



## **PROPOSED RESOLUTION REPORT MNCO Audit D2020-003**

## I. Allegations

**Officer-1—Use of Force Review**

**Officer-2—Use of Force Review**

**Officer-3—Use of Force Review**

## II. Summary of Incident

On May 21, 2020, the emergency call center received a call regarding an off-duty police officer [REDACTED] being shot by an individual later identified as [REDACTED]. In the subsequent pursuit of the Mr. [REDACTED], multiple shots were reported coming from the suspect's car. Initial attempts to stop the vehicle failed, but after a spike strip punctured the vehicle's tires, the suspect driver was brought to a stop. Mr. [REDACTED] exits the vehicle, turns toward Officer-1, and points a handgun at Officer-1, firing twice. Three officers, MNPD Officers [REDACTED] ("Officer-1"), [REDACTED] ("Officer-2"), and [REDACTED] ("Officer-3"), return fire, and Mr. [REDACTED] falls to the ground. The MNPD conducted a force review of the three officers' actions and found that they were within policy. The Executive Director initiated an audit of the force review of the officers' actions.

## III. Policy Violations

### **MNPD Manual 11.10.010 Use of Force**

It is the policy of the Metropolitan Nashville Police Department that authorized employees shall use only that force that is reasonably necessary to effect lawful objectives. Therefore, intentional misuse of the authority granted under this policy is grounds for disciplinary action up to and including those outlined in category A of established policy for Discipline and Corrective Action.

## IV. Executive Director Review

Executive Director Fitchard received the Force Review Audit Report, and it contained the following information, which was carefully reviewed:

1. TBI Investigative Report
2. Use of Force Policy
3. MNPD Police Manual Policies
4. Recorded Interview of Officer-1
5. Recorded Interview of Officer-2
6. Recorded Interview of Officer-3
7. Recorded Interviews of other MNPD officers
8. Recorded Interviews of Family and Witnesses
9. Supplemental Reports of MNPD officers
10. TBI Forensic Reports
11. Davidson County Medical Examiner's Report
12. 911 Recording
13. CAD Report

**V. Findings of Fact**

1. On May 21, 2020 at 9:08 PM, an off-duty police officer [REDACTED] reported to 911 operators that he was shot from behind on Pine Valley Road in Davidson County.
2. Mr. [REDACTED] reported that the shooter was a white male wearing a mask, medium to slender build, approximately 5'10 to 5'11 in height and drove away in a gray Ford Flex.
3. Mr. [REDACTED] reported being shot at twice, with one of the projectiles hitting him in the shoulder and the other missing.
4. Two (2) nine (9) millimeter cartridge cases were recovered at Pine Valley Road, and a fired projectile was recovered from Mr. [REDACTED]'s body during a later surgical procedure.
5. At 9:17 PM, Officer-1, Officer-2, and Officer-3 responded to the report of an off-duty officer being shot.
6. Officer-1 observed a gray Ford Flex pass him on Ashland City Highway.
7. Officer-1 turned around and activated his emergency equipment in an attempt to stop the vehicle. The vehicle did not stop, and a pursuit was initiated.
8. Additional police units entered the pursuit. One MNPd officer attempted to deploy a spike strip but was unsuccessful.
9. Four (4) additional gunshots were reported coming from the gray Ford Flex while being pursued.
10. Four 9mm cartridge casings are recovered from inside the Ford Flex.
11. The pursuit passed several construction workers. An officer who was working a traffic detail with the construction workers reports hearing at least one gunshot fired from the vehicle.
12. On I-440 near Dickerson Pike, a second spike strip was deployed, which punctured the tires on the vehicle and brought it to a stop.
13. According to Officer-1, the driver exited the vehicle, faced Officer-1, pointed a handgun at him and fired two (2) times.
14. After two (2) shots were fired by Mr. [REDACTED], Officer-1 returned fire and observed Mr. [REDACTED] fall to the ground. Another officer yells "cease fire."
15. Officer-1 approached the vehicle and looked for movement inside the vehicle and saw none. Officer-1 handcuffed Mr. Johnson with his hands behind his back.
16. Officer-2 and Officer-3 also fired shots during this encounter.
17. TBI agents arrived on the scene, and this is when Mr. [REDACTED] was determined to be the driver of the Ford Flex. The vehicle was registered to Mr. [REDACTED]. A driver's license confirmed his identity. A fingerprint matched Mr. [REDACTED] as well.
18. The District Attorney General for the 20th Judicial District requested the Tennessee Bureau of Investigation (TBI) to investigate.
19. The TBI conducted interviews with multiple family members of Mr. [REDACTED], as well as other friends and acquaintances.
20. The TBI interviewed and reviewed reports from approximately 28 officers involved in the encounter.
21. Two Metro vehicles and Mr. [REDACTED]'s Ford Flex were sent to the TBI Lab, as well as all three officers' handguns used during the incident.
22. Per to the Medical Examiner's Report, it appears Mr. [REDACTED] was shot six times, all below the waist, and died due to injuries sustained as a result of those gunshot wounds.
23. The MNPd conducted a force review of the three officers' actions and found that all three were within policy.
24. Additionally, the Davidson County Grand Jury reviewed and decided not to issue a presentment in this matter.

**VI. Discussion/Analysis**

After shooting and striking one off-duty police officer, the deceased evaded the pursuit of other police officers, firing from his vehicle four times during the chase, including at least once in an area where multiple construction workers are present. After other attempts at stopping Mr. [REDACTED]'s vehicle were unsuccessful (e.g. initiation of blue lights and siren, first spike strip deployment), Mr. [REDACTED]'s car is forcibly and involuntarily stopped by a successful second spike strip attempt.

Mr. [REDACTED] gets out of his car, points his handgun at the officers and shoots two more times. At this point, Officer-1, Officer-2 and Officer-3 fire their weapons until Mr. [REDACTED] falls to the ground, and a call to "cease fire" was issued.

Pursuant to the MNPDP Manual, it is the policy of the Metropolitan Nashville Police Department that authorized employees shall use only that force that is reasonably necessary to effect lawful objectives. Based on the evidence reviewed, the actions of all three officers were reasonable and lawful under the circumstances.

**VII. Conclusion**

The Executive Director concludes that after careful review of all supporting documents, MNCO Audit Summary and exhibits, that there were no deficiencies found in the MNPDP Force Review findings that Officer-1's, Officer-2's and Officer-3's use of force in this matter were within policy.

**VIII. Recommended Action**

The Executive Director makes no recommended actions to the Board.

Submitted to the Community Oversight Board for Approval on Wednesday, January 26, 2022.

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Jill Fitchard  
Executive Director

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Date

Board Recommendations:

\_\_\_\_\_ Accept/Send to MNPDP Chief of Police

\_\_\_\_\_ Accept, but Modify

\_\_\_\_\_ Reject

\_\_\_\_\_ Return to MNCO Staff

**BOARD RECOMMENDED MODIFICATION:**

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Andrés Martínez, Chair

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Date