manufacturer's box of buckshot ammo either in his patrol vehicle or duty bag. Detectives searched for that empty manufacturer's box in Officer REISTER's duty bag and patrol vehicle and did not locate such.

Officer Stacy DUNN was interviewed and told detectives she remembered Officer REISTER taking a lethal shotgun the night they worked together. She heard him load the gun but did not actually see him do it. She also stated she did not see Officer REISTER unload the shotgun at the end of the shift. She added she is not less lethal qualified and does not normally carry a lethal shotgun either. She keeps her lethal rounds in her duty bag but stated her bag remained at the precinct. She did not take it out with her that night.

In questioning Officer REISTER about this shooting, he began by stating he was working day shift at Central Precinct assigned in a one-person car in district 850. Shortly before 10 a.m. he heard a call come out about a disturbance at Lair Hill Park where a guy was supposed to be threatening others there. He heard a description on the suspect as being a male white in his twenties wearing a black shirt, black pants or shorts, and white tennis shoes. Radio then provided updated information on how a second caller reported the suspect to be cupping a knife in his right sleeve. According to Officer REISTER this information stood out as distinct and unusual, not to mention strange. So again he had information now the suspect had a knife and

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there was a mention of kids in the call and how he was threatening people. Being close to the call, he notified radio and asked for description of the suspect and what again he was supposed to be doing. After obtaining a further description of the suspect including the fact he had a pocket knife in his right sleeve, Officer REISTER stated he observed the suspect exactly described by radio at SW Natio Parkway at SW Curry Street. He further stated he had a view of the knife he was cupping in his right hand.

Officer REISTER told detectives when he arrived and contacted the suspect, later identified as William MONROE; he was fixated on a female subject on the back porch of a residence to the west. He described MONROE as having a piercing look, in a combat stance as he was gritting his teeth and mouthing something to this female subject. Once exiting his patrol vehicle, he stated MONROE then shifted his fixation from the female subject to him. Officer REISTER stated MONROE appeared to have an altered state of mind either from a drug induced psychosis or excited delirium. He tried to engage him in a calm, low key, non-threatening manner. MONROE didn't respond while gritting his teeth. MONROE was told to show his hands and to sit down. He refused those commands as he stood bladed to Officer REISTER. At that point Officer REISTER stated he retrieved the less lethal shotgun and racked a round into the chamber, hoping that would get MONROE's attention and force him to comply.

MONROE failed to comply with commands and told Officer REISTER to put his gun away. Officer REISTER stated he told MONROE he wasn't going to do that, as he tried to hide the less lethal behind the door jamb of his vehicle. Efforts to continue talking with him to get him to comply with commands to sit and show his hands failed. After Officer PALMITER arrived on scene, MONROE became fixated on him and started to back up prior to running away from them southbound. Officers gave chase at which point Officer REISTER stated he saw MONROE discard something from his pockets that he couldn't identify but looked like tissue. MONROE continued running up into a grassy area next to the Caro Amico restaurant. MONROE stopped running but still appeared agitated as Officer REISTER gave him a variety of commands such as, get down, just chill, and get on the ground.

Officer REISTER stated the berm where MONROE was in front of served as a perfect backdrop should he deploy the less lethal shotgun. He made the decision that he would continue giving him commands and if he ignored those commands he was going to use the less lethal shotgun. He did not want MONROE running away in a neighborhood and possibly hurting someone. At this time Officer REISTER stated he escalated his verbal commands by telling MONROE at least two or three times to stop and get on the ground or else he would be shot. He told MONROE he believed he had a weapon and to again get on the ground or he would shoot. Officer REISTER described MONROE as being in a bladed fighting stance as if he was going to get a gun or make two leaps toward them with a knife. He estimated they were twenty yards away from him when MONROE hid his right hand behind his thigh and then eventually had both fists near his waist area.



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MONROE then made a sudden move toward the direction of the house he was first contacted next to. At that time Officer REISTER stated he fired his less lethal shotgun aiming for his upper right thigh area. After the first shot, he did not know if he actually hit MONROE as it had no effect on him so he fired again. Officer REISTER stated he alternated his aim between MONROE's right and left thigh area trying to hit large muscle mass area as he continued to move. It wasn't until after the fourth shot that MONROE fell to the ground.

Officer REISTER stated upon approaching MONROE he noted blood on both of his legs and called for medical to respond. He believed initially that the bean bag round had over penetrated which he has seen happen before. It wasn't until he looked at the spent cartridges on the ground and realized what happened. Officer REISTER told detectives he feels awful about the mistake he made and how it was not his intent to load lethal rounds into his less lethal shotgun. When asked again if he had any thoughts on how that could have occurred he stated he wished he had a memory of the five to ten seconds it would have taken to load his less lethal shotgun that morning.

On April 13, 2012 Investigator Cordes TOWLE and I interviewed Officer REISTER in the Internal Affairs office in the presence of his attorney, James MCINTYRE. The interview was conducted for the purpose of asking a few follow up questions to his earlier interviews with detectives. As part of this interview we provided Officer REISTER a copy of his tape interview transcription reports for reference.

I asked Officer REISTER if, when initially dispatched, he believed MONROE was threatening people with a knife or threatening in some other fashion and happened to have a knife on his person. He remembered how MONROE was reported to be harassing kids at a camp and knew there were reports he had a knife in his right sleeve as he approached and harassed others. He also remembered the dispatcher saying they had a named victim in this case. When Officer REISTER first contacted MONROE he observed the knife in his right sleeve as reported.

Officer REISTER stated the female subject MONROE was fixated on when he arrived turned out to be a male subject with long hair. (*Witness Walter JONES*). After he arrived on scene, MONROE then tried to conceal the knife behind his right thigh. Officer REISTER told us he could see the butt of the knife sticking out between his index finger and thumb. He described the knife as being red on the sides and silver in the middle. I asked him if the blade was extended. He told me he didn't know as the blade could have been extended up his arm underneath his sleeve.

I asked Officer REISTER if MONROE ever made reference to the knife he had. He stated not to the knife but later made reference to having a gun. Officer REISTER stated, "...but to answer your question, Sir, he said, immediately before I decided to...to fire and use less lethal, he said, drop your gun and I'll drop mine."

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Officer REISTER used a Google map to show where he first contacted MONROE and the direction he ran to the point of where he was shot. He went over much of what he told detectives on his efforts to take MONROE into custody. He described seeing him discard what he believed were pieces of paper but nothing else. Nothing he saw indicated to him he had discarded his knife. He also indicated they never got close enough to MONROE for the taser to be successfully deployed. He did add how he told MONROE he believed he was armed as he gave him different commands to try and gain his compliance. I asked him for the record to tell us what commands he remembered giving MONROE. He responded, *"They changed considerably from...it began as conversation, attempts to deescalate, to just try to talk to him, to get him to...to just stay in one place, hey, what's going on, man, hey, what's going on, okay, just go and sit down for me. I know he's armed, but, still, I wanted to just contain him. Hopefully, he will sit down and drop the knife and I will be able to talk to him and put him in a...a standing frisk or a kneeling frisk position, disarm him and handcuff him and investigate the crime further. But he never gave us that opportunity to do that. So it's transitioned from engaging verbally, attempts to deescalate to, okay, he's not responding, he's hearing me, because he's verbally responding to my commands."* Officer REISTER went on to say, *"I exhausted what I believe are all possible options, verbally and use of force options, to stop him. And when he took off running, and he finally stopped and he changed positions, he changed actual direction back towards the direction where he started. Immediately prior to that, I had decided that we have to stop him. So, at that point, my verbal commands did change. They were no longer requests or no longer, hey, man, they were get on the ground, get on the ground now or you will be shot. Get on the ground. He was not complying to that, so I decided to change my wording. I said...I had to escalate my wording because he kept putting his hand, right hand, behind his right thigh and his waistband, where I last saw him conceal that knife. So I said get on the ground right now or you'll be shot. I believe you have a weapon, get on the ground or I will shoot you. So rather than give the same command over and over and over, I changed my command over time...my commands over time, with the hopes that he would hear one of them in a different way. I probably gave six commands in a different way. But I was mindful of his altered mental state, that...but I had to give different commands, and I did that."*

Officer REISTER told us he believed MONROE was exhibiting a psychotic episode either drug induced or mental illness issue or combination thereof. He indicated there was no way for him to tell the difference and wouldn't have responded any differently if he did know.

Officer REISTER was asked about the recoil of the shotgun as well as the report of the shot. He stated there was little or no report of the shotgun on each round fired. It was very faint, consistent with the less lethal shotgun. He also stated he felt no recoil but remembered working the slide back and forth between each round.

As in both of his detective interviews Officer REISTER again stated he has no specific memory on how lethal rounds got loaded into his less lethal shotgun. He told us, *"Since this has happened, it has been my...my mission and my job to try and and get that answer. To try to*

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*figure out how it happened, why it happened and to make sure it never happens again. I take ownership of that and I've tried to do that. What I do know is that all the rounds that were in my duty bag were accounted for, and I do know that my practice was a good practice, that I physically separated the less lethal from the lethal rounds. The lethal rounds always were kept in the manufacturer's box. And I always kept the less lethal rounds intentionally in a clear plastic bag. I can account for all the rounds in my duty bag. What I cannot account for is how those extra rounds somehow got into my duty bag. After trying to figure that out, it's now...it is now conceivable to me how it's conceivable that someone unknowingly could have seen something on the ground near my duty bag and, oh, there's the nearest bag, it must belong there, thrown them in there. It's conceivable to me that that is possible."*

I asked Officer REISTER if it was possible he put the lethal shotgun shells into a clear evidence bag when unloading his shotgun on the overtime shift he worked with Officer DUNN. He told us he did not believe that was the case at all. He has always taken the unloaded lethal rounds and put them back in the manufacturer's box. He only kept the less lethal rounds in the clear evidence bag. Again prior to his shift that day he stated he loaded the less lethal shotgun in the rack while kneeling on the front seat of the car. He did not have a memory of looking at each round he loaded but his practice is to do just that. He stated, *"What I don't get is how my...my eyes may have seen it, but my mind didn't tell me that it was the wrong color."*

In reviewing Officer REISTER's earlier interviews, he talked about MONROE moving toward officers at the time he first fired his shotgun. Officer REISTER described, *"He's uphill from us. He's supporting his weight on the downhill leg, which would be his left leg. He's concealing his right hand behind his right thigh and right waistband, and at which time I give verbal commands if you go back to your pocket again, I will shoot you. And what was bothersome to me, disconcerting out of the safety of others, was that, initially, he was trying to get away from us and he was moving southerly, and then all of the sudden he changed directions and moved back this direction, quite a distance. So that was very surprising. Moving back ...Back north, yes. So it was very concerning to me, why is he trying to get back to where he came from. So he stops there, squares off on us, and I realize, okay, this is the time we need to stop him. I finally have a backstop, where I can use less lethal."* Officer REISTER indicated his concern was not having MONROE get back to the house where he first contacted him. He didn't know his connection to the people at that house but knew he was fixated on them and engaging them in conversation when he arrived. He felt he had to put himself between MONROE and the individuals in that house.

I asked Officer REISTER if it was ever an option for officers there to just walk away and let this guy go. He responded, *"No, Sir, absolutely not. We were compelled...we were compelled to provide for the safety of the people in that neighborhood, the motorists driving by, the motorists on Southwest Barbur, the motorists on Southwest Naito. He presented such an extreme risk to the public there, and to those members in that household, and I don't know how many people were in the restaurant at the time, that we in no way could have turned and walked away and left*

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*him and allowed him to go into that neighborhood, uncontrolled, armed, knowing that he had already harassed and approached others with a knife and a knife blade out."*

**Officer REISTER's Certification with the Less Lethal Shotgun**

During our interview with Officer REISTER, we went over his less lethal shotgun training and certification. I have examined Officer REISTER's training record and have talked with Training Division Lieutenant Mike Krantz and learned Officer REISTER did not attend or complete the Bureau's two day less lethal shotgun certification training. I asked Officer REISTER if this was true and he told us it was.

According to training records, Officer REISTER first qualified with the less lethal shotgun on December 11, 2002, after which he continued qualifying with this weapon at his required firearms qualification intervals. He indicated he has carried this weapon on patrol ever since 2002 and has in fact deployed the less lethal shotgun in the field 12 to 15 times or more. I showed Officer REISTER the class training roster from December 11, 2002 titled Sage / BB Cross Training Recertification for the Rapid Response Team (RRT). The second class roster was titled Less Lethal Weapons Training for RRT. Both classes were instructed by Sgt. Steve BUCHTEL, Sgt. Ed HAMANN and Officer Charlie FENDER. The location of the training was listed as the Tualatin Valley Fire Center. Officer REISTER stated he had a memory of attending that training but didn't have any memory of firing the less lethal shotgun at that time. In fact he stated he didn't think he did fire or qualify with the less lethal shotgun that day as the less lethal shotgun was not a tool utilized at the time by RRT. I showed Officer REISTER a copy of his firearms qualification record dated December 11, 2002 and asked him if he signed this form. He told me that he did. I noted on the form how boxes were checked that he passed the less lethal function check and qualification course with the Smith & Wesson 3000 shotgun. Officer REISTER told us he thought this was strange since it appeared to be an outdated form. He told us the Smith & Wesson shotguns were gone by then and replaced with the Remington shotgun. He added how he had no recollection of bringing any Remington less lethal shotgun to any RRT training. I later checked with the Training Division and learned the Bureau transitioned from the Smith & Wesson shotgun to the Remington shotgun in 2002 and 2003. It was a gradual transition that took a little less than a year to complete.

