

State of Connecticut
OFFICE OF INSPECTOR GENERAL



Report Concerning
Use of Deadly Force by the United States Marshals Service on January 13, 2022

Robert J. Devlin, Jr.
Inspector General

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Acknowledgments

The Office of Inspector General acknowledges the assistance provided to this investigation by the following:

United States Marshals Service, Violent Fugitive Task Force

Department of Emergency Services and Public Protection, Division of State Police, Western District Major Crime Squad

Bridgeport Police Department

New Haven Police Department

Chief State's Attorney Patrick J. Griffin, Former New Haven Judicial District State's Attorney

INTRODUCTION

On January 13, 2022, at approximately 11:43 a.m., at or near 35 Wheeler Street, New Haven, Connecticut, Deputy United States Marshal (DUSM) James Masterson¹ discharged his firearm five times at a box truck being driven by Marvin Owens². New Haven State's Attorney Patrick J. Griffin notified the Office of Inspector General of the incident. The Office of Inspector General requested the assistance of the Connecticut State Police Western District Major Crime Squad to conduct an investigation. The results of that investigation are summarized in this report.³

Briefly stated, the investigation establishes that, in connection with an attempt to serve three arrest warrants on Owens, DUSM Masterson fired his weapon at the front tire of the box truck and not at Owens. The DUSM's intent was to prevent imminent serious physical injury to other task force officers by disabling the truck. The DUSM fired his weapon to eliminate the threat to federal and municipal officers endangered by Owens' efforts to flee the scene to avoid arrest. Accordingly, I find such use of deadly force to be justified under Connecticut law.

¹ On January 13, 2022, DUSM Masterson was a Caucasian male age 52.

² On January 13, 2022, Marvin Owens was an African-American male age 54.

³ The timeline for this investigation is as follows:

January 13, 2022 – date of incident

January 13, 2022 – Office of Inspector General notified and requests assistance from the Connecticut State Police

January 13, 2022 – Connecticut State Police Western District Major Crime Squad (WDMCS) commences its investigation

July 13, 2022 – WDMCS submits its completed report to the Office of Inspector General.

SUMMARY

On November 15, 2021, a judge issued an arrest warrant for Marvin Owens charging him with five counts of violation of a protective order in violation of General Statutes §53a-223, and one count of assault in the third degree in violation of General Statutes §53a-61. The court set bond at \$250,000. On January 12, 2022, a judge issued an arrest warrant for Owens charging him with five counts of violation of a protective order, reckless endangerment in the first degree in violation of General Statutes §53a-63, and assault in the third degree in violation of General Statutes §53a-61. The court set bond at \$150,000. On that same date of January 12, 2022, a judge issued a second arrest warrant for Owens. That warrant charged him with five counts of violation of a protective order, assault in the second degree in violation of General Statutes §53a-60, unlawful restraint in the first degree in violation of General Statutes §53a-95, reckless endangerment in the first degree in violation of General Statutes 53a-63, and threatening second degree in violation of General Statutes §53a- 62. The court set bond on this warrant at \$300,000. All three warrants were based on incidents of alleged domestic violence and involved the same alleged victim.

The apprehension responsibility for the three warrants was delegated to the United States Marshals Service Violent Crime Task Force. Task Force Officers (TFOs) contacted Bridgeport Police Detective Lynn Henschel. Henschel was the affiant on the January 12, 2022, arrest warrants. She reported that Owens had a history of weapons possession and was known to carry a firearm in his vehicle. In addition, Henschel stated that Owens was aware of the arrest warrants and might try to run.

In preparing to serve the warrants, TFO Adam Roscoe discovered a Bridgeport Police Department report that listed Owens' current employer as Onofrio Ultimate Foods in New Haven. On January 13, 2022, Roscoe contacted Detective Elizabeth White of the New Haven Police Department who offered to respond to Onofrio's to gain further information. A short time later, White advised Roscoe that Owens' personal vehicle, a 2015 Chevy Cruz, was parked in the Onofrio's parking lot. White also contacted Onofrio's shipping manager who confirmed Owens' employment. The shipping manager indicated that Owens was currently operating an Onofrio-owned box truck in New Jersey and should be on his way back to Connecticut.

