

Report of Advisors to City Manager

In considering the factual circumstances surrounding the use and discharge of a police firearm which resulted in the death of Kiwane Carrington on October 9, 2009, the advisors to the City Manager of Champaign, Illinois, have considered all of the materials that have been made available to them, including the investigative reports of the Multi-jurisdictional Task Force (Illinois State Police, lead agency) and all witness statements and recordings of witness statements included with said reports; the autopsy report, photographs, and opinions of the physician who conducted the autopsy; the Champaign Police Department's Policy Manual--policies 1.3 (Use of Force), 1.4 (Weapons - Requirements and Proficiency), and 1.5 (Firearms Discharge Investigation and Review); and the report of the State's Attorney of Champaign County.

In addition, the advisors interviewed the Director, and two instructors, at the Police Training Institute (PTI) of the University of Illinois, regarding the curriculum and instruction of police officers attending PTI (including Officer Norbits) on various subject matter areas, including firearms, use of force, weapons care and maintenance, communications, tactical communications, arrest and control tactics, decision-making and situational shooting, crimes in progress, approach and deployment, entry and search, and others. [see attached letter from Krystal L. Fitzpatrick, Director, Police Training Institute, with enclosed documents regarding the curriculum and course outlines of selected courses at PTI as well as standards published by the Illinois Law Enforcement Training and Standards Board]

The advisors also viewed the scene of the incident, and had the opportunity to observe the physical surroundings on North Prospect Avenue and West Vine Street.

Findings of Fact

On October 9, 2009, several officers of the Champaign Police Department responded to a dispatch of a "burglary in progress" call in the 900 block of West Vine Street. The initial officer to arrive on scene was Chief R. T. Finney. Officer Daniel Norbits arrived shortly thereafter. Each officer observed the presence of the other and each was aware that other officers were also either on scene or enroute. According to Officer Norbits, he observed Chief Finney approach the rear of the residence from the east and observed Finney draw his weapon and say "stop--get on the ground--I will shoot you." According to Chief Finney, as he went around the corner of the residence into the backyard, he said "police--get down--get down." He did not recall making the statement suggested by Norbits but said there was a possibility that he said "don't make me shoot" as he had done so on other occasions when individuals improperly advanced upon him. Norbits, who had been at the southeast side of the residence, came to Finney's location at the northeast side of the residence to assist Finney. He drew his weapon because of the totality of the circumstances known to him, including his observation of Finney with his weapon drawn and Finney's statement.

As the officers entered the backyard of 906 W. Vine, they observed two subjects standing at the back door of the residence attempting to push on the door to get in. The officers each made commands to the subjects to "get down on the ground" but neither subject complied. In his statement, Finney indicated that the suspect with whom he was engaged, JeShaun Manning-Carter, came toward him and Finney had to push him back to provide distance. Finney indicated that he grabbed ahold of Manning-Carter to "take him to the ground." Norbits indicated that he approached Kiwane Carrington and attempted to take Carrington to the ground by grabbing Carrington's collar with his left hand, while holding his service weapon in his right hand. He indicated that Carrington twisted away so that Norbits momentarily lost his grip and that he had to reengage with Carrington by grabbing him again by the collar in a further attempt

to bring him to the ground. While engaged with Carrington, Norbits indicated that his weapon discharged and Carrington was hit. Carrington then slumped to the ground, on his back, immediately in front of the back door to the residence.

Prior to Officer Norbits' contact with Kiwane Carrington there was a deficiency in communication between the officers that must be noted. PTI curriculum and training instruct that prior communication occur between officers to insure that proper tactics are implemented. According to the statements of Chief Finney and Officer Norbits no communication occurred between them--either verbally or by signal-- before or during the engagement of the suspects and the attempted arrests.

With regards to the actions of Officer Norbits, his statements demonstrate that he placed himself to Chief Finney's right side (by moving behind Finney) as both men took positions in the backyard of the residence on West Vine. Finney was focused on Manning-Carter and Norbits was focused on Carrington. As the police radio traffic had earlier indicated that there were three suspects, Norbits was also observing the doors and windows to the house behind the suspects as he wanted to insure that another potential suspect was not present. Norbits also said that Carrington was putting his hands in and out of the pockets of his outer clothing throughout this time. Both Finney and Norbits shouted commands for the two suspects to "get down...get on the ground" but neither complied. As Finney was engaged in struggling with Manning-Carter, Norbits approached Carrington and put his left hand on Carrington's collar near the right shoulder to take him to the ground. Carrington appears to have maintained his location at the rear door of the residence during Norbit's attempts to put hands upon him to bring him to the ground. Norbits indicated that Carrington twisted away and he lost his grip on Carrington's clothing. When he attempted to reestablish control over Carrington, the weapon discharged. There is no indication in the witness statements or investigative reports that Carrington touched or came in contact with Norbit's weapon before it discharged. Norbits, in his statements, acknowledged that he is trained to hold his weapon with his

finger indexed off of the trigger and he does not know how his weapon discharged on this occasion. Based upon the investigation to date, it appears that during Norbits' efforts to take Carrington to the ground Norbits' finger pressed the trigger of his weapon and it discharged. It should be noted that Norbits' weapon is currently at the FBI laboratory where it is undergoing further analysis, which has not yet been completed.

The autopsy photos and report of the examining physician demonstrate that the trajectory of the bullet was downwards, passing through Carrington's left arm and entering the mid-chest, one (1) inch below the left nipple. The autopsy report, therefore, suggests that Carrington was below Norbits' weapon, when the weapon discharged.