Officer REISTER told us they probably did training that day with the Sage gun or other less lethal weapons systems RRT used at the time but not the less lethal shotgun. He stated, *"I know there's some confusion about this. But this...you're asking where this qualifications record came from and whether RRT had it, I don't know, but what I do know is this form was provided to me by the trainers...trainer or trainers that day, and I believe that these boxes were pre-checked, these...I...I was handed the form to sign that I received the training that day and that*

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*these box...these boxes indicating function check and qualification course on both weapons were pre-checked." I asked Officer REISTER what was it about this training back in December 2002 that gave him the impression he was qualified with the less lethal shotgun. He responded, "I was told I was qualified, and I was told if I attended this class, my understanding is this class was specifically for the qualification of those weapons for RRT, including the less lethal shotgun. And it was not just my understanding, but others as well." I asked him if the instructors that day were saying he would be qualified with the less lethal shotgun even though they didn't use the less lethal shotgun. Officer REISTER replied, "That is exactly what was told to us. Not exactly, but the impression that I got, and others as well, four others, my understanding after receiving this training, I was now certified on the less lethal shotgun, which meant that when in the patrol capacity, when I'm out working a district, now I will carry the less lethal shotgun from that day forward, unless I de-certify or have permission from the sergeant to do otherwise."*

I asked Officer REISTER if it was his impression that they were certifying him to carry the less lethal shotgun based upon shooting the weapon or because of classroom training or due to training he had that day with the Sage and other munitions RRT used. Officer REISTER stated, *"Partly both. I believed that they provided us the classroom portion of the less lethal shotgun training, some classroom portion, but the practical application, the practical shooting on the makeshift range was with the Sage and the 37mm. I do not remember a less lethal shotgun."* I then asked him who it was that day who told him he was qualified to carry the less lethal shotgun. He stated it was Sgt. Steve BUCHTEL. I asked him if that was a result of him or other class attendees asking if they were qualified to carry the less lethal shotgun or if he told everyone how now that they have had this training they were less lethal certified. Officer REISTER responded, *"I don't know for a fact whether the...the specific question came up in the classroom portion. It very well could have. It may have. But it was clear, everyone attending that class was under the impression that we are now less lethal beanbag certified."* Officer REISTER stated there was no confusion about that fact, how it was understood they were good to go and will carry the weapon.

Knowing Officer REISTER was a grenadier for RRT, I asked him if RRT required all grenadiers to have previously been certified to carry the less lethal shotgun. He told us that wasn't the case. He stated there was no requirement to be prior less lethal certified in order to be a grenadier. During this interview Officer REISTER provided us with a list of his less lethal training he compiled as either an attendee or instructor starting when RRT was formed in February 2001. The list is titled RRT Chemical Agent and Less Lethal School/Training Timeline. A copy of this form is attached to the case file for reference.

**Retired Lt. Steve BUCHTEL**

Retired Lieutenant Steve BUCHTEL was interviewed both by detectives and IA as part of this

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case. In December 2002, BUCHTEL was a sergeant assigned to the Training Division and was in fact one of the instructors for RRT training on December 11, 2002. When BUCHTEL was interviewed by detectives, he told them he remembered this training to encompass RRT tactics such as formation, command and control, arrest tactics as well as munitions training. He remembered there being break out groups in which RRT grenadiers were training with less lethal munitions including the Sage, 37mm and 12 gauge shotgun. It was his understanding that in order to be a grenadier in RRT, members had to previously been certified as a less lethal operator. He described the RRT training as a review of the basics of the two day certification course. BUCHTEL stated supervisors in RRT were confident a number of RRT officers were already certified as less lethal operators and as such their less lethal certifications weren't checked or verified. He indicated there was a good faith understanding if RRT officers were training with less lethal platforms at RRT training, they were already certified to do so.

BUCHTEL stated the Oregon State Police also provided training for RRT officers. He could not say specifically that RRT members were told any less lethal training they received as a member of RRT was not a substitute for the Bureau's two day certification course.

During my interview with Retired Lt. Steve BUCHTEL, I asked him if he remembered RRT members qualifying with the less lethal shotgun back at this training class in December 2002. He replied, *"I'm not sure about that. I do know that the Sage was primarily the focal point, but, you know, when the bureau does tri-annual qualifications on all the weapons systems, sometimes...it would not be inconsistent not to have 12 gauge beanbag out there as far as...as far as a qualification component, but I can't say definitively whether or not we had beanbag shotgun out there, but I do know that we had our different launching systems, our Sage and our...our... ..break-top...single loader break-top."* BUCHTEL stated RRT would not qualify members with the less lethal shotgun, how that had to be done through the Training Division. There was never any intent that RRT training would be a substitute for the certification through the Training Division. BUCHTEL stated, *"No, the intent was is to have existing less lethal operators, i.e. the beanbag shotgun, with having passed the two day course, then they could then qualify or at least apply as to show interest of being a grenadier and/or a Sage gun operator. That as the full intent behind that."*

BUCHTEL again stated there was a collective understanding that only less lethal operators would be considered for a position of grenadier at RRT. He added, *"Now did we ever, you know, publish that someplace some way, was there a moment where we stood up and said, okay, everybody, anybody interested, you gotta be beanbag certified first, I can't say that that was ever done...in a one-time communication method, so everybody could understand, but it was certainly understood and the program had been around long enough where we kind of knew everybody who was, for the most part, less lethal certified, because it was still relatively new into the...I mean they weren't cranking out that many beanbag operators by that time."* BUCHTEL went on to say, *"...so...but, you know, I can't...I can't say, but all I know is that from...from a person who was involved in the system from the original creation of RRT, the intent was that only*

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*existing beanbag certified less lethal operators who had completed the two day school would be eligible to apply to be a grenadier."* I asked BUCHTEL if I was hearing him right, that he never told anybody in that RRT class that they were less lethal qualified based upon training with the less lethal weapons in this class. He stated that was correct.

**Captain Ed HAMANN #16415**

Captain Ed HAMANN was interviewed by both detectives and IA. Captain HAMANN was a supervisory sergeant of RRT back on December 11, 2002 when these RRT training classes took place. He told detectives he remembered classroom and practical training that day with less lethal munitions including the sage and 37mm single shot launcher. He did not recall the 12 gauge shotgun being utilized at that time. He told detectives he could not recall if grenadiers in RRT had to be previously certified with the less lethal shotgun. Captain HAMANN stated as a result of that training on December 11, 2002 at the Tualatin Valley Fire Center, he believed he was certified as a less lethal bean bag operator. He further believed Sgt. BUCHTEL was the one teaching the less lethal portion of the class. He stated he never carried the less lethal shotgun on patrol as he was a supervisor at the time in the Gang Enforcement Team (GET).

During Captain HAMANN's Internal Affairs interview he told us how he was an instructor on the Sage portion of the training that day. He had previously been sent to a school to learn about the Sage weapon system that allowed him to instruct members of RRT. Capt. HAMANN stated he couldn't remember the content of these classes back in 2002 but recalled classroom training as well as being outside and shooting the Sage gun. He remembered there being some room out there to set up a less lethal course to shoot with the sage.

I asked Capt. HAMANN if he remembered qualifying with the less lethal shotgun during these training classes. He replied, *"I really don't."* I asked him as a supervisor in RRT if it was his impression that Sage operators had to be less lethal certified. He responded, *"I would think, yes. And I think that was the whole point of this day's training is that...that members that were gonna be carrying less lethal munitions for the team would go through this training."* I asked Capt. HAMANN if RRT didn't utilize the less lethal shotgun in deployments, why they needed to shoot or train with the less lethal in RRT training. He told us, *"Well, I think the purpose was is that Sergeant BUCHTEL wanted to certify people to be able to carry the less lethal shotgun, and that they also needed to be certified to carry the Sage gun, and so I think that was the purpose of the day was to qualify people to carry the Sage gun, to deploy it with the Rapid Response Team."*

I asked Capt. HAMANN if Sgt. BUCHTEL was certifying officers to carry the less lethal shotgun for RRT purposes or if that would translate into patrol purposes also. He stated, *"Well, I can tell you that I left that training believing that I was cert...certified to carry the less lethal*



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*shotgun for patrol, although I never did. I qualified with it on several occasions. But, by nature of my assignment, it was nothing that I carried and at some point quit qualifying with it."* I asked him if his belief that he was qualified to carry the less lethal was based on this class alone or a culmination of RRT training classes. Capt. HAMANN replied, *"As a result of attending this class, I believed that I was certified to carry the less lethal shotgun. My recollection is that Sergeant BUCHTEL said that if we attend this course that we would be less lethal certified,..."* Capt. HAMANN added that he didn't know where this conversation took place and didn't have any specific memory of shooting the less lethal shotgun that day.

Finally I handed him a copy of Officer REISTER's firearms qualification record from that day which had his signature affixed on the instructor line. I showed him where Officer REISTER had the boxes checked on this record which indicated he passed the function check and qualification course with the less lethal shotgun. I asked Capt. HAMANN if he remembered how that happened. He replied, *"I don't. I told Detectives my best recollection is or my best guess is that on days where you have a lot of people at the range, it's not uncommon for, at the end of the day, folks to...to sign off on people that were in attendance, and I haven't looked at any other qualification sheets from that day, you know, I don't know if I signed every one of them or if BUCHTEL signed some or...but, you know, at the end of the day, you know, my signature was on there because I believed that DANE REISTER was qualified to carry it, just as I was, so..."* I asked or confirmed that he was a Bureau firearms instructor at the time and he told us he was.

**Sergeant Charlie FENDER #24190**

Sgt. Charlie FENDER was interviewed by both detectives and IA in respect to this December 11, 2002 RRT training class in which he was listed as an instructor. Sgt. FENDER was an officer at the time who was an original member of RRT when it was formed in 2001. He had previously been certified as a Bureau less lethal bean bag operator in 1997 and was later certified as a less lethal instructor.

During his interview with detectives he talked about the RRT grenadiers who were cross trained to deploy both chemical and less lethal munitions. He believed RRT grenadiers had to be previously certified as less lethal operators though he couldn't be certain. On the date of this training in 2002 he recalled using the Sage gun that day but not the less lethal shotgun. Sgt. FENDER stated the RRT training was not intended to be a substitute for the Bureau's two day certification course. He conceded it may have been possible some officers could have been given the impression the RRT less lethal training was a substitute for the standard Bureau two day training but it was never communicated that way to him.

Investigator TOWLE and I interviewed Sgt. FENDER on February 23, 2012 to inquire further about this RRT training in December 2002. Sgt. FENDER told us when RRT was formed he



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was designated as a grenadier/less lethal operator since he was certified at the time as a less lethal operator and an instructor in less lethal training. On the date of this training in 2002 he was teaching the Sage gun utilizing some space at the Tualatin Valley Fire Center that provided a safe place for them to shoot the weapon. I asked Sgt. FENDER if in RRT you had to be certified to carry the less lethal bean bag in order to be a grenadier. Sgt. FENDER replied, *"As I recall, when RRT started, we didn't use beanbags at all, we used the Sage weapon system, it's a 37 mm six shot, it's like a big revolver, as our less lethal munitions system. At the time RRT was created, there weren't many people in the bureau that were certified in that, so I believe why I was asked to put this class on for RRT was that I was, number one, a less lethal instructor, I was both Sage and beanbag certified, so we were putting this class on to get more people certified in the Sage system so that we could filter more people through as grenadiers. 'Cause, at the time, I think we may have only had a half a dozen to a dozen people certified that could have been grenadiers on this new system. But, to my knowledge, and having been with RRT since the day it started, I'm fairly confident we never used the 12 gauge beanbag system on RRT."*

I asked Sgt. FENDER if RRT never utilized the less lethal shotgun why they would use it in an RRT training class. He told us, *"Well, my recollection is, I've talked about this with like detectives, RRT didn't use beanbags and I am fairly confident I didn't have beanbags out at that training that day. My...my intent for the training was to have Sage...the 37 mm Sages out there for people to get certified in that, and we didn't do any beanbag shooting on RRT, and we certainly didn't do any beanbag qualifications on RRT. I don't think we fired a beanbag round that entire day or even had them out there."* I pointed out how training records indicate some students that day qualified with the less lethal shotgun. He told us he can't explain that and doesn't know why they would have done that. Again it was his belief that he was teaching those who were certified as bean bag operators to become certified in the Sage weapon system.