TFOs responded to New Haven and took up positions near Onofrio's parking lot. Detective Robert Winkler and Roscoe met with White and took a position with a view of the loading dock and driveway. Masterson and Detective Nicholas Grasso arrived and positioned themselves on the opposite side of the parking lot. Detective Matthew Szymczak and Detective Jesse Meade also arrived and parked a short distance away. Finally, Officer Angel Rivera arrived operating a marked Bridgeport police vehicle.

At approximately 11:40 a.m., Masterson and Grasso observed Owens enter the parking lot operating the white box truck. He parked the truck facing a wall. He opened the driver's door. Masterson and Grasso followed the truck into the lot. Winkler and Roscoe followed them. The two TFO vehicles parked on the left side of the truck. Grasso exited the front passenger door of Masterson's vehicle and approached Owens who closed the truck's door. Grasso was wearing a police tactical vest marked "POLICE" on the front and back. He climbed onto the truck's side running board announcing "Police" and for Owens to open the truck's door. Masterson also exited his vehicle and took a position at the front of the box truck. At this time, Winkler exited the TFO vehicle parked behind Masterson's vehicle and was standing at the driver side rear of the truck.

Owens ignored Grasso's commands, started the truck's engine, and started traveling in reverse. Grasso was still on the running board and Winkler was to the rear. As the truck moved rearward, Masterson fired five rounds at the left front tire of the box truck.

Owens quickly drove from the parking lot and was able to get onto I-95 southbound. TFOs pursued. Ultimately, the Connecticut State Police took over the pursuit. At one point, the front tires of the box truck shredded off. The truck continued south exiting I-95 in Bridgeport. While being pursued on Bridgeport streets, Owens collided with two vehicles near the intersection of Boston Avenue and Seaview Avenue. Following the collision, Owens fled on foot. Stratford police officers, who had responded to assist, quickly apprehended him.

INVESTIGATION

STATEMENTS

Detective Adam Roscoe

Task Force Detective Adam Roscoe was with Detective Robert Winkler in an unmarked police vehicle. They positioned their vehicle to have a clear view of Onofrio's parking lot. Roscoe's statement continues:

"Approximately 1100 hours, Deputy Masterson and Detective Grasso observed OWENS, operating the Onofrio's white colored box truck, enter the Onofrio's lot, subsequently parking. Deputy Masterson and Detective Grasso followed the box truck into the lot. Detective Winkler and Detective Roscoe followed parking our vehicles to the left side of the truck. Detective Grasso exited the front right door of Masterson's vehicle and approached OWENS, who was now exiting the vehicle. I observed Detective Grasso approaching OWENS, who quickly re-entered the box truck. Detective Grasso climbed onto the side running board, now at the driver's side window, announcing "Police" and for OWENS to open the door of the vehicle.

"I then heard the vehicle's engine start, at which time I returned to my vehicle. Detective Grasso was still on the running board of the truck and Detective Winkler was still outside of my vehicle, when OWENS started traveling in reverse. Detective Winkler was now in the path of travel of this box truck but was able to retreat into my vehicle's right front seat, just as the truck reversed, nearly striking the right side of my vehicle. Deputy Masterson fired an unknown number of shots at the left front tire of this vehicle while it was in motion.

"Detective Szymczak and Detective Meade were just entering the parking lot when OWENS was fleeing for the exit. Detective Winkler and I followed, out another exit and immediately located the box truck, activated our emergency apparatus and followed onto I-95 Southbound."

Detective Robert Winkler

In his statement, Winkler described the events leading up to the attempted apprehension of Owens in the Onofrio parking lot. In relevant part, the statement provides:

"Sometime after 11:00 hours, U.S. Marshal Masterson and TFO Grasso observed the delivery vehicle exiting I-95 and surreptitiously followed it to 35 Wheeler Street. U.S. Marshal Masterson and TFO Grasso informed TFO Roscoe and I that they would follow the delivery truck to its final resting spot and apprehend OWENS as he exited the vehicle. All communications were conducted via police department radios and cellular phones.

