

Use of Force – Non-Fatality

John Trotter

Bellevue Police Department, #2021-50879



King County Prosecuting Attorney
Public Integrity Team

November 23, 2022



DECLINE MEMORANDUM

Non-Fatal Officer-Involved Shooting of John Trotter

I. Introduction:

a. Purpose and Scope of Memorandum

The King County Prosecuting Attorney's Office ("KCPAO") is mandated by law to analyze certain incidents regarding police use of force and to determine if the action was justified or if there was a criminal action such that criminal charges should be filed. Because the investigation and analysis are mandatory if specific criteria are met, the KCPAO's review of an incident does not implicitly signal that the use of force was either justified or that criminal charges are appropriate. Instead, the KCPAO is required to assist independent investigations involving police use of deadly force to enhance accountability and increase trust to improve the legitimacy of policing for an increase in safety for everyone.

Pursuant to the Law Enforcement Training and Community Safety Act, an independent investigation must be completed when the use of deadly force by a peace officers results in the death, substantial bodily harm, or great bodily harm. The independent investigation is conducted in the same manner as a criminal investigation. although no death, substantial bodily harm, or great bodily harm occurred as a result of this shooting Bellevue Police Department requested submitted this investigation the Team and we in turn reviewed for criminal liability.

The Special Operations Unit Public Integrity Team (the Team) has determined that the investigation into this matter is complete. The determination whether to file charges is based entirely on the materials provided to the KCPAO, relevant criminal laws, rules of evidence governing criminal proceedings, the applicable burden of proof, and the KCPAO's Filing and Disposition Standards. This determination is not intended to address matters outside the scope of this memorandum including, but not limited to, administrative action by the involved agency or any other civil action. The Team expresses no opinion regarding the propriety or likely outcome of any such actions.

II. Factual Summary:

On October 16, 2021, around 8:30 PM, Civilian 1 was walking her dog in Bellevue near the intersection of 102nd Ave NE and NE 12th St. when an older model gold Lexus sedan driven by subject John Trotter (“Subject”) erratically drove onto the sidewalk hitting and killing her dog.

Without stopping, Mr. Trotter continued westbound towards Medina. Mr. Trotter had a passenger in his car, Civilian 2, who witnessed these events. Trotter later admitted to police that both men were high on methamphetamine that evening. Mr. Trotter proceeded to drive erratically towards Medina speeding and illegally passing Civilian 3 and Civilian 4’s vehicle, then running a 5-way stop at the intersection of 84th AVE NE and NE 12th St. in Medina. Medina PD officer, Involved Officer 1, observed Mr. Trotter fail to stop at the intersection and began pursuing Trotter, turning on his overhead lights, and calling in Trotter’s license plate to dispatch.¹ Civilians 3 and 4 followed the pursuit.



Figure: Google Maps photo of the 5-way stop at 84th AVE NE and NE 12th St. in Medina at which Mr. Trotter failed to stop.

¹ Involved Officer 1 did not have a partner in his patrol car.

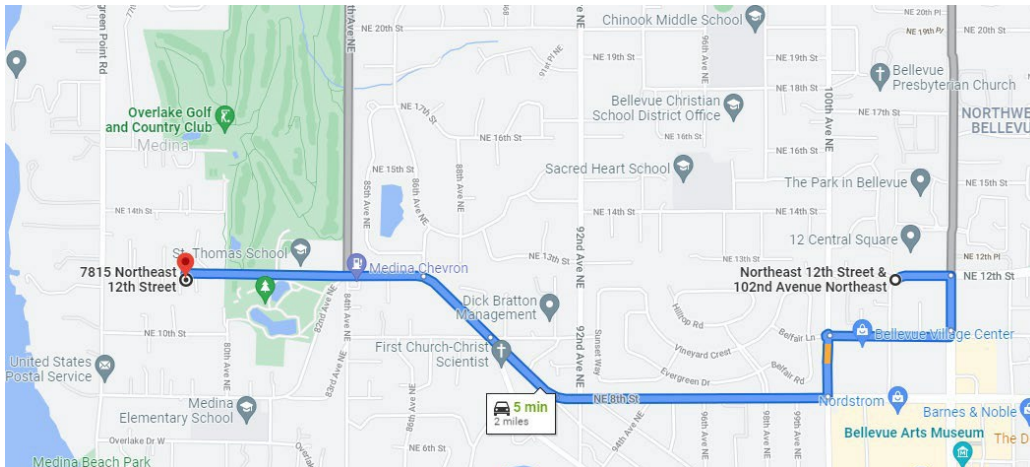


Figure: Path Mr. Trotter likely drove from Bellevue to Medina.