I asked Sgt. FENDER if he or any other instructors gave students the impression they would be less lethal certified as a result of attending this training. Sgt. FENDER replied, *"No because, at the time, that was like a two or three day class, and I would have never had told anybody, as an instructor, this one day class is now certifying you to be a beanbag operator, 'cause that's not what the class was designed for and that's not what...the certification we're trying to gather this for."* He added how he couldn't speak to the impression the other instructors (HAMANN and BUCHTEL) gave but thought it was pretty clear this was a Sage training day.

**Sergeant Brian KELLY #29353**  
**Officer Matthew NILSEN #28174**

After this shooting incident involving Officer REISTER on June 30, 2011, the Training Division conducted an audit of other RRT members attending this December 11, 2002 class who were currently qualifying with the less lethal shotgun without being Bureau certified. That audit

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resulted in the names of Sergeant Brian KELLY and Officer Matt NILSEN. Both Sgt. KELLY and Officer NILSEN told detectives they believed they were certified to carry the less lethal bean bag shotgun as a result of attending this December 11, 2002 RRT training class. Both had previously attended a Sage training course at Camp Rilea and believed the follow up training in December 2002 was additional training they needed to be certified as a less lethal operator. However neither officer could identify a particular instructor or trainer who told them they were qualified to carry the less lethal shotgun.

In our IA interview with Officer NILSEN he admitted he had not attended the Bureau two day less lethal operator's certification course. He stated he has had other less lethal training through his assignment in RRT. Officer NILSEN told us he had attended a Sage class at Camp Rilea where he was told he was not qualified to carry the less lethal shotgun as a result of attending this grenadier training. He remembered inquiring what he needed to do to be qualified to carry the less lethal shotgun and remembered this December 2002 class being put on to fulfill that qualification. As a result of that training he believed he was less lethal qualified.

Officer NILSEN couldn't remember who told him he was qualified and didn't even remember who the instructors were for that December 2002 class. He did remember going over some policy and procedure directives pertaining to the use of the less lethal shotgun during that class. Officer NILSEN could not remember if they fired the less lethal shotgun that day or not. He remembered shooting some less lethal munitions but didn't remember the platforms they used that day. In any event he was left with the impression from the instructors that he was qualified with the less lethal shotgun as a result of his attendance in this class. Since that time he has qualified with the weapon regularly but has never actually deployed the weapon in the field.

In our IA interview with Sgt. KELLY he likewise admitted he had not attended the Bureau's two day less lethal certification class. He explained he joined RRT a couple months after it was formed and attended a grenadier school at Camp Rilea. He was asked if RRT grenadiers had to first be less lethal qualified with the Bureau. He told us they did not. After attending the grenadier school he attended other RRT training including the December 11, 2002 training at the Tualatin Valley Fire Center. Since this training in 2002, Sgt. KELLY has qualified with and carried the less lethal shotgun on patrol believing he was certified to do so.

Sgt. KELLY stated he did not remember much about that training but did remember shooting the Sage gun at orange traffic cones and a few moving targets. He remembered participating in some crowd movement scenarios in which less lethal munitions were deployed. Besides the Sage gun, I asked him if any other less lethal platforms were used in training that day. He told us there were no others that he could recall.

Sgt. KELLY told us it would be a safe assumption to believe he qualified with the less lethal shotgun based upon his training qualification record although he seemed to lack a specific memory of doing so. I asked him who told him that day he was qualified to carry the less lethal

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as a result of attending this class. He responded, *"Yeah, I don't...I don't know. We had a lot of trainers. I don't know...I don't know."* Sgt. KELLY went on to state, *"I don't remember the specific interaction, but it was clearly my understanding that we were now certified less lethal operators for the City of Portland."* I asked him how he came to this understanding he was qualified and he replied, *"By going to a class, sitting down, taking notes, what's the range of the beanbag, look at the...we used to shoot these flat things, now we shoot these round things,... and this is the damage, here's the pictures of somebody shot with a flat bag, here's the damages, and here's your target area. I mean I could...because I've not been to the two day class, I can't attest to what they teach in there, but I can't think of anything else they would teach me to...this is why we shoot the round, you know...and this is our target area, and we've had practice and practice and practice shooting at that beltline, and saying the proper commands, etc."*

Sgt. KELLY stated he was just recently notified that he was in fact not qualified to carry the less lethal shotgun as he never attended the two day certification training. Sgt. KELLY stated that even though he carried the less lethal shotgun he has never actually deployed it in the field.

**Retired Officer Steven RICKEARD**

On February 13, 2012 I contacted retired officer Steven RICKEARD who I learned was the administrative officer for RRT who was involved in setting up all RRT training classes. I explained to RICKEARD the nature of my call and asked him if RRT every certified officers to carry the less lethal bean bag shotgun during any training they conducted. RICKEARD replied, *"No, no, because we didn't carry it. RRT never carried the less lethal beanbag shotgun."*

I asked RICKEARD about the December 11, 2002 rosters for classes titled Less Lethal Weapons Training for RRT and Sage/BB Cross Training Re-Certification. He told me he believed RRT broke down into different groups for this training in which less lethal operators probably did some Sage gun training or qualified guys with the Sage gun. He again stated he didn't know why a bean bag shotgun would be utilized in this training but added how he wasn't there and didn't run that class. He surmised someone may have brought a less lethal shotgun out just to qualify people with it but again he didn't know.

RICKEARD told me he was trying to get all of the RRT grenadiers qualified with the less lethal shotgun by attending the Bureau's two day bean bag training program. He realized some RRT grenadiers were not less lethal certified and felt the Bureau's less lethal class should be the basis for all less lethal training done in RRT. RICKEARD added, *"And I always tried to, you know, we had maybe...and I was always told, well, the Training Division says, well, if you get 12 guys, we can do it, but who's gonna pay for it, and that's always where it fell apart. Nobody wanted to put out the money to pay for the...to take our less lethal operators who weren't yet...beanbag. 'Cause some of them were and some of them weren't."*

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RICKEARD told me none of the instructors of that class (BUCHTEL, HAMANN or FENDER), came to him and said they wanted to qualify some people that day with the less lethal shotgun. If they did, that was something they did on their own. RICKEARD told me he knew Officer REISTER was qualified to use the less lethal platforms RRT utilized but did not know if he was qualified as a less lethal bean bag operator.

**Other Bureau members who attended RRT Training on December 11, 2002**

As part of this investigation I interviewed a majority of those RRT members who attended this training back on December 11, 2002. Of those interviewed Sgt. Mike FORT, Sgt. Kraig MCGLATHERY and Officer Jerry HIGGINBOTHAM all believed they were less lethal bean bag qualified as a result of attending RRT training and without attending the Bureau's two day less lethal certification course. Sgt. FORT stated he continued to qualify with the less lethal shotgun up until 2004 when he quit carrying the weapon. Sgt. MCGLATHERY and Officer HIGGINBOTHAM did not carry the less lethal on patrol. Their belief that they were qualified was based on their participation as a grenadier in RRT and attending Sage training at Camp Rilea in March of 2002. The vast majority of those interviewed felt they were not qualified to carry the less lethal shotgun as a result of attending any RRT sponsored training. Due to the fact this training occurred over nine years ago, most had very limited memories of what exactly this training entailed including whether or not the less lethal bean bag shotgun was used that day.

**Investigator Comments:**

At the conclusion of our interview with Officer REISTER, his attorney, Jim MCINTYRE, handed investigators some paperwork he felt should be added to this IA file. These items included a Declaration of Ron MARTINELLI, PhD, who is a forensic criminologist, a December 1, 2011 report by R.K. MILLER, a police practices consultant, and a report by clinical psychologist Leeaz MARON, PhD dated October 25, 2011. These items are included in the IA file but are not referenced in this report. Also turned over to investigators during this interview was a training timeline compiled by Officer REISTER listing his RRT Chemical Agent and Less Lethal schools and training.

I checked with Chief's Office Administrative Assistant Diane HAMAN in an effort to try and locate any after action reports that could have been generated as a result of Officer REISTER's prior use of the less lethal shotgun. She told me she checked but was unable to locate any.

As a result of this incident, on October 24, 2011, an Executive Order was issued by the Chief's

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office which added new language to reflect current policy and practices on storage requirements for less lethal shotguns. That new paragraph is listed below.

**1050.00 LESS LETHAL WEAPONS AND MUNITIONS**

**Less Lethal Weapons, Standard Shotguns and Ammunition (1050.00)**

With the exception of supervisors, Bureau members are not authorized to possess additional or replacement less lethal specialty impact munitions. Bureau less lethal shotguns shall be stored in the armory with Bureau issued less lethal specialty impact rounds stored in the Bureau issued side saddle carrier and/or butt stock carrier. The guns will be loaded in the police vehicle, per procedure, from this supply only. Certified operators are required to visually and physically inspect each round as they load and are encouraged to have another Bureau member view and confirm this. Supervisors are authorized to carry additional and replacement less lethal specialty munitions. All such additional and replacement less lethal specialty ammunition carried by supervisors will be carried only in its original factory packaging.

**Exhibits:**

1. PPB Case #11-54666.
2. Officer Dane REISTER's Training history and Firearms Qualification records.
3. Officer REISTER's 12/11/02 Firearms Qualification Record.
4. PPB class roster dated 12/11/02 titled "Less Lethal Weapons Training for RRT"
5. PPB class roster dated 12/11/02 titled "Sage/BB Cross Train-Recertification (RRT)"
6. Training record compiled by Officer REISTER and provided to IA Investigators.
7. Executive Order dated 10/24/11 regarding 1050.00 Less Lethal Weapons and Munitions.
8. Google map used in interview with Officer REISTER.
9. Google map used in interview with Officer PALMITER.
10. Google map showing where witnesses Zebediah and David KRIEGER were at time of incident.
11. Google map used in interview with witness Sacha ETZEL.
12. 5 photographs showing where witness Walter JONES was at when first observing MONROE.
13. Communication Restriction Order signed by Inv. Lynn COURTNEY
14. Communication Restriction Order signed by Inv. Cordes TOWLE.
15. Communication Restriction Order signed by Inv. Jon RHODES.
16. Communication Restriction Order signed by Sgt. Jim DAKIN.
17. Communication Restriction Order signed by Lt. Derek RODRIGUES.
18. Communication Restriction Order signed by Lt. Mike KRANTZ.
19. Communication Restriction Order signed by Christina ESTES.

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20. Communication Restriction Order signed by Diane WINTERFELD.
21. Tort Claim notice dated 12/02/11 sent to City by MONROE's Attorney Thane TIENSON.
22. Central Precinct talk net transcription report.
23. Officer interview notices, signed waiver forms and checklists.
24. Interview transcription reports.
25. Chronology Record.
26. IA Investigative Report.



**ORIGINAL**  
07/12/12 

**Portland Police Bureau**

**Training Division Review**

**PPB Case # 11-54666**

**Incident Date: June 30, 2011**

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**THIS REVIEW IS WRITTEN UNDER A COMMUNICATIONS RESTRICTION  
ORDER. DO NOT READ UNLESS YOU HAVE BEEN AUTHORIZED BY THE  
INTERNAL AFFAIRS DIVISION TO READ THIS REPORT**

**Reviewed by:**

**Lt. Mike Krantz – Training Division**

**Lt. Derek Rodrigues – Drugs and Vice Division**

**Completed: July 12, 2012**

**RECEIVED**  
JUL 12 2012 

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## **PREAMBLE**

This report is based upon review of the Detective Division's investigation, the Internal Affairs Division's investigation, Training Division lesson plans and doctrine, and the Training Division Tactical Guideline Elements. This case was reviewed by the Multnomah County District Attorney's Office and was subsequently presented to a Multnomah County Grand Jury who voted a true bill to indict Portland Police Officer Dane Reister on November 18, 2011 for violation of Oregon Revised Statute (ORS) 163.165 Assault III and ORS 163.160 Assault IV. Additionally, the Multnomah County District Attorney's Office added the charge of violation of ORS 166.180 Negligently Wounding Another to the indictment of Officer Dane Reister. At the time of this report, the Grand Jury transcript has not been released and therefore not included in this review.

Tactical incidents and incidents involving the use of force are dynamic events that cannot be assessed in a mechanical or rigid manner. Most tactical incidents are extremely fluid and should be analyzed based on the facts and circumstances available to the officers at any given time during an incident. Police officers are often forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving. We expect officers to rely on their training to make these decisions.

This report will analyze the major decisions made by officers involved in this incident in the chronological order in which they occurred during the incident. The goal of this report is to determine if the members of the Portland Police Bureau involved in this incident successfully utilized the training they have received and the equipment they have, and/or if the Portland Police Bureau needs to establish additional training and/or utilize different equipment, in an effort to produce different outcomes of similar incidents in the future.

Timelines provided in this report are approximate, and included to provide a general timeline of the sequence of events and are not exhaustive of every action taken during the incident.

It is the role of the RU manager, the review board process, the court system, the Chief of Police and the Police Commissioner to determine if an officer's actions were within reason, policy and law.

At the time of this analysis, the criminal proceedings are still underway regarding the indictment of Officer Dane Reister for this incident. Due to the ongoing criminal proceedings, Lt. Rodrigues and Lt. Krantz are under a communication restriction order, thus this analysis is conducted without the benefit of discussing this case with lead instructors or staff members, and it is purely an administrative review based on the criminal and administrative reports generated from the case.

## PRIMARY INVOLVED OFFICERS RELEVANT TRAINING AND BACKGROUND

### Officer Dane Reister #31663

Hired: 02/01/1996

#### Relevant Certifications:

Basic Police Certificate granted:	01/22/1997
Field Training Officer:	02/10/1999
Intermediate Police Certificate granted:	05/12/2000
AR-15 operator:	09/22/2000
Taser operator:	02/15/2005
Defensive Tactics Instructor:	12/08/2005
Police Vehicle Operations Instructor:	07/31/2006
Crisis Intervention Team officer:	04/06/2007
Advanced Police Certificate granted:	01/12/2011
CPR/First Aid:	03/30/2011

#### Relevant Training courses (student and instructor):

RRT-Formation, MPU, Less-lethal practice:	08/30/2001	8 hours
Grenadier School:	02/28/2002	30 hours
Less Lethal/37 mm practice:	03/15/2002	1.5 hours
RRT Trng-Firearms, Veh. Rescue , CS/CN	06/20/2002	10 hours
Gas Grenadiers school/chemical agent school:	10/09/2002	10 hours
Sage/BB cross train-recertification (RRT):	12/11/2002	10 hours
Less Lethal weapons training for RRT:	12/11/2002	10 hours
Sage Practice:	03/14/2003	1 hour
Chemical agent school – classroom:	03/02/2004	10 hours
Chemical agent school – range:	03/03/2004	10 hours
FN303 less lethal weapons basic&refresher course:	02/03/2006	10 hours
Grenadier & Less Lethal operator's course:	12/12/2008	40 hours
12 gauge less lethal reported qualifications:	18 qualifications between	
	12/11/2002 & 01/26/2011	

The courses listed above are gathered from utilizing the Portland Police Bureau skills manager system, which tracks and archives reported training hours to the Training Division, as well as utilizing the RRT individual training report records, which logged RRT training hours of officers. Some of the RRT hours were reported to the Training Division and some were not. Additionally, the quarterly reported qualifications for 12 gauge less lethal were logged on Portland Police

Bureau Firearms Qualifications Records and subsequently signed by Officer Reister and a certified firearms instructor.

Total reported training hours as student:	3,028.25 hours
Total reported training hours as instructor:	304.75 hours

<b>ADDITIONAL INVOLVED OFFICERS TRAINING AND BACKGROUND</b>
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**Officer Stuart Palmiter #27244**

Hired: 07/02/1992

## Relevant Certifications:

Basic Police Certificate granted:	04/12/1993
Crisis Intervention Team officer:	08/11/1995
Defensive Tactics Instructor:	10/21/1999
Taser Operator:	11/16/2004
CPR/First Aid:	01/12/2011

Total reported training hours: 1,824 hours

**Officer Dean Halley #19498**

Hired: 07/03/1986

Retired: 07/27/2011

## Relevant Certifications:

Basic Police Certificate granted:	05/13/1997
Intermediate Police Certificate granted:	10/03/1997
Advanced Police Certificate granted:	10/03/1997
Field Training Officer:	05/22/2001
Crisis Intervention Team Officer:	12/08/2005
CPR/First Aid:	05/17/2011

Total reported training hours: 2,364 hours

## TIMELINE

June 30, 2011

09:55:50 Dispatch receives 911 call for AREACK at Lair Hill Park, 3037 SW 2<sup>nd</sup> Ave., district 871.  
Call taker sets up call as "Male harassing comp & kids attending a camp here, appeared DK and comp req areack since thnks he'll continue to harass others and poss return, L/S EB Hooker on foot, WM, E20's, BLK BB Cap, All Blk clothing, WHT tennis shoes."

10:03:00 Dispatch receives callback, and enters information into the call of "Per CB, guy left towards Barbur/Hooker, now has on red shrt, no cont in person, req ph call."

10:10:35 870 (Officer Halley #19498) self dispatches on call.

10:19:00 Dispatch receives second call, and enters information into the call "2<sup>nd</sup> caller. Subj is SB Barbur, has a pocket knife in right sleeve".

10:19:59 882 (Officer Stevens #50050) is dispatched to the call.

10:20:39 850 (Officer Reister #31663) is dispatched to the call.

10:20:40 890 (Officer Hawkins #25051) self dispatches on call.

10:20:48 870 arrives (at location of original call)

10:22:07 850 arrives on scene at Naito/Currey w/Him (indicating that he is with the subject of the call)

10:22:43 850 announces that he is **challenging subject with less lethal** and that he is not complying.

10:22:52 881 (Officer Westberry #20365) self dispatches on call.

10:23:36 870 changes location to Naito/Curry.

10:25:40 741 (Officer Palmiter #27244) arrives on scene.

10:25:46 741 changes location to Naito/Curry.

10:27:05 Code 3 medical is requested. (no specifics on injury)  
850 then provides details of male/white, in his 20's, bleeding from the legs, calls for medical to be Code 1. Then gets back on the air and calls for medical to be code 3, subject turning white and possible drugs.

10:27:17 3802 (Sgt. Schell #32700) arrives on scene to Naito/Curry and changes location to 3037 SW 2<sup>nd</sup> Ave. Shortly after arrival, confirmed medical was coming code 3.

730 (Ofc. Spiegel #49997) confirms that medical is code 3, no detail on injury, but that "arterial bleed, this guy is bleeding out".

10:29:28 881 arrives on scene

3804 (Sgt. Dody #26972) arrives on scene to assist.

10:37:22 9802 (A/Lt. Dakin) arrives on scene

Between 10:29 and 10:37 hours, multiple units began arriving as well as medical personnel and began post use of deadly force crime scene management.

Elapsed time from when Officer Reister arrived on scene and located William Monroe until the time when Officer Reister deployed his less lethal shotgun against William Monroe was approximately 5 minutes.

## INCIDENT OVERVIEW

On June 30, 2011, at 09:55:50 hours, the Bureau of Emergency Communications received a 911 call from Kawika Bernal regarding a suspicious person and requested an area check. BOEC call taker R. Conklin #42129 set up the 911 call for dispatch and put the following remarks in the call "male harassing comp & kids attend a camp here, appeared dk and comp req areack since thnks he'll continue to harass others and poss return, l/s eb hooker on foot, mw, e20's, blk bb cap, all blk clothing, wht tennis shoes." The caller reported that this was occurring at Lair Hill Park at 3037 SW 2<sup>nd</sup> Ave.<sup>1</sup>

Call taker Timothy Sherman #27522, received another 911 phone call at BOEC, the original call was updated in CAD with the following information, "per cb, guy left towards barbur/hooker, now has on red shrt, no cont in person, req ph call."<sup>2</sup>

Officer Dean Halley, unit 870, self dispatched to the call via his CAD terminal.<sup>3</sup>

BOEC Dispatcher Cole #24382 received an emergency call from David DeMarke via 911. Dispatcher Cole updated the call with the following info, "2<sup>nd</sup> caller. Subj is sb barbur, has a pocket knife in right sleeve."<sup>4</sup>

Officer Reister, who was en route to a found property call in the area of SE 28<sup>th</sup> Avenue and SE Powell Blvd, heard the details of the call come out and was near the area of Lair Hill Park.

Officer Stevens, unit 882 and Officer Reister, unit 850 were dispatched to the call and Officer Hawkins, unit 890, self dispatched to the call. Additionally, Officer Halley, arrived on scene at 10:20 hours.<sup>5</sup>

Officer Reister was driving on SW Naito Parkway when he observed a subject matching the description provided by BOEC as the suspect in this incident. Officer Reister slowed his approach to the subject from the north to verify that the description of the suspect was in fact the same as to what he was seeing. Per CAD records, Officer Reister, unit 850, arrived on scene and broadcast he was with the subject of the call at SW Naito and SW Curry. Officer Reister observed the subject, who was later identified as William Monroe, was cupping a knife in his right hand. As Officer Reister came to a stop he observed William Monroe's attention was

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<sup>1</sup> Case #11-54666 Investigative Notebook page 1089, BOEC CAD records

<sup>2</sup> Case #11-54666 Investigative Notebook page 1089, BOEC CAD records

<sup>3</sup> Case #11-54666 Investigative Notebook page 1104, BOEC CAD records

<sup>4</sup> Case #11-54666 Investigative Notebook page 1089, BOEC CAD records

<sup>5</sup> Case #11-54666 Investigative Notebook page 1104, BOEC CAD records

intently drawn to another person who was to the west down an embankment. William Monroe was fixated and had what Officer Reister believed was a menacing demeanor toward the other person. William Monroe was still holding the knife, but appeared to be trying to hide it. Officer Reister observed William Monroe to be in a fighting stance and was displaying a piercing look towards the other person; Monroe was gritting his teeth and was mouthing words to the other person.

William Monroe turned his attention to Officer Reister with the same type of aggressive body language and intent. Officer Reister exited his vehicle and instructed the other person down the embankment to go into their house. William Monroe shifted his aggression towards Officer Reister.

Officer Reister then observed William Monroe reach with both hands towards his right hip area. Officer Reister estimated that he was stopped approximately 20 yards from William Monroe when he exited his vehicle and began verbal engagement. During the attempts of verbal engagement, William Monroe stated that he did not want to talk to Officer Reister and continued to grit his teeth. Officer Reister directed William Monroe to show him his hands and take a seat; William Monroe would not comply with any commands and maintained a bladed stance.

Officer Reister retrieved his less lethal 12 gauge shotgun from his vehicle, and chambered a round. Officer Reister then directed William Monroe to get on the ground to which William Monroe angrily replied that he was not going to do that. Officer Reister held his less lethal shotgun at a depressed ready position and continued verbal negotiations with William Monroe. Officer Reister continued to negotiate with William Monroe and thought he observed William Monroe to be calming down a little bit, but as cover cars approached the scene, William Monroe could hear their sirens and this seemed to re-agitate him according to Officer Reister.

Officer Reister continued to verbally engage William Monroe while waiting for cover officers to arrive. Once Officer Palmiter arrived on scene, William Monroe fixated on him and seemed to become hyper stimulated. William Monroe began walking backwards quickly away from the officers, Officer Palmiter followed him. William Monroe then turned and ran south bound away from the officers.

William Monroe ran into an area that was an open green space. Officer Reister felt this area was better to negotiate with William Monroe because it isolated him from other bystanders in the area. As William Monroe was running, he stopped and began discarding items from his pockets. While doing this, William Monroe was yelling and flailing his arms. Officer Reister and Officer Palmiter were still attempting to calm William Monroe and negotiate with him. William Monroe then moved towards the direction of the Café Amico restaurant. This sudden movement and change of direction by William Monroe was concerning to the officers, as it now opened up the possibility of involving bystanders. Officer Reister continued to give William Monroe verbal commands in an attempt to force him to comply and retreat back to the green



space. Officer Reister escalated his commands and directed William Monroe to get on the ground and also warned William Monroe that he would be shot if he did not comply. Officer Reister was still armed with his less lethal shotgun, and continued to give William Monroe commands, to which William Monroe did not comply.

William Monroe stopped his movement and bladed his body in a fighting stance as if he was going to attack the officers. The officers were concerned that William Monroe was armed with a knife and could also have the potential of being in possession of other weapons. Officer Reister assessed the situation and the backstop that he currently had, and as William Monroe made a sudden move towards the direction of local residences, Officer Reister fired one round to the aim point of the upper right thigh area from his less lethal 12 gauge shotgun. Officer Reister did not see any apparent affect of an impact of a bean bag round to William Monroe. Officer Reister then changed his aim point to the left upper thigh area and fired another round from his less lethal 12 gauge shotgun.

William Monroe did not display any outwardly physical indicators that the first two rounds fired by Officer Reister affected him. At this point, Officer Reister alternated upper thigh areas, firing two more rounds from his less lethal 12 gauge shotgun. At this point, William Monroe fell to the ground and it appeared that the rounds fired from the less lethal 12 gauge shotgun did have an effect. Once the less lethal 12 gauge shotgun ran empty, Officer Reister then prepared to reload the less lethal 12 gauge shotgun in case William Monroe got up and attempted to escape or charge at them.

Officer Reister, Officer Palmiter and Officer Halley formed an approach and custody team as William Monroe was on the ground. Officers approached William Monroe and successfully took him into custody while he was on the ground.

Officer Palmiter and Officer Reister both noticed a large amount of blood coming from William Monroe's thigh/leg area. Officer Palmiter immediately called for code 3 medical to respond to the scene. As medical was responding and the officers were gathering themselves after the incident, several officers noticed that the spent shell casings on the ground were red 12 gauge double 00 buck casings and that they were not less lethal bean bag casings. Sgt. Marty Schell arrived very shortly after, and as he approached the scene he also observed the red 12 gauge double 00 buck casings and quickly deducted that the rounds fired by Officer Reister were lethal red 12 gauge double 00 buck rounds and that they were not less lethal bean bag rounds. Sgt. Schell immediately began treating this scene as an investigative crime scene for an officer involved shooting. The scene and the investigation evolved and were turned over to the Detective Division.

This incident overview is a summary of the incident that occurred on 06/30/2011 involving William Monroe, PPB Case # 11-54666. This summary is a compilation of information gathered from the investigative and administrative reports and documents regarding this incident. This

overview does not cover every aspect of this incident, but is meant to provide a basic understanding of the incident and what occurred.

## INITIAL RESPONSE

Based on multiple reports from different by-standers during the initial development of this incident, the officers were responding to an incident that was going to involve contact with a subject, later identified as William Monroe, who was reported to be armed with a knife and suspected to be suffering from some sort of mental health crisis or drug/alcohol induced intoxicated state. All three initial officers, Officer Reister, Officer Palmiter and Officer Halley that responded to the scene were Crisis Intervention Team (CIT) trained officers.

Upon the initial call based on information that was being broadcast at the time, multiple officers began to respond to the scene. Although some officers were not dispatched, they still responded to the area. Having multiple responders to an incident will allow for a tactical advantage by having numerical superiority in any situation. Numerical superiority will offer a distraction to subjects, forcing concentration to be split by addressing multiple officers instead of one. By providing numerical superiority we provide for a less competitive situation, often times squashing a hostile subjects plan of attack on police officers.<sup>6</sup> This is consistent with training.

While Officer Reister was responding to the scene, he was aware that he was not very familiar with this specific geographical area of SW Portland. He purposely slowed down his response and checked the description of the subject of the call again. As Officer Reister continued towards the area in his patrol car, dispatch updated the call with information that the subject was "cupping a knife in his right sleeve."<sup>7</sup> Officer Reister felt that the updated information regarding the knife was "so distinct and unusual, it really stood out."<sup>8</sup>

Officer Reister drove his patrol car at a slow pace on SW Naito (from the North), he observed a male standing on the West sidewalk near a sign. Officer Reister then verified the description, and he knew that he had located the subject of the call, William Monroe. When Officer Reister believed that he had located the subject of the call, he stopped his vehicle approximately 25-30 yards away from him. Officer Reister already had reports that William Monroe was armed with a knife and as Officer Reister approached him in his vehicle he could see that William Monroe was still cupping a knife in his hand. Officer Reister allowed for a considerable amount of distance between him and William Monroe. This is consistent with training. The distance between an officer and an individual always has to be considered because of the safety of the officer and the action/reaction principle. Greater distance equals greater reaction time and greater safety.<sup>9</sup>

<sup>6</sup> PPB Training Division, Tactical Guideline Elements- Tactical Advantages: Numerical Superiority.

<sup>7</sup> Case #11-54666 Investigative Notebook, page 526, Taped Statement- Officer Reister.

<sup>8</sup> Case #11-54666 Investigative Notebook, page 541, Taped Statement- Officer Reister.

<sup>9</sup> PPB Training Division, Tactical Guideline Elements-Tactical Advantages: Distance.

It is apparent that Officer Reister chose to respond directly to the area of the call because of the nature of the call (Direct Response vs Staging). Although Officer Reister did not specifically state his reasons why he chose this response, it is consistent with training that officers would respond directly to the area of a call similar to this. The call involves a subject armed with a knife, near children and a residential area. The exact location of William Monroe was unknown during their initial response, therefore it was required that multiple officers respond directly and search the area until they found William Monroe.

As Officer Reister arrived on this call and assessed the situation, he quickly determined that William Monroe appeared to be displaying behavior of someone suffering some sort of mental health crisis or a drug induced psychosis. Officer Reister could see that William Monroe's attention was not focused on Officer Reister, but rather William Monroe was displaying threatening behavior towards another person nearby. Officer Reister did not know the other person's involvement in the incident at the time, but he could clearly distinguish that William Monroe was fixated on the other person that he was looking at and "his behavior was absolutely fixated and menacing on her."<sup>10</sup> Officer Reister felt if William Monroe made a decision to attack the other person, Officer Reister would not have been close enough to stop the attack from happening. Because of the perceived threat Officer Reister was seeing he decided to attempt to force William Monroe to focus his attention on him rather than on the person down the hill. Officer Reister exited his car and told the other person "Ma'am, go back inside."<sup>11</sup> When Officer Reister did this, William Monroe shifted his attention and aggression to Officer Reister. When Officer Reister noticed this aggression shift and observed the knife still in William Monroe's hand he initially considered drawing his duty pistol from his holster, however he considered that he was in a position that did not afford a good backstop behind William Monroe. Being aware of your target and the backstop of your target and what is beyond that backstop is one of the four cardinal safety rules of firearms in the Portland Police Bureau.<sup>12</sup> Officer Reister displayed tactical considerations that are consistent with training.

Officer Reister felt limited on his options to control the situation because of the environment of the incident and because he felt that he wanted to de-escalate the situation with William Monroe rather than push him further into an agitated state. Officer Reister attempted to speak to William Monroe in a low key tone and attempted several techniques at verbal de-escalation while making slow movements. Officer Reister's attempts at de-escalation techniques and attempts to reduce distractions are consistent with CIT training.<sup>13</sup>

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<sup>10</sup> Case #11-54666 Investigative Notebook, page 529, Taped Statement- Officer Reister.

<sup>11</sup> Case #11-54666 Investigative Notebook, page 530, Taped Statement- Officer Reister.

<sup>12</sup> PPB Training Division, Tactical Guideline Elements-Four Cardinal Rules of Firearms: Backstop.

<sup>13</sup> PPB CIT, Crisis Communication Part 1, Training Division Lesson Plan

William Monroe was now focusing all his attention on Officer Reister rather than the other subject that was nearby. As Officer Reister was communicating with William Monroe, Officer Reister determined that his techniques did not seem to be de-escalating William Monroe. Officer Reister continued to attempt to de-escalate William Monroe by calmly asking William Monroe questions to the affect of, "Hey man, what's going on? How can I help you? Hey, what's going on today, man?"<sup>14</sup>

Officer Reister was continuing to vary his communication style with simple language in attempts to calm William Monroe down. This communication style is consistent with CIT training.<sup>15</sup> Officer Reister observed William Monroe was now focused on him with a bladed stance, standing on the balls of his feet and teeth clenched, while still holding a knife. Officer Reister tried to vary his communication technique by telling William Monroe "hey man you need to show me (sic) your hands. You need to sit down for me".<sup>16</sup> William Monroe told Officer Reister "no, I'm not gonna do that"<sup>17</sup> and then took an aggressive stance towards Officer Reister as if he was going to charge at Officer Reister. Officer Reister re-evaluated his current position and changed his plan to better provide himself cover behind his vehicle.

As critical incidents develop, it is imperative that an officer be able to evaluate the current circumstances of the situation and change their plan accordingly. Chances of success in an incident are much higher if there is a tactical plan.<sup>18</sup> When dealing with any potential threat, even during incidents that deal with communicating with person in crisis, an officer must create a situation of tactical advantage.<sup>19</sup> Officer Reister's decision to find better cover and provide himself a tactical advantage is consistent with training.

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<sup>14</sup> Case #11-54666 Investigative Notebook, page 530, Taped Statement- Officer Reister

<sup>15</sup> PPB CIT, Crisis Communication Part 1, Training Division Lesson Plan

<sup>16</sup> Case #11-54666 Investigative Notebook, page 532, Taped Statement- Officer Reister

<sup>17</sup> Case #11-54666 Investigative Notebook, page 532, Taped Statement- Officer Reister

<sup>18</sup> PPB Training Division, Tactical Guideline Elements, Fundamental Concepts of Tactics: Have a Plan.

<sup>19</sup> PPB CIT, Crisis Communication Part 1, Training Division Lesson Plan

## APPLICATION OF FORCE

As Officer Reister re-positioned his vehicle for better cover, he made the decision to deploy his less lethal 12 gauge shotgun from the vehicle rack. Officer Reister made the conscious decision to deploy his less lethal 12 gauge shotgun after considering his other force options and determining the less lethal 12 gauge shotgun was the best option for the current circumstances of the incident. It is consistent with training to carry a less lethal 12 gauge shotgun in the vehicle rack of the patrol vehicles. Additionally, it is consistent with training to utilize a less lethal 12 gauge shotgun against a subject armed with a knife.<sup>20</sup> The option to utilize a less lethal 12 gauge shotgun must be balanced with the overall circumstances of the incident, in this situation; Officer Reister had maintained adequate distance between himself and William Monroe. Officer Reister also provided a level of cover by utilizing his patrol vehicle as a barrier from William Monroe.

After Officer Reister's continued attempts to de-escalate William Monroe with verbal tactics failed, he then changed his tactics in an attempt to de-escalate the situation by using a commanding and controlling voice and display of the less lethal 12 gauge shotgun. Officer Reister deployed his less lethal 12 gauge shotgun, chambered a round, and ordered William Monroe to get on the ground. Officer Reister made a conscious decision to change tactics and attempt to utilize a more commanding presence with William Monroe in an attempt to force him to comply and de-escalate the situation. Officer Reister utilized tactics of control that are consistent with training. Officer Reister was employing the concepts of the "Eight Basic Concepts of Defensive Tactics". It is imperative that an officer establish control by a presence, demeanor and verbal display of control. A police officer must establish and maintain superior control in any law enforcement situation.<sup>21</sup> The use of varied communication techniques is also consistent with CIT training; an officer must be able to use different communication techniques depending on where an individual is in their crisis cycle.<sup>22</sup> In this case, Officer Reister varied his communication technique from low key and as non-confrontational as possible in this sort of situation to a commanding communication with the show of force in an effort to break through the crisis that William Monroe was having.

Once Officer Reister realized even a more commanding control presence did not seem to change William Monroe's behavior and he was still not complying with any requests, Officer Reister attempted to continue to engage William Monroe verbally until his cover officers could arrive. While engaging William Monroe, Officer Reister was processing the potential victims that may be close enough to William Monroe to be in danger. Officer Reister was considering options on how to limit access to potential victims by William Monroe and still keep control of

<sup>20</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

<sup>21</sup> PPB Training Division, Tactical Guideline Elements, Eight Basic Concepts of Control- Defensive Tactics.

<sup>22</sup> PPB CIT, Crisis Communication Part 1, Training Division Lesson Plan

the situation. As cover officers were arriving, William Monroe seemed to get even more fixated on the arriving police officers and became more upset and agitated. As Officer Halley arrived on scene he observed Officer Reister giving commands to William Monroe to “get down, stop, get down, stop”<sup>23</sup>, but William Monroe still failed to comply with these commands

Once Officer Palmiter arrived, William Monroe began backpedaling and was trying to create distance between the police officers and him, to the point that William Monroe turned and began to run away from the officers. When William Monroe turned to run, Officer Reister aimed his less lethal 12 gauge shotgun at William Monroe with the intention of striking William Monroe with a less lethal round because he was considering that an armed subject was running into residential blocks where he knew kids were close. However, Officer Reister estimated that William Monroe was already 25 yards away and was running further away and decided that it was outside of the effective range of his less lethal 12 gauge shotgun. This is consistent with training. The estimated effective range with optimal circumstances of the less lethal 12 gauge shotgun is 10-25 yards.<sup>24</sup>

As William Monroe began to run away, Officer Palmiter began to chase after him, Officer Reister told him to stop because he did not want to push William Monroe further away into the residential area. Officer Reister was hoping that their lack of pursuit would allow William Monroe to pause and stop in a grassy area that would be a better area for negotiations with him and would allow more distance between William Monroe and any potential victims.

William Monroe stopped in a grassy area that had a dirt backstop and a treed area behind him. When he stopped he continued to display behavior that was threatening and non compliant and began removing items from his pockets and throwing them down and he was screaming and yelling unintelligible words. When William Monroe stopped, this allowed Officer Reister and Officer Palmiter to catch up to him in this isolated area. Officer Reister knew he was approximately 20 yards from William Monroe, and felt he was well within the effective range of the less lethal 12 gauge shotgun, but he still had intentions on trying to verbally engage William Monroe and try to get him to calm down. Officer Reister was very aware that this grassy area where William Monroe stopped was a good area to attempt to engage him and have him calm down. Officer Reister knew that there was a restaurant to the west and anywhere beyond was residential area, as well as Barbur Blvd with motorists to the south and somewhere close was a camp with kids in it.

Officer Reister made a conscious decision to attempt to isolate William Monroe, who was armed with a knife and suffering from some sort of mental health crisis, in this area, and if William Monroe attempted to leave this area he was going to utilize his less lethal 12 gauge shotgun to force compliance of William Monroe and take him into custody for his own safety

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<sup>23</sup> Case #11-54666 Investigative Notebook, page 745, Taped Statement- Officer Halley

<sup>24</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

and the safety of others. Officer Reister now had Officer Palmiter on scene as lethal cover if needed, which is consistent with training regarding the use of less lethal weapons.<sup>25</sup>

William Monroe made a quick diagonal turn towards the restaurant to the west of them and at this point, Officer Reister made the decision that he was not going to allow William Monroe out of this immediate area and potentially have access to victims. Officer Reister gave loud stern verbal commands of "stop right now and get on the ground, do it now" followed by "get on the ground, do it now, or I will shoot."<sup>26</sup> Officer Reister repeated his commands several times. Providing a warning to a subject prior to deploying less lethal munitions is consistent with training. "Members will provide, if feasible, a warning to the suspect before shooting the suspect with a less lethal shotgun".<sup>27</sup> In addition warning a subject prior to deploying a less lethal 12 gauge shotgun utilizing the words "you will be shot" is consistent with training, it is not required that you warn someone what they will be shot with.<sup>28</sup> William Monroe did not comply. William Monroe was also reaching his hands into his pockets and hiding his hands behind his back at times during this confrontation, leaving the officers on scene to guess what other type of weapons William Monroe may have also had.

Officer Reister knew he had a safe backstop behind William Monroe and he took aim with his less lethal 12 gauge shotgun, picking out an area on William Monroe's upper right thigh below his beltline. This aim point is consistent with training. Officers are instructed to aim for the lower extremities below the beltline when possible, keeping the possibility low of striking a subject in the head, neck, spine or chest.<sup>29</sup>

William Monroe turned to Officer Reister, bladed his body, clenched his fist and took up what was described as a fighting stance towards Officer Reister, who believed that William Monroe was still armed with a knife. Officer Reister took into consideration that William Monroe was close enough in distance that two big strides would close the distance between the two of them. Officer Reister then sighted his less lethal 12 gauge shotgun on William Monroe's upper right thigh again and fired one round from his less lethal 12 gauge shotgun. Officer Reister did not see any immediate effect of the round striking William Monroe, so he immediately sighted his less lethal 12 gauge shotgun on his other upper thigh area and fired one more time. Less lethal operators are instructed to alternate their shot placement, in an attempt to prevent over penetration from the less lethal round into a person.<sup>30</sup> The shot placement that Officer Reister chose as well as alternating target zones is consistent with training.

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<sup>25</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

<sup>26</sup> Case #11-54666 Investigative Notebook, page 541, Taped Statement- Officer Reister.

<sup>27</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

<sup>28</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

<sup>29</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

<sup>30</sup> PPB Training Course, Less Lethal, 2008-1 Power Point training material.



Officer Reister did not notice any change in behavior from William Monroe. Officer Reister did believe that he did strike him with the two rounds fired from the less lethal 12 gauge shotgun. While firing rounds from his less lethal 12 gauge shotgun, Officer Reister continued to give William Monroe commands to get on the ground and orders to comply, however he did not. Officer Reister continued to fire rounds from his less lethal 12 gauge shotgun, alternating target zones during each round, until William Monroe went down to the ground. Officer Reister believed that he fired his less lethal 12 gauge shotgun until it was empty. Giving compliance commands to subjects while delivering force is a consistent with training.

Officer Reister believed that he fired his less lethal 12 gauge shotgun until it ran empty; he then prepared to reload his less lethal 12 gauge shotgun by lowering his shotgun to depressed ready position. When he lowered it down, he observed that William Monroe was down on the ground and that William Monroe was in a position that provided an opportunity to take him into custody. It is consistent with training that either during use of the less lethal 12 gauge shotgun or after use, officers are trained to re-load their weapons. Officers are taught to conduct an empty reload, or if there are still any live rounds inside their weapons they can perform a tactical reload, thus always keeping their weapons ready for use during an incident if needed.

## POST USE OF FORCE RESPONSE

Once officers approached William Monroe to take him into custody, Officer Reister recognized that William Monroe was bleeding out of his upper thigh/leg areas. Officer Palmiter and Officer Hawkins also recognized that there seemed to be a large amount of blood for being struck with a less lethal beanbag round. Officer Palmiter requested code three medical to come to the scene. Officer Reister observed a red lethal 12 gauge double 00 buck spent casing on the ground and quickly realized that he had fired lethal 12 gauge double 00 buck rounds out of his less lethal 12 gauge shotgun. Officer Reister recalled his thoughts immediately after the use of his less lethal 12 gauge shotgun as "...I stand up and I start walking down the hill to where I start walking down the hill, I'm like, I, what's going on here? My mind is just (sic) spinning and I walk down the hill to where I believe I was standing and I see a spent 12 gauge lethal round. And my heart sinks. And it makes sense. And my feelings of uh, of uh, relief that it was over, that it had, that we had safely uh, uh stopped this guy before harming somebody went from relief to, oh my god, what just happened? A horrible mistake has been made. And uh – I see that round and it happens to be that a sergeant is standing right there, Sergeant Marty Schell. And I look at the sergeant and I say immediately, I said Sergeant, I fired lethal rounds. That's a lethal round, I fired lethal rounds."<sup>31</sup>

Officers are not trained to fire lethal rounds out of a less lethal 12 gauge shotgun. It is specifically against training practices to have officers fire lethal rounds out of less lethal 12 gauge shotguns and officers always have and continue to be instructed on that practice. Additionally, since inception of the less lethal program, less lethal operators have been trained and have been required to inspect each specialty round of ammunition prior to loading it into a less lethal 12 gauge shotgun to specifically prevent the loading of a lethal 12 gauge round.<sup>32</sup> It is not consistent with training to load 12 gauge lethal rounds into a less lethal 12 gauge shotgun. It is not consistent with training to fire 12 gauge lethal rounds from a less lethal 12 gauge shotgun.

Sergeant Marty Schell had heard the initial update from Officer Reister over the radio that he was holding William Monroe at less lethal point and that he was not cooperating. This information had prodded Sergeant Schell to respond towards the scene as based on his experience, this call could have led to an incident that would require a supervisor on scene. While he was en route to the call, the incident had unfolded and William Monroe had already been shot by Officer Reister. When Sergeant Schell arrived on scene, he still had not received any update that this incident was anything other than a less lethal deployment. With this mindset, Sergeant Schell was approaching the scene with the expectation that a supervisory

<sup>31</sup> Case #11-54666 Investigative Notebook, page 545-546, Taped Statement- Officer Reister.

<sup>32</sup> PPB Training Course, Less Lethal, 2004-1 Power Point training material.

investigation was going to need to be conducted for the purposes of completing an after action report for deployment of a less lethal by Officer Reister.

When Sergeant Schell walked towards William Monroe, who was handcuffed on the ground, he saw multiple officers around the area and at least one officer was tending to William Monroe. Sergeant Schell said that he got on the radio and emphasized that medical was needed code 3 to respond. Sergeant Schell said he did this because when he saw the injury of William Monroe was "bleeding pretty heavily."<sup>33</sup> Sergeant Schell then turned his attention to Officer Reister who was still carrying his less lethal 12 gauge shotgun.

Sergeant Schell had a brief conversation with Officer Reister, asking him how many less lethal rounds he had fired. At the same time, Sergeant Schell was looking on the ground and saw 2 red shotgun shell casings on the ground. Sergeant Schell said that Officer Reister was very silent and at the same time told Sergeant Schell that the rounds were live rounds.

Sergeant Schell immediately realized deadly force had been used and this was now going to be a investigative crime scene and began "...assigning tasks to people while still trying to deal with Officer Reister and take him away from the scene."<sup>34</sup> Sergeant Schell "...was having to switch into also supervisory mode and crime scene integrity mode and give people instructions on what we needed to do to preserve that crime scene."<sup>35</sup>

Sergeant Schell walked Officer Reister away from the scene and assigned Officer Stevens to stay with him. As Officer Reister was walking away he told Sergeant Schell that the rounds were 00 buck rounds. Sergeant Schell also removed the less lethal 12 gauge shotgun from Officer Reister, who was still carrying the less lethal 12 gauge shotgun, and placed it into a patrol vehicle trunk.

Sergeant Schell had assigned multiple officers to establish the crime scene by taping the area with crime scene tape. Additionally, he assigned officers to speak to area witnesses and get their information who were standing in the area prior to them leaving the area.

Lt. Jeff Miller arrived on scene, as he was passing by the area, and asked Sgt. Schell if he could be of assistance. Sergeant Schell asked Lt. Miller to call the Detective Division and request them to respond to the scene. In the meantime, medical had arrived on scene and was now providing care to William Monroe. When medical personnel transported William Monroe to the hospital, Sergeant Schell assigned an officer to respond to the emergency room with William Monroe.

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<sup>33</sup> Case #11-54666 Investigative Notebook, page 314, Taped Statement- Sergeant Schell

<sup>34</sup> Case #11-54666 Investigative Notebook, page 317, Taped Statement- Sergeant Schell.

<sup>35</sup> Case #11-54666 Investigative Notebook, page 317, Taped Statement- Sergeant Schell.

Sergeant Schell, with the assistance of Lt. Miller, verified and refined the crime scene tape to ensure they had encompassed the crime scene. Sergeant Schell also ensured that the other two witness officers, Officer Palmiter and Officer Halley, were separated from the incident and assigned an officer with them to wait for the Detective Division. Sergeant Schell also ensured that command staff notifications were made once he had controlled the scene.

Detective Division arrived on scene and took over the investigation. Sergeant Schell's post use of deadly force crime scene management was consistent with policy and training.

## LESS LETHAL TRAINING ANALYSIS

The Portland Police Bureau began using the 12 gauge less lethal delivery platform circa 1997. The instruction was developed and taught by members of the Portland Police Bureau Training Division. The course of instruction was typically a 2 day program of instruction consisting of classroom and range time. Since that time, there have been continuous classes taught on the less lethal 12 gauge to certify officers for daily patrol use. Once officers attended one of the less lethal certification courses, they were "certified" to carry and use the less lethal 12 gauge shotgun for daily patrol use. This certification was entered into the officers training record. After review of Officer Reister's training record, it shows that he did not ever attend a designated less lethal 12 gauge certification course. Officer Reister does not have a less lethal certification entry on his training record.

Officer Reister was an original member of the Portland Police Bureau Rapid Response Team (RRT) which began circa 2000. RRT trains with and deploys a number of less lethal options. In the formation of RRT, several classes were held in the instruction and use of less lethal delivery platforms. Officer Reister became a grenadier for RRT. The position of grenadier is to carry the chosen less lethal delivery platform and to utilize this platform during a use of force encounter if needed. Officer Reister has accumulated over 140 hours of training on multiple less lethal deployment systems during his tenure at RRT. These less lethal deployment systems include less lethal 12 gauge shotgun, 37 mm less lethal, Sage less lethal, FN303 less lethal and gas grenadiers training. Officer Reister has also instructed less lethal schools for RRT. The general premise behind all less lethal platforms is the same regarding their use, target zones, and safety. Additionally, Officer Reister has completed at least 18 range qualifications with the less lethal 12 gauge shotgun during his tenure at the Portland Police Bureau. These range qualifications began after 12/11/2002.

Although Officer Reister did not attend the designated less lethal 12 gauge course by the PPB training staff, he did attend training titled "Less Lethal weapons training for RRT" and "Sage/BB cross train-recertification" these were designated as 10 hour classes and they were conducted by members of the RRT team who were also firearms instructors. The instructors for these classes were Steve Buchtel, Ed Hamann, and Charlie Fender. There were 35 students in the classes, including Officer Brian Kelly, Officer Matt Nilsen and Officer Dane Reister. There is conflict between the students who attended the class as to their memory on the class's purpose. Several students including the 3 listed above understood the class to be a certification class on the use of the less lethal 12 gauge shotgun, and they understood this certification to carry through to patrol work, not exclusive to RRT use only. These three officers qualified with a less lethal 12 gauge shotgun regularly during quarterly qualifications on the range. Additionally, these qualification sheets were sent through channels to the Training Division and through their RU managers. None of these officers were listed as being certified less lethal operators on their training records.

The instructors of the class are also split and unsure on what the lesson plan and intent of this training was. Steve Buchtel did not believe the class was a replacement for the 2 day less lethal certification class, but that in order to have been a grenadier in RRT an officer was already less lethal 12 gauge certified and the class on 12/11/2002 was just a review of the less lethal class material. Charlie Fender did not believe that the training was a substitute for the 2 day less lethal course, but he believed that students may have been given the impression the less lethal RRT training was a substitute for the course, but that was not communicated to the students.

Ed Hamann was listed as an instructor in the class as well as a student. During his interview with the Detective Division he believed that after this training class for RRT he was certified in the use of less lethal 12 gauge shotgun and in fact he said he qualified with the less lethal 12 gauge shotgun. However, he did not carry the less lethal 12 gauge shotgun on patrol because he was assigned as a sergeant at the Gang Enforcement Team.

Officer Reister felt that he was a certified less lethal operator because of the training that he had received during RRT unit training. Det. Beniga asked "so based on the training that you received, although you didn't attend the official two-day course, the training that you received as RRT, was it your belief then that you were properly certified".<sup>36</sup> Officer Reister responded "absolutely, absolutely. I and I've been carrying the beanbag shotgun ever since. Every day I went on patrol and I've deployed it a number of times very successfully. And have written Use of Force reports regarding deployment of the Less Lethal round using impact munitions...."<sup>37</sup>

Detective Beniga asked Officer Reister "when you became a Grenadier for RRT, was it ever communicated to you by RRT supervisors or training that you had to be pre-certified to be a less lethal operator to become a Grenadier? Or hold that position?"<sup>38</sup> Officer Reister responded "...I believe that, the discussion was brought up in that class that I was referring to, that I believe was held here. I think that may have been brought up that maybe a question asked; Hey, in this class, are we gonna be good to carry the Less Lethal shotgun on the street? You know, we're taking this to go for RRT purposes for crowd control deployments but can we carry it on the street? And everything that we got, the gist that we got from the instructor was yeah, this is, we're giving you the T-Zone, we given you everything you need to go out and you're good".<sup>39</sup> Officer Reister went on to explain that his "understanding is there was a discussion between RRT people and Training Division regarding that issue. And it was hashed out and we were given the blessing that if we take this class, you're good".<sup>40</sup>

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<sup>36</sup> Case #11-54666 Investigative Notebook, page 577, Taped Statement- Officer Reister

<sup>37</sup> Case #11-54666 Investigative Notebook, page 577-578, Taped Statement- Officer Reister

<sup>38</sup> Case #11-54666 Investigative Notebook, page 578, Taped Statement- Officer Reister

<sup>39</sup> Case #11-54666 Investigative Notebook, page 578, Taped Statement- Officer Reister

<sup>40</sup> Case #11-54666 Investigative Notebook, page 578, Taped Statement- Officer Reister

A review of the RRT training files, maintained by RRT, resulted in a lack of lesson plans being found for the class on 12/11/2002 and on several other classes that Officer Reister and other RRT members have documented on their training records.

The loading of a lethal 12 gauge round into a less lethal 12 gauge shotgun is not consistent with training. After a review of this investigation it is still undetermined how Officer Reister's less lethal 12 gauge shotgun was loaded with lethal 12 gauge rounds. Although the delivery systems are the same, a Remington model 870- 12 gauge shotgun, the rounds physical appearance are drastically different. The lethal 12 gauge shotgun round is red or blue, double 00 buck or slug respectively. The less lethal 12 gauge shotgun round is clear with yellow markings and a bean bag type projectile on the inside. The distinction is easily made if one visibly inspects the rounds prior to loading them into a shotgun. The shotgun itself is mechanically exactly the same; the only distinction is that the less lethal 12 gauge shotgun has a fluorescent orange stock marked "less lethal" and a fluorescent orange lighted for-end.

Less lethal officers check out a less lethal 12 gauge shotgun from the precinct armory prior to the beginning of each shift. When an officer checks out a less lethal 12 gauge shotgun, they are instructed and directed to perform a function check on that weapon. The function check consists of five main elements: (1) verify the weapon is empty both visually and by touch, (2) verify the barrel appears to be in good working order and there are no obstructions or intrusions, cracks or breaks, (3) verify that the extractor appears to be in good working order and able to extract spent casings, (4) verify that the ejector appears to be in good working order and that it would be able to eject the spent casings, and (5) verify that the safety works, both that the trigger is prevented from being pulled when the safety is on and that the trigger does function when the safety is in the off position.

On 06/30/2011, Officer Reister confirms that he did check out a less lethal 12 gauge shotgun from the Central Precinct armory after morning relief roll call. Officer Reister also confirmed that he conducted the function check on the less lethal 12 gauge shotgun he checked out by saying, "that is the process I go through, yes. It is my practice."<sup>41</sup> Detective Beniga further clarifies with Officer Reister by asking "and so you select and you verified all this, that it was empty and that it was functioning property."<sup>42</sup> Officer Reister answered "yes,sir."<sup>43</sup> This practice is consistent with training.

Officer Reister confirmed in his interview that his common practice was to place the less lethal 12 gauge shotgun into the shotgun rack in his patrol vehicle prior to loading. Officer Reister also confirmed his common practice was to load the less lethal 12 gauge rounds from a clear

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<sup>41</sup> Case #11-54666 Investigative Notebook, page 508, Taped Statement- Officer Reister

<sup>42</sup> Case #11-54666 Investigative Notebook, page 508, Taped Statement- Officer Reister

<sup>43</sup> Case #11-54666 Investigative Notebook, page 508, Taped Statement- Officer Reister

plastic evidence bag that he kept in his duty bag. Officer Reister also confirmed his typical practice was to turn on the dome light in the vehicle if he needed to see better if the compartment of his vehicle was dim. Officer Reister also confirmed during his interview his common practice was to inspect each less lethal round prior to loading them into his less lethal 12 gauge shotgun.<sup>44</sup> However, on this specific day in question, 06/30/2011, Officer Reister cannot remember the specifics of loading his less lethal 12 gauge shotgun. In a statement from an interview, Detective Beniga asked Officer Reister "you placed the bag (duty bag) in the trunk. And do you recall retrieving your rounds from your bag to load your less lethal"?<sup>45</sup> Officer Reister answered "I don't. I remember feeling 'em in my hand, the tactile, I remember that".<sup>46</sup>

Although Officer Reister has a normal practice to follow all training regarding the loading of the less lethal 12 gauge shotgun, which includes the visual inspection of each specialty round prior to being loaded, during the interviews he did not recall the specific process he went through on 06/30/2011 in loading his less lethal 12 gauge shotgun. At some point during the beginning of his shift, it is apparent that Officer Reister loaded lethal 12 gauge double 00 buck rounds into a less lethal 12 gauge shotgun. The failure to follow training protocol regarding the visual inspection of each round while the loading of less lethal 12 gauge shotguns is the main contributor to the outcome of Officer Reister firing lethal rounds while intending to fire less lethal rounds. The failure to visually inspect these rounds during the loading process is not consistent with training.

Firearms instruction at the Portland Police Bureau instructs officers to assess, fire, assess, fire, etc. until the decision to stop using force is made. Part of the assessment between firing rounds, lethal or less lethal, is evaluating if the initial threat is still an active threat. When Officer Reister decided to deploy his less lethal 12 gauge shotgun and fire his first round, he made a decision to fire the first round based on his perception of the threat by William Monroe. Officer Reister said that between his first and second round being fired there "...was enough time for me to assess my first shot. Realize it did not have the desired effect. And that is why I fired a second round. It gave me enough time to process, to make the decision to fire, to stop, assess what was going on, to see if it was effective. He did not go down. He continued to be a threat. I was very, very deliberate about the target area I was focusing on at the time I pulled the trigger and trying to hit him in a positive impact area. And alternating legs, based on training....I had enough time to make a decision between every shot. I am proficient with that weapon. I don't remember cycling each and every round. I remember feeling, I remember hearing the cycle of the action. Every round and looking at his leg and looking down my barrel each time and not until the fourth and final round did he finally go down."<sup>47</sup>

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<sup>44</sup> Case #11-54666 Investigative Notebook, pages 520-524, Taped Statement- Officer Reister

<sup>45</sup> Case #11-54666 Investigative Notebook, page 591, Taped Statement- Officer Reister

<sup>46</sup> Case #11-54666 Investigative Notebook, page 591, Taped Statement- Officer Reister

<sup>47</sup> Case #11-54666 Investigative Notebook, page 599, Taped Statement – Officer Reister



There is a substantial difference in the audible report between the discharge of a double 00 buck 12 gauge shotgun round and the discharge of a 12 gauge less lethal round. Additionally, there is a substantial difference in the physical recoil a shooter will feel between the 12 gauge shotgun double 00 buck round and the 12 gauge less lethal round.

According to Officer Reister's training records, he has fired both the 12 gauge less lethal round and the double 00 buck 12 gauge round 100's of times over his career as a Portland Police Officer. The significant difference in both audible report and physical recoil should be very apparent to Officer Reister.

When asked if Officer Reister recalled feeling the recoil of each shot during his engagement with William Monroe, he replied "I do not. I do remember cycling and feeling and hearing the cycle of each round. But no, I do not remember feeling the recoil."<sup>48</sup> When Officer Reister was asked if he recalled hearing the shotgun sound during his engagement with William Monroe, he replied "Very faint, Very faint."<sup>49</sup>

Understanding that this was a high risk incident, involving the need for concentration and focus by all the officers involved, it would be desired that a part of the assess, fire, assess, fire, routine during the application of force would entail the officer involved, determining at some level, the function of their weapon system. In other words, Officer Reister, with all of his experience and training with these weapons systems, would have been able to determine after one round being fired that he was firing a double 00 buck 12 gauge shotgun round and not a less lethal round that carries significantly less audible report and physical recoil. However, there is significant research and experience that shows people who are involved in a high stress incident, which this would be characterized as, oftentimes lose their ability to differentiate audible sounds, or physical feeling. Additionally, each individual person is physiologically different and each person will react differently to stressful encounters. So, although we would hope that Officer Reister would have been able to immediately realize that he was not firing a less lethal round after the first shot, it is certainly not possible to expect an officer in this situation to recognize the audible and physical feedback from a firearm. This is physiological make up of a human being and not something we can address through training.

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<sup>48</sup> Case #11-54666 Investigative Notebook, page 601-602, Taped Statement – Officer Reister

<sup>49</sup> Case #11-54666 Investigative Notebook, page 602, Taped Statement – Officer Reister

## TRAINING RECOMMENDATIONS

Immediately after this incident occurred, the Training Division reviewed the training records of all officers that attended the RRT training on 12/11/2002 and notified all of them that if they did not attend a less lethal certification course conducted by the Training Division, and only attended RRT training, then they were not certified to carry a less lethal 12 gauge shotgun.

After this incident, the Training Division lead less lethal instructor Officer Paul Meyer, immediately began working on a 2011 12 ga Less Lethal In Service class that all members who desired to continue to be certified with the less lethal 12 gauge shotgun were required to attend. The purpose of this course was to provide operators of the less lethal 12 gauge shotgun updated program information, policy discussion and review, use of force scenarios with discussion and introduction to the newly authorized sling.

The certification for use of the less lethal 12 gauge shotgun by Officer Reister is an issue that could have been more easily researched if the Training Division had any records of lesson plans and training material used during the course that RRT delivered. However, the Training Division did not have any of those records and RRT did not have lesson plans and training material saved from their classes in 2002. There are many units outside of the Training Division throughout the Portland Police Bureau that deliver training to members assigned to their units. Currently the PPB Manual of Policy and Procedure 690.00 – TRAINING – PRECINCT/DIVISION requires that all units outside of SERT, HNT and EDU provide their training material to the Training Division for review and approval prior to the unit conducting training. This requirement is not consistently followed within the PPB. If this policy is not enforced Bureau wide, this will continue to plague the Bureau as we move forward with trying to decipher which officers received exactly what training and what was taught at the training. I recommend that the Chief's Office remind all RU Managers that the requirements of 690.00 are to be followed as written. Additionally, the Training Division should discontinue the documentation of training hours for any officer, if their training hours roster is not accompanied by a Training Division approved lesson plan and training material for the class.

After this incident, there was an immediate recommendation by the Training Division that an Executive Order be issued regarding Directive 1050.00 Less Lethal Munitions and Weapons. The executive order was issued on October 24, 2011 and changed directive 1050.00 to read as follows:

*With the exception of supervisors, Bureau member are not authorized to possess additional or replacement less lethal specialty impact munitions. Bureau less lethal shotguns shall be stored in the armory with Bureau issued less lethal specialty impact rounds stored in the Bureau issued side saddle carrier and/or butt stock carrier. The guns will be loaded in the police vehicle, per procedure, from this supply only. Certified operators are required to visually and physically*

*inspect each round as they load and are encouraged to have another Bureau member view and confirm this. Supervisors are authorized to carry additional and replacement less lethal specialty munitions. All such additional and replacement less lethal specialty ammunition carried by supervisors will be carried only in its original factory packaging.*

Because of the versatility, durability, cost, ease of use and training of the 12 gauge shotgun, the Training Division recommends that the Portland Police Bureau continue to use the Remington model 870- 12 gauge shotgun as the standard delivery platform for the less lethal 12 gauge round. The less lethal delivery platform has been evaluated by the Less Lethal Review Committee; it continues to be recommended that the 12 gauge shotgun delivery system of a less lethal round is currently the best option to deliver a long distance less lethal impact for patrol use. The Training Division encourages continued investigation into other options as they become available for use on the law enforcement market and to continually evaluate the current less lethal systems the Bureau uses by the Training Division Research and Development staff as well as by the Less Lethal Review Committee. Best practice is ever changing and new developments constantly change the less lethal options for law enforcement.

Currently, all members of the Portland Police Bureau qualify on their firearms tri-annually. All members qualify with their primary duty sidearm and their backup firearm during all three of these range qualification sessions each year. Additionally, per PPB policy 1020.00 – Training Division Responsibilities (e) “The Bureau approved carbine is a personally issued weapon and only members who have been certified and issue a carbine will qualify with the carbine. Training will print and distribute a list to the RU’s of members who are currently qualified with the carbine.” This policy requires that all certified carbine operators qualify each range session tri-annually and they are only authorized to qualify if their name is on the official list of certified operators from the Training Division.