The Champaign Police radio log for October 9, 2009, demonstrates that the final radio transmission by Chief Finney prior to the discharge of the police weapon occurred at 13:30:22 hours, when the Chief was on foot east of 906 W. Vine, and prior to the time he entered the rear yard of that residence. The first radio transmission by Chief Finney after the discharge of the weapon occurred at 13:31:06 hours, when he called for an ambulance after the shooting. A total of forty-four seconds elapsed between these two transmissions and there was no intervening police radio traffic. It is appropriate to note that this total incident occurred during a relatively short period of time

Analysis

The residents of any community understand and appreciate the critical role that police officers have in insuring the safety of their community. In that regard, they expect police officers to carry deadly weapons in the performance of their duties and have trust and confidence that officers are trained in their care and use. The community also has an expectation that regulations and training on the care and use of deadly weapons will protect the community from the accidental or careless use of a duty weapon by a police officer.

In the instant case, it is clear that Officer Norbits did not know what he was going to find upon entering the rear yard of 906 W. Vine. He had heard the commands of Chief Finney, had seen Finney draw his weapon and had observed Finney proceed to the rear yard. He withdrew his weapon from his holster and followed Finney, moving behind Finney to take a position to Finney's right. He saw Chief Finney engage with a suspect and became aware that a struggle was underway to his left. Training would have informed Officer Norbits that he needed to maintain a safe distance from his subject with his weapon drawn and to not approach the subject to 'put hands on' without first holstering and securing his weapon. Instead--with Chief Finney engaged with his subject almost immediately to Officer Norbits' left--Norbits advanced upon his subject (Kiwane Carrington) and tried to take his subject to the ground with one hand, his left hand, all the while holding his weapon in his right hand.

Officer Norbits does not know how or why his duty weapon discharged. He does not suggest, nor is there any evidence, that Carrington struck or grabbed the weapon. In his statements to investigators, Norbits recognized that training required him to maintain his weapon, with finger indexed, until he determined to discharge his weapon and also indicated that he did not intend to discharge his weapon on this occasion. There appears to be no other explanation for the firing of the weapon in this case than that, during his physical exertion to try to take Carrington to the ground with his left hand, Norbits' index finger on his right hand (gun hand) placed sufficient pressure on the trigger to discharge the weapon. This is further supported by the autopsy report indicating that the path that the bullet traveled upon discharge suggests that Carrington was below the weapon when it discharged.

Norbit's actions on October 9, 2009, were violative of the Illinois Mandatory Firearms Training Manual, as promulgated by the Illinois Law Enforcement Training and Standards Board ["The following rules concerning the safe handling of firearms are universally accepted. These rules should apply in all situations:
3. Keep your finger off the trigger until your sights are on the

target"--page 3] ["Keep your finger off the trigger until the sights are on the target"--page 24]; Champaign Police Department policy 1.4, "1.H. Officers shall not unnecessarily draw (from their holster), display or carelessly handle firearms."; and the PTI curriculum and course instruction. The PTI course of training that Norbits attended as a police officer also instructed him to maintain a reasonable and safe distance from a suspect, and to holster a weapon when approaching a suspect to lay hands on to effectuate an arrest. That training also taught Norbits to always hold his weapon with the trigger finger indexed (keeping the trigger finger out of the trigger guard and extended along the side of the barrel of the weapon) until a decision is made to fire the weapon.

In considering the investigative reports, the witness statements, the physical evidence including photographs, the standards and training materials from the State Board and PTI, and the policies and rules of the Champaign Police Department, the advisors find that Officer Daniel Norbits violated policy and training in the following way: Failure to use firearms in accordance with law and departmental directive by failing to exercise due care upon drawing his weapon by not keeping his trigger finger indexed on the weapon until he was ready to fire said weapon [Champaign Police Department's Policy Manual--policy 1.4.1.H.].

Recommendations

In considering what discipline, if any, is to be imposed in this case, the advisors have considered the facts of the underlying incident (as more fully described in the factual statement in this report) and the prior disciplinary record of Officer Norbits. In considering the disciplinary record, the advisors would note that Officer Norbits has been a member of the Champaign Police Department since 1995. He has received several awards during his tenure with the Department. He has also been disciplined on several occasions,*

In considering the totality of the circumstances in the instant case, the advisors find that Officer Norbits should be disciplined under Champaign Police Department Rule 4. H. for

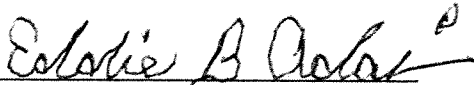
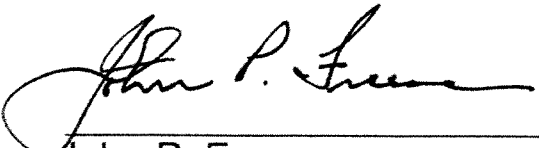
the violation of Champaign Police Department Policy Manual, policy 1.4.1.H.

Additional Recommendations

In considering the written policies and rules of the Champaign Police Department, the advisors find them to be thorough and in compliance with State Standards and training guidelines. In fact, the department has recently received certification by the Illinois Law Enforcement Accreditation Program, one of a very few departments in the State of Illinois so recognized thus far.

The advisors do recommend that the Champaign Police Department make 'indexing of a weapon', which is taught at the Champaign Police Department Basic Orientation Course, part of the curriculum and instruction at annual weapons and use of force training within the department.

Dated this 12th day of March, 2010, in Champaign, Illinois.

	
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Eddie B. Adair, Chief of Police, retired City of Urbana	John P. Freese Chief Circuit Judge, retired Eleventh Judicial Circuit

*Legally required to be omitted pursuant to 820 ILCS 40/8
Personnel Records Review Act.