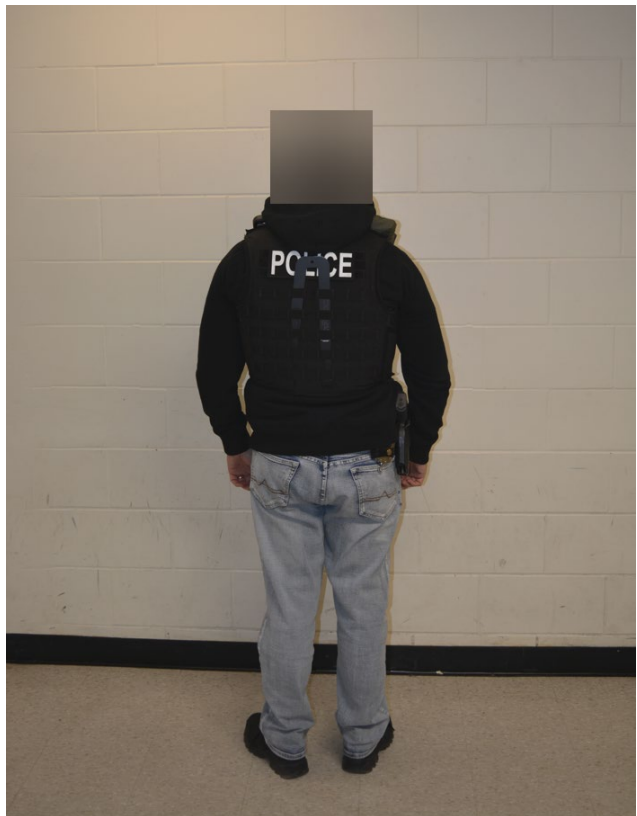
"TFO Roscoe and I observed the delivery truck enter the parking lot. U.S. Marshal Masterson and Grasso were following the truck as it began to park in front of a building. TFO Roscoe and I fell in line behind them as the delivery truck came to a complete stop. I observed TFO Grasso approach the driver's side of the delivery truck as the driver was exiting. The driver observed TFO Grasso and quickly returned to the cab, shutting the door. TFO Grasso then climbed onto the truck's running board steps, yelling several commands for OWENS to open the door, but OWENS had placed the vehicle in reverse, with TFO Grasso still holding onto the driver's door handle. As the vehicle was heading in reverse, and directly at me, I quickly retreated to TFO Roscoe's vehicle. As this was occurring, U.S. Marshal Masterson fired several rounds toward the delivery truck.

"OWENS drove out of the parking lot and onto I-95 southbound, disregarding the lights/sirens of investigators' vehicles..."

Detective Nicholas Grasso

In his statement, Grasso describes his investigative efforts to locate Owens to arrest him on the three warrants. He reported that he and Masterson positioned their task force vehicle near the exit 50 off-ramp for I-95. From that position, they were able to observe the Onofrio’s delivery truck on Forbes Avenue and ultimately saw it turn into the Onofrio’s parking lot. The statement continues:

“Deputy Masterson then pulled alongside the vehicle once Task Force Officer Roscoe and Detective Winkler arrived to the location and positioned themselves behind the Onofrio’s delivery truck. At the approximate time of 11:35 hours, Task Force members observed and immediately identified the operator of the Onofrio’s delivery truck as Marvin Owens ... as he began to exit the delivery truck by way of the front operator door. At this time, I, Task Force Officer Grasso, exited the front passenger seat of my Task Force vehicle wearing my U.S. Marshal Tactical Ballistic Vest with the words POLICE labeled on the front and back as Deputy Masterson exited the front operator’s seat of the same Task Force vehicle.



Detective Nicholas Grasso

Being the closest to the operator's seat of the Onofrio's delivery truck, I approached Marvin Owens and called him by his name addressing Mr. Owens by name while pointing by (sic) department issued firearm directly at Marvin Owens based on the said knowledge collected by Bridgeport Police Detective Gorman that Marvin Owens was in possession of a firearm at all times. I then began to give verbal commands to Marvin Owens stating: "Police," "Get out of the vehicle" as the vehicle door was half opened during his exit. At this point, Task Force members observed Owens reenter the Onofrio's delivery truck. I then attempted to open the truck's operator door which is where Owens positioned himself. At this time, I was positioned on the exterior of the truck as I was standing on the step bar of the vehicle. I then observed Owens lock the operator door preventing me from opening it from the outside of the vehicle. At this point, Marvin Owens started the engine of the delivery truck as I was positioned on the exterior of the vehicle. I then continued to give verbal commands to Owens stating, "Get out of the vehicle," however, Owens disregarded my commands and began to back the vehicle out of the parking space into the parking lot. At this time, Deputy Masterson was also yelling verbal commands to Owens to stop the vehicle. It should be noted that Bridgeport Police Detective Winkler was standing directly in the rear path of the delivery truck as Owens continues to back up the vehicle ignoring the verbal commands to stop. I, Task Force Officer Grasso, continued to hold onto the vehicle's outer door handle as Owens accelerated rearward during which time I was looking for a safe landing place to jump off of the vehicle into the parking lot. During this time, however, Deputy Masterson attempted to stop the vehicle from moving any further in fear for my safety as well as Detective Winkler's safety who was standing behind the delivery truck as it was backing. Deputy Masterson then fired his assigned duty weapon at the front end of the vehicle numerous times; however Owens did not stop and continued to back away. Task Force Officers then observed Owens place the said delivery truck into drive and speed out of the parking lot engaging officers in pursuit."

Detective Matthew Szymczak

TFO Szymczak and Detective Meade were among the officers involved in the attempted apprehension of Owens in New Haven. They were in an unmarked Bridgeport police vehicle. TFO Grasso directed Szymczak and Meade to stage a short distance away from 35 Wheeler Street. Once TFO Grasso confirmed that Owens was at 35 Wheeler Street operating a white box truck, he advised Szymczak and Meade to move in.

Szymczak's statement continues:

"I drove into the southernmost entrance for 35 Wheeler Street. As I entered the parking lot, I began to hear gunshots and I observed Task Force Officers, marked by Police vests, running toward the east side of the building. There were multiple civilians running toward the Officers. As we came further into the lot, I could see U.S. Marshal James Masterson discharging his handgun towards the front end of a white, medium duty, box truck.

“The truck was coming head-on towards us as we rounded the building. I had to pull our vehicle to the left behind a dumpster to avoid being hit. The box truck passed us on the right and we circled the building exiting the parking lot at the northern entrance/exit on Wheeler Street.

“Owens fled from 35 Wheeler Street out of the southernmost entrance/exit onto Wheeler Street southbound.”

“At approximately 11:48 hrs Owens passed I-95 southbound rest stop at exit 40. The left front tire of the vehicle shredded, and the truck was now running on the front rim.”

Szymczak goes on to describe Owens’ exit from I-95 at exit 29, his flight from the police on Bridgeport streets, his collision with a civilian vehicle, and apprehension in the parking lot of Yankee Discount Muffler at 1290 Boston Avenue.

Deputy United States Marshal James Masterson

Deputy United States Marshal (DUSM) James Masterson provided a statement in which he described the information that he and other task force officers developed about Owens. The United States Marshals Service Violent Fugitive Task Force had responsibility to apprehend Owens and arrest him on the three warrants. Masterson was aware of Owens’ history of weapons possession and that he was known to carry a firearm in his vehicle. Masterson also had information that Owens likely was aware of the warrants and might try to run.

On January 13, 2022, after learning that Owens’ car was in the Onofrio’s parking lot and that he was returning to Onofrio’s from making a delivery in New Jersey, Masterson and others proceeded to New Haven. Masterson and TFO Grasso positioned themselves near the I-95 exit 50 off ramp. At 11:30 a.m., Masterson saw a truck matching the description of Owens’ work truck come down the exit 50 off ramp. The truck stopped at the bottom of the off ramp. Using binoculars, Masterson positively identified Owens as the driver. The truck proceeded to Wheeler Street and turned right into the work yard/parking lot of Onofrio’s at 35 Wheeler Street. Masterson and Grasso pulled into the work yard after the truck. Masterson advised other officers that, once the truck parked, all units would move in and surround the truck.

Masterson’s statement continues:

“Once the truck parked, this DUSM called over the radio to move in. TFO Grasso and this DUSM’s vehicle pulled along the side of the truck (parallel to it). TFO Roscoe and Detective

Winkler's vehicle pulled in behind the truck and this DUSM's vehicle. At that time, task force members and Detective Winkler exited their vehicles. NOTE: All task force members and detectives were wearing tactical vests clearly marked "police" on the front and rear of the vests.



DUSM James Masterson

"TFO Grasso was the closest to the driver side of the cab of the truck. This DUSM observed the driver side door of the truck open and the subject began to step down out of the truck cab. Upon exiting the vehicle, TFO Grasso announced "police" and ordered the subject not to move. At that time, this DUSM observed the subject get back into the truck and close the door. This DUSM observed TFO Grasso jump onto the running board located below the driver's door and attempted to open the door. This DUSM observed TFO Grasso attempt to open the door, but the subject locked the driver side door. This DUSM could also hear TFO Grasso giving commands to the subject to stop and open the door. The subject was ignoring TFO Grasso's commands. This DUSM heard the truck start up and was put into gear. This DUSM observed the truck start to back up and accelerate rearward. At that time, TFO Grasso was still located on the running board of the truck as it moved rearward. This DUSM could also observe TFO Roscoe and Detective Winkler towards the rear of the vehicle. At no time did the subject stop the vehicle or obey TFO Grasso or any law enforcement officers' commands. At that time, this DUSM determined that the subject and truck were an imminent serious threat to TFO Grasso,

TFO Roscoe, and Detective Winkler. This DUSM drew his duty weapon and discharged the weapon towards the front left tire of the truck in an attempt to stop the imminent threat to task force members and other officers. This DUSM didn't shoot at the operator of the truck (OWENS) because of concerns of a friendly fire situation regarding TFO Grasso's close proximity to the driver's cab. TFO Grasso located on the running board of the driver side and the possibility of erratic driving from Owens this DUSM didn't want to engage the operator. This DUSM chose an alternate aiming point, which was the front left tire to stop the imminent threat to task force members and other officers. The subject ignored all orders to stop and instead kept operating the truck rearward, narrowly missing TFO Roscoe's vehicle and officers. The truck made a quick pivot turn, exited the yard, and accelerated onto Wheeler Street."

Stacy Rouleau

Stacy Rouleau was at Onofrio's on the morning of January 13, 2022, to repair a refrigeration container. He stated:

"At approximately 11:00 a.m., I was sitting in my truck looking at my phone; a refrigerated box truck came into the lot pretty fast. The truck was white in color. The driver of the truck was sitting inside the truck for two to three minutes. I heard somebody say something, but I was not sure what was said. The truck began to reverse erratically. I saw a white male, with light colored hair, jeans, a black vest with "Police" in white writing. The writing was easily identifiable. The officer yelled something, it was a command to the driver of the truck. I observed a second officer that had darker hair, he was behind the first officer. The second officer had a vest that said police on the rear in white writing. As I observed the first officer come around the container, I saw his weapon drawn. The weapon was a blue or black handgun. The truck was perpendicular to the officer and was trying to evade the police officer. The officer fired four or five rounds at the front driver side tire of the truck. The weapon was pointed at the driver side tire the entire time. It appeared that the officer never made it to the driver side door. The truck went out of the lot towards Wheeler Street. The truck turned left out of the lot onto Wheeler Street."

Marvin Owens

The Office of Inspector General advised Marvin Owens of its investigation into the January 13, 2022, incident. Owens, thereafter, mailed several pieces of written correspondence to the IG office. In his hand-written letter dated February 8, 2022, Owens provided what he described as his "full statement of account." This statement provides:

on January 13, 2022 as I just finished my days work, I pulled my truck into the companies parking lot. As I parked my work truck facing toward the company building. Applied air brakes to truck. Then started to fill out daily work logs as well trucking logs as I was writing, head looking downward I was then surprised by person attempting to enter my work

Vehicle. being that vehicle door was locked, the person in all black fully covered face mask starts to yell. OPEN THE DOOR, OPEN THE FUCKING DOOR

he then steps back pulled out Gun started firing towards driver side door, of Truck in total shock

Scared for my life, reversed truck and exited parking

Lot. didn't know any officer involved until police cars

started pursuing me. only person or officer I seen

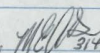
while parked was the one who fired his Gun at me

he never stated or attempted to state he was united

states Marshal. Marvin Owens did not have any

TYPE weapon, just coming in from work. he didn't need to draw or fire his weapon

END STATEMENT:

THANK YOU;  314066

In subsequent correspondence received by the Office of Inspector General on May 18, 2022, Owens asserted that an incident report filed concerning the January 13, 2022, incident was fabricated and misleading. The relevant portion of the letter provides:

The following is the incident report filed of January 13, 2022 police involved shooting, in which clearly, clearly by viewing video of incident, report is fabricated, misleading, adding of supplemented statements

EXAMPLE: January 13, 2022 Report

A multi-jurisdictional task force attempted to secure Marvin Owens with the three open domestic violence warrants previously mentioned.

The task force operated with information that Owens was most likely armed with a firearm (GUN). task force was able to locate Owens with, with help from his employer, via the G.P.S systems installed on his work truck. Owens was approached by members of the task force, WITH THEIR FIREARMS DRAWN, ORDERING Owens to exit the vehicle. Owens initially began to comply, HALFWAY EXITING THE VEHICLE. AT WHICH POINT he got back into the truck and SHUT/LOCKED the doors. Owens proceeded to drive away with a member of the task force hanging on to the truck. I fear for the safety of fellow officers and the public, one of the members of the task force fired his firearm at the front end of the vehicle. This did not stop Owens and he drove away.

FACT: (A) it was only U.S. Marshal in whom attempted to arrest me for fabricated incident Jan. 10, 2022 = (B) when Marshal approached his firearm was not drawn Marshal on truck started reaching for firearm. (C) Owens never came out, exited or opened door of truck. (D) Owens never got back in truck and SHUT/LOCKED doors (E) AS OFFICER JUMP ON TRUCK SCREAMING, CURSING IN ALL

black, not identifying himself as U.S. Marshal. As Owens scared simultaneously officer reaching for weapon & jumping down from truck Owens vehicle in reverse, officer fires weapon. There was zero THREAT

Based on this letter, it appears that Owens' claim that the report is misleading is based on the following assertions:

- A. It was only a U.S. Marshal who attempted to arrest him and not a task force;
- B. When the Marshal approached, his firearm was not drawn. It was only when the Marshal got onto the truck that he started reaching for his gun;
- C. Owens never came out of, exited, or opened the door of the truck;
- D. Owens never got back into the truck and shut/locked the doors; and
- E. The officer jumped onto the truck screaming and cursing wearing all black and not identifying himself as a U.S. Marshal. Owens was scared. When the officer reached for a weapon and jumped down from the truck, Owens put the vehicle in reverse and the officer fired his weapon. There was zero threat.

SCENE

35 Wheeler Street⁴

On January 13, 2022, at approximately 2:00 p.m., Western District Major Crime Squad (WDMCS) detectives were called to process the scene located at the parking lot of 35 Wheeler Street, New Haven. Detectives documented the scene through video, image photography, and FARO CD laser scan. In addition, detectives seized five shell casings and one spent bullet.

The scene was located at the rear parking lot behind 35 Wheeler Street. Onofrio Ultimate Foods owns the building and property. The parking lot is accessible from Wheeler Street via two driveways and via a single driveway on 44 Laura Street. There were metal gates that closed across these driveways. These gates are open during business hours to allow employees to park their cars.

Three buildings surrounded the parking lot that were part of Onofrio Ultimate Foods.

⁴ During the investigation, detectives learned that the building utilized by Onofrio Ultimate Foods was located at 35 Wheeler Street, but the parking lot where the incident occurred was designated as 55 Wheeler Street. The reports reference both addresses.



Onofrio Ultimate Foods Parking Lot



Detectives located Owens' 2015 Chevy Cruz parked near the Laura Street entrance.

There were several Conex storage boxes along the west side of one of the buildings. A red Dodge Ram pickup truck was parked next to one of the Conex boxes. The owner, Stacy Rouleau, was seated in the vehicle. He later provided a statement regarding what he saw.



The building at 35 Wheeler Street was along the west side of the parking lot. There were surveillance cameras mounted on either corner of the east side of the building. Detectives seized video recordings from these cameras.



Detectives located five shell casings within the center of the parking lot designated as Exhibits 1,2,3,4, and 5.