The PPB policy 1050.00 Less Lethal, Weapons and Munitions, directs certified less lethal operators to “...maintain certification, members must qualify on the shotgun qualification course and the less lethal qualification courses at every tri-annual qualification range”. However, there is no section directing the Training Division to supply an official list of certified operators to the RU’s for range qualifications.

I recommend language be added to PPB policy 1050.00 that adds a section under Training and Certification, stating the Training Division will print and distribute a list to the RU’s of members who are currently qualified with the less lethal 12 gauge shotgun. Less lethal 12 gauge shotgun operators are only authorized to qualify if their name is on the official list of certified operators from the Training Division.



## CITY OF PORTLAND, OREGON



### Bureau of Police

Charlie Hales, Mayor

Michael Reese, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

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### **MEMORANDUM (CONFIDENTIAL)**

October 2, 2013

TO: Officer Dane Reister #31663  
Personnel Division

SUBJECT: Discipline: Termination  
IA #2011-B-0017

You are hereby notified that your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. The charges are violations of Directive 315.30 – Unsatisfactory Performance and Directive 1050.00 – Less Lethal Weapons and Munitions. Under City of Portland Human Resources Administrative Rule 5.01 (8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action, up to and including discharge. Because of the seriousness of your conduct, which resulted in your shooting an individual, Mr. Monroe, with lethal rounds rather than less lethal rounds, and after considering all of the facts and circumstances involved, including the information that was presented by your union on your behalf during your due process meeting, I have decided to terminate your employment with the City of Portland.

Because of criminal indictments and pending criminal charges, a firewall is in effect between the criminal case and the administrative case. Any observations and statements you made that are reflected in this letter are drawn from your voluntary interview with the Detectives Division.

### **BACKGROUND**

You have been employed with the Portland Police Bureau since February 1, 1996.

#### 1. Discipline History

In November 1999 you were the subject of an investigation into the use of overtime and cuff time at Central Precinct (IAD 99-047). You received an eight (8) hour suspension without pay for unsatisfactory performance in part because the way in which you answered investigator questions necessitated a second interview.

In September 2006 you were counseled regarding how you handled control of property while standing by at a move-out.

In December 2007 you received a Letter of Reprimand for a violation of Directive 315.30 – Unsatisfactory Performance in Police Review Board Case #2006-P-0025. The reason for the discipline was you forgot to unload your TL-1 prior to a training exercise and, forgetting the weapon was loaded, pulled the trigger of the weapon during the exercise which resulted in your firing a 37 mm 100 yard smoke projectile. The projectile hit the ground, ricocheted and hit and injured another officer. In that disciplinary process you acknowledged that you made a mistake and viewed the incident as a personal failure. You told Chief Sizer the incident was a learning experience for both you and the team, and that you would take necessary steps to prevent such an occurrence from happening in the future.

In January 2009 you received command counseling for a preventable accident (CRB 2009-125).

## 2. Training History

As of July 2011 you had completed over 2,900 hours of training and instructed approximately 270 hours. Your training includes use of force, foot pursuits, defensive tactics, legal updates, and patrol tactics. You were certified as a Coach/Field Training Officer, which involves working with new police officers during their probationary period. Your training includes the 40 hour mandatory crisis intervention team training (April 2007), as well as training in communication tactics, autism, and developmental disability.

You have received training regarding use of the less lethal shotgun (and other less lethal weapons) through your Rapid Response Team Training and through your required tri-annual qualifications to use the less lethal shotgun. You qualified on the less lethal shotgun on approximately 26 occasions between November 2004 and June 2011.

Your training has included distribution of training materials and bureau directives regarding use of force. The Less Lethal Munitions Manual, which was distributed as part of the RRT training, states as follows:

“DEDICATED SYSTEM: The issued shotgun will be dedicated to less lethal projectiles, and marked in some fashion consistent with such designation. Officers assigned will visually/physically inspect the chamber, shell lifter, and magazine, each time the weapon comes under their control (beginning of shift, and/or any time the weapon was out of their direct control), to ensure the total absence of lethal ammunition.” (Less Lethal Munitions Manual, p. 15).

You have received training and regularly qualified in the use of bureau issued weapons. Safety is a point that is regularly and consistently emphasized in all bureau weapons training. The importance of loading the correct rounds into any weapon you may use, and ensuring the absence

of lethal ammunition in less lethal weapons, has been emphasized during the training you have received.

## **FACTS SUPPORTING ACTION**

The incident involving your shooting of Mr. Monroe with lethal rounds occurred on June 30, 2011, as a result of your response to a call that was dispatched in the area of Lair Hill Park in southwest Portland. You first encountered Mr. Monroe at approximately SW Pennoyer and SW Naito.

You recognized the need to verbally engage Monroe in a low key way and attempted to do so. At one point you went to your police car, retrieved your less lethal 12 gauge shotgun and chambered a round. You verbally engaged with Monroe while waiting for cover officers to arrive. Once they arrived, Mr. Monroe backed away from you and the other officers and then turned and ran.

There was additional verbal interaction between you, Monroe and other officers in a green space. You decided to use less lethal force if the opportunity presented itself.

You took that opportunity when Monroe made a move to run away, up a small hill. You fired one round from your less lethal 12 gauge shotgun. You did not see an immediate impact so you changed your aim point and fired another round. You fired two more rounds from your less lethal 12 gauge shotgun, alternating rounds to each leg. At that point, Monroe fell to the ground.

You, Officer Palmiter, and Officer Halley formed an approach and custody team. Both you and Officer Palmiter noticed a large amount of blood coming from William Monroe's thigh/leg area. Officer Palmiter immediately called for Code 3 medical to respond to the scene.

As medical was responding, several officers noticed that the spent shell casings on the ground were red 12 gauge double 00 buck casings and that they were not less lethal bean bag casings. Sgt. Marty Schell arrived very shortly after and, as he approached the scene, he also observed the red 12 gauge double 00 buck casings and quickly deduced that the rounds fired by you were lethal red 12 gauge double 00 buck rounds and that they were not less lethal bean bag rounds. Sgt. Schell immediately began treating this scene as an investigative crime scene for an officer involved shooting. The scene and the investigation evolved and were turned over to the Detective Division.

You are being terminated from employment because, for the second time, you injured another person by discharging a weapon with rounds in it that were not supposed to be in the weapon. This was due to your failure to follow the steps you were supposed to follow to ensure the status of the ammunition in a weapon before you fired it. In 2006 you fired a TL-1 without ensuring it was unloaded. This resulted in injury to your fellow officer Zachary Kenney. On June 30, 2011, you loaded lethal rounds in your less lethal shotgun, and fired four lethal rounds at William Monroe, seriously and permanently injuring him. Your failure to follow proper procedures to

ensure you were loading the correct ammunition into the less lethal shotgun and your failure to notice that you had loaded lethal rounds into the weapon resulted in serious injury to Mr. Monroe and could have had deadly consequences.

You also fired your weapon four times at Mr. Monroe as he ran away from you without noticing that you were firing lethal rounds instead of less lethal rounds. You consciously stopped and evaluated the effect of each shot on Mr. Monroe before you fired the next shot. Someone, such as yourself, who has been trained to and is familiar with firing shotguns loaded with lethal rounds and shotguns loaded with less lethal rounds should know the difference. You should have realized that lethal rounds were being fired rather than less lethal rounds since there is a distinct and noticeable difference in how the two types of rounds feel and sound when they are fired. While, because of the stress involved, officers who are involved in shooting incidents may not consciously realize things such as how many shots they have fired, this was not an incident in which there was an immediate threat of harm to you or others. Rather, Mr. Monroe was running away from you. This is relevant to my decision because, although you fired your weapon four times and consciously stopped and evaluated the effect of each shot on Mr. Monroe before you fired the next shot, you never noticed from the sound or action of the weapon that you were firing lethal instead of less lethal rounds.

The seriousness of these mistakes cannot be overemphasized – they resulted in serious and permanent injuries to the individual involved and could have been lethal. There is not an excuse sufficient enough to relieve you of responsibility for not knowing what rounds you loaded in a weapon before firing it, particularly when the weapon is fired at another person with serious – and potentially deadly – consequences.

## **SUMMARY**

The Police Review Board met on Wednesday, November 7, 2012 to consider this matter. The Board unanimously recommended a finding that you engaged in unsatisfactory performance and the majority recommended your employment be terminated.

Your actions are contrary to the expectations of a Portland police officer. This was a serious safety violation and you have been disciplined previously for a similar serious safety violation. Your actions violated Bureau Directive 315.30 and Bureau Directive 1050.00. Directive 315.30 states, in relevant part: "Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Bureau. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absence without leave."

Bureau Directive 1050.00 states, in relevant part: "With the exception of SERT members, members will only load Bureau issued 12-gauge lethal rounds into Bureau issued shotguns and will only load Bureau issued less lethal specialty impact munitions into Bureau issued less lethal weapons. Under no circumstances will a member carry any standard 12-gauge lethal rounds on his/her person or utility belt while also carrying a less lethal weapon." The purpose of this directive is to prevent the kind of mistake you made that resulted in firing lethal rounds at Mr. Monroe.

Police officers are given the legal authority to use force and are expected to use force when necessary and appropriate to carry out their law enforcement duties. This authority carries with it the responsibility to use force appropriately and correctly. The Bureau must be able to confidently rely on each officer individually to use force appropriately and to make correct decisions and follow correct procedures in using and preparing to use force. The Bureau must be able to trust each officer to load and fire their weapons with the correct munitions. After the first incident involving the smoke projectile you mistakenly fired during the training exercise, you should have been more acutely aware of the problems and potential consequences that can be caused by failing to realize what ammunition you have in a weapon you are going to use and should have corrected this problem. In this second incident involving Mr. Monroe, you fired your weapon while engaged with a citizen, having loaded the wrong ammunition in the weapon and without realizing how your weapon was loaded. Even if there were questions about where the lethal rounds originally came from, there is no dispute that you loaded lethal rounds into a 12 gauge less lethal beanbag shotgun and fired lethal rounds from the gun at Mr. Monroe, seriously injuring him. Your failure to take the steps necessary to ensure that lethal rounds were not loaded into the less lethal shotgun is unacceptable.

There are a number of serious consequences as a result of your conduct. As noted, Mr. Monroe was seriously and permanently injured. Also, you were criminally indicted by a Multnomah County Grand Jury. The charges include two crimes – ORS 163.160 (Assault in the Fourth Degree), ORS 163.165 (Assault in the Third Degree), which is a Class C felony, and the Multnomah County District Attorney added a charge under ORS 166.180 (Negligent Wounding). The Criminal Charges are in abeyance while the Negligent Wounding charge is on appeal. If you are convicted of a crime in connection with this event, and/or de-certified by the Oregon Department of Public Safety Standards and Training (DPSST) in connection with this event, that would provide the Bureau with additional grounds to terminate your employment. For the purposes of this discharge, however, your guilt or innocence of criminal charges and/or your potential decertification by DPSST are not under consideration although they would be if those matters were resolved at this time.

You were offered an opportunity to meet and discuss this matter with me and the meeting occurred on June 21, 2013. You chose not to attend the meeting in person and you were instead represented by Portland Police Association President Daryl Turner and PPA Attorney Anil Karia. I have carefully considered the information provided and the perspectives and explanations raised by your union on your behalf. Although the Bureau is always evaluating and looking for ways to improve processes, you are ultimately responsible for ensuring that you have



loaded the correct ammunition in the weapons you use. This is particularly true for a weapon that is supposed to discharge non-lethal rounds where incorrectly loading lethal rounds into the weapon can result in serious injury or death. Your failure to do so in this case resulted in serious and permanent injury to an individual.

As a result of all these circumstances and particularly your potentially fatal mistake in this instance, the Bureau has lost confidence in your ability to prevent this kind of mistake from happening again or otherwise safely and appropriately use deadly and non-deadly force. There is no amount of additional training that will restore this confidence that the Bureau must have in you.

Based on these factors, I have determined to terminate your employment with the Portland Police Bureau.

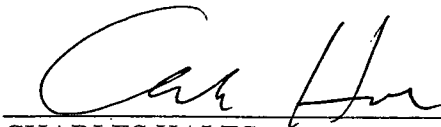
A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.

You are not being disciplined for political or religious reasons, but in good faith, and for the purpose of improving public service.



MICHAEL REESE  
Chief of Police

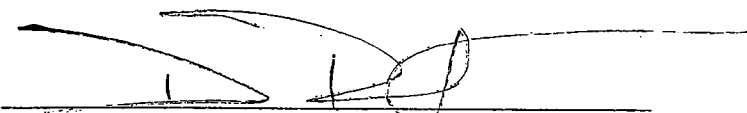
10/03/13  
Date



CHARLES HALES  
Mayor, Commissioner In Charge

10/10/13  
Date

Read and Reviewed:



OFFICER DANE REISTER #31663

I certify that I have read and received a copy of this notice.

10/15/13  
Date/Time

- c: President Daryl Turner, PPA, Director Anna Kanwit – BHR, Elizabeth Duncan – BHR  
Jerrell Gaddis – BHR, Police Bureau Personnel File (201), Discipline File