As the cars travelled westbound on NE 12th St, just past 80th Ave NE, Mr. Trotter attempted a wild U-turn and then slammed into the driver’s side door of the involved officer’s patrol car. According to Trotter’s passenger and Civilians 3 and 4, Trotter reversed and then slammed into Involved Officer 1’s patrol car multiple times. Although Involved Officer 1 did not give a formal statement, in short succession he is heard on the dispatch recording stating:

- **“He’s going to take off... He’s hitting me. Oh shit!”**
- **“I can’t get out of my car. He’s facing right at me.”; and**
- **“He hit me again.”**

Six seconds later Involved Officer 1 stated, “Shots fired.” In a brief exchange at the crime scene Involved Officer 1 told Bellevue PD Officer 1 that he fired 4-5 rounds at the Lexus.



Figure: Photo of crime scene with Involved Officer 1’s squad car along the curb and the Subject’s car in the foreground.



Figure: Damage to the front left wheel and hinge on the driver's side door of Involved Officer 1's squad car.



Figure: Front-end damage to Trotter's Lexus. Dark color paint consistent with the color of Involved Officer 1's squad car is visible on the front left bumper.

Investigating officer, Bellevue PD Officer 2, later observed that the hood and windshield of Mr. Trotter's Lexus sustained a total of 5 gunshots. One Federal brand cartridge casing was found on the driver's floorboard of Involved Officer 1's squad car and three other Federal casings were found 10 feet away on the street. The fifth was never recovered despite a K9 search for the missing cartridge casing. The casings visually matched those used in Involved Officer 1's service weapon, a Sig Sauer P227, .45 caliber. Officer 3 later collected Involved Officer 1's service weapon which was missing 5 rounds.



Figure: Bullet holes caused by Involved Officer 1 shooting at Mr. Trotter and his vehicle.

It appears likely that Involved Officer 1's squad car became undriveable during the incident and that Involved Officer 1 had a difficult time escaping from his squad car. According to Officer 4's traffic investigation, there were tire marks on the curb consistent with the squad car's tires, leading him to conclude Trotter struck Involved Officer 1's driver side door forcing the squad car into the curb in a manner forceful enough to bend Involved Officer 1's suspension, bending the front left wheel off-angle. Involved Officer 1 also told Officer 5 on scene, "I had to kick my door open to get out," which is consistent with the physical evidence, namely the damaged hinge to the driver's door. According to the CAD, Involved Officer 1's squad car was not drivable and had to be towed from the scene.

Civilian 4 arrived after the Subject made the U-turn and rammed Involved Officer 1's car into the curb. When she arrived on scene she said that she knew something was wrong because both cars were stopped, blocking the road, and perpendicular to one another with the squad car already up against the curb. Civilian 4 then saw the Subject reverse, accelerate forward and "ram" Involved Officer 1's squad car 1-3 times. She said that it seemed intentional. She was unable to estimate the Lexus's speed as it rammed into the squad car. She and her husband heard gunshots after seeing the Lexus ram the squad car.

After the incident, Trotter's passenger, Civilian 2, was interviewed multiple times by Bellevue PD. His account was consistent with Civilian 4. He stated that Trotter kept slamming

into the cop car and that the officer shot at the car in order to protect himself because he was being hit by Mr. Trotter. Civilian 2 said that in order to protect himself during the gunfire he hid on the floor in the back passenger area. He said that after the shooting both he and Trotter fled on foot.

It is unclear why Trotter and Civilian 2 were together this evening, but according to both they began their night together in Seattle. Both appeared to be under the influence of drugs. Mr. Trotter was interviewed and stated that he used methamphetamine three times on the day of the incident. During that interview Trotter also recalled "hitting something" in Bellevue earlier, but he did not know what. He also remembered later colliding with a police car, but claimed that it was unintentional. He stated that he did not recall Involved Officer 1 shooting into his car.

Neither Mr. Trotter nor Civilian 2 were injured in the incident. Mr. Trotter was subsequently charged in Cause No. 21-1-04648-0 SEA with having committed the following crimes in this incident: Assault in the 2nd Degree (Victim: Involved Officer 1), Hit & Run Attended, Hit and Run, Reckless Driving, and DUI.

III. Legal Standard & Analysis:

RCW 9A.16.040(4) states that a peace officer shall not be held criminally liable when using deadly force in good faith. Good faith is an objective standard. The pertinent question is whether a reasonable officer, similarly situated, considering all the facts and circumstances and the information known to the officer at the time, would believe that using deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

The legislature outlined the limited circumstances when deadly force in good faith can be used.

Relevant to this inquiry are the following two circumstances. First, using deadly force is legally justifiable when, in good faith, it is necessary in order to overcome actual resistance to an officer's orders, or in the discharge of an officer's legal duty. Second, deadly force is justified when, acting in good faith, it is used to apprehend an individual who the officer believes has committed a felony. However, the officer must also have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or another individual. One circumstance to consider is whether or not the subject threatened the officer with a weapon.

Here, Bellevue PD's investigation has established that Involved Officer 1 attempted a

traffic stop of Mr. Trotter's car for speeding and/or running a stop sign. According to Civilians 3 and 4, when Involved Officer 1 gave chase in his squad car the overhead lights of his car were activated making Trotter aware that he was being pulled over by a police officer. Dispatch recordings establish that Trotter did not comply with Involved Officer 1's order to pull over, when Involved Officer 1 states, "He's going to take off."

Mr. Trotter used his car to repeatedly assault Involved Officer 1 on the 7800 block of NE 12th St. On the dispatch recording Involved Officer 1 states, "He's hitting me. Oh shit!" Shortly thereafter, Involved Officer 1 states, "I can't get out of my car. He's facing right at me... He hit me again." Consistent with Involved Officer 1's claims, Civilian 4 said she observed Trotter's Lexus "ram" Involved Officer 1's car 1 to 3 times. Civilian 3 stated that he also observed the Lexus hitting Involved Officer 1's patrol car. In addition, Mr. Trotter's own passenger, Civilian 2, stated that Trotter used his car to ram the police car three to four times. And finally, the paint transfer on the front bumper of Trotter's car appears to match that of Involved Officer 1's squad car. At this point Trotter had committed second and third degree assault on Involved Officer 1, both felonies.

While not a deadly weapon *per se*, RCW 9A.04.110(6) states that a vehicle is a deadly weapon when under the circumstances it is used in a manner capable of causing death or substantial bodily harm. The investigation establishes that on October 16, 2021, Mr. Trotter drove into Involved Officer 1's squad car in a manner constituting a deadly weapon. Although the speed at which Mr. Trotter rammed into Involved Officer 1 car remains unclear, the force used was significant enough to push the squad car into the curb and damage the front axle. When Mr. Trotter continuously slammed into the squad car he aimed his car directly at the position where Involved Officer 1 was seated in the car. There was nothing to protect the officer – no engine block, nor passenger portion of the car to block the force of Mr. Trotter's sedan.

Additionally, the circumstantial evidence shows that Involved Officer 1 was afraid for his life when he shot at Mr. Trotter five times. Evidence of this is present in Involved Officer 1's rapid speech when he told dispatch, "I can't get out of my car." and "He hit me again." The squad car's wheels were canted and the hinge to the driver's side door was dented inward making it difficult for Involved Officer 1 to get out. It was only after telling dispatch that Trotter was hitting him that Involved Officer 1 stated, "Shots fired." It is reasonable to believe that Involved Officer 1 felt trapped inside his car and unprotected when he decided to discharge his service weapon.

Civilian witnesses corroborate this timeline of events. Trotter's passenger, Civilian 2, stated that Trotter kept slamming into the squad car and backing his car up in order to hit the police car. Civilian 2 told interviewers that he believed that the officer shot to protect himself from Mr. Trotter. Additionally, Civilian 4 stated that it was only after seeing the Lexus ram the squad car that she heard shots fired. It appears that Involved Officer 1's use of deadly force stopped when the threat from the vehicle stopped, and he deescalated to open-hand tactics in order to later detain Trotter who fled the location on foot.

Considering all of the abovementioned facts and circumstances, a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to him or herself. Moreover, deadly force is justified when it is used in good faith when a suspect shows actual resistance to an officer's orders, as Mr. Trotter did here after Involved Officer 1's implied order to pull over. Deadly force used in good faith was also justified here because Mr. Trotter had just committed a felony assault on Involved Officer 1 and posed a threat of serious bodily injury or death to Involved Officer 1 by continuing to ram into Involved Officer 1's vehicle. Because Involved Officer 1 acted in compliance with RCW 9A.16.040, there is no basis for criminal charges.