



**ORIGINAL**  
07/12/12 

**Portland Police Bureau**

**Training Division Review**

**PPB Case # 11-54666**

**Incident Date: June 30, 2011**

**CONFIDENTIAL**

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ORDER. DO NOT READ UNLESS YOU HAVE BEEN AUTHORIZED BY THE  
INTERNAL AFFAIRS DIVISION TO READ THIS REPORT**

**Reviewed by:**

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

**Completed: July 12, 2012**

**RECEIVED**  
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## TABLE OF CONTENTS

PREAMBLE	PAGE	2
PRIMARY OFFICERS TRAINING AND BACKGROUND	PAGE	3
ADDITIONAL OFFICERS TRAINING AND BACKGROUND	PAGE	5
TIMELINE	PAGE	6
INCIDENT OVERVIEW	PAGE	8
INITIAL RESPONSE	PAGE	12
APPLICATION OF FORCE	PAGE	15
POST USE OF FORCE RESPONSE	PAGE	19
LESS LETHAL TRAINING ANALYSIS	PAGE	22
TRAINING RECOMMENDATIONS	PAGE	27

## 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

<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 when 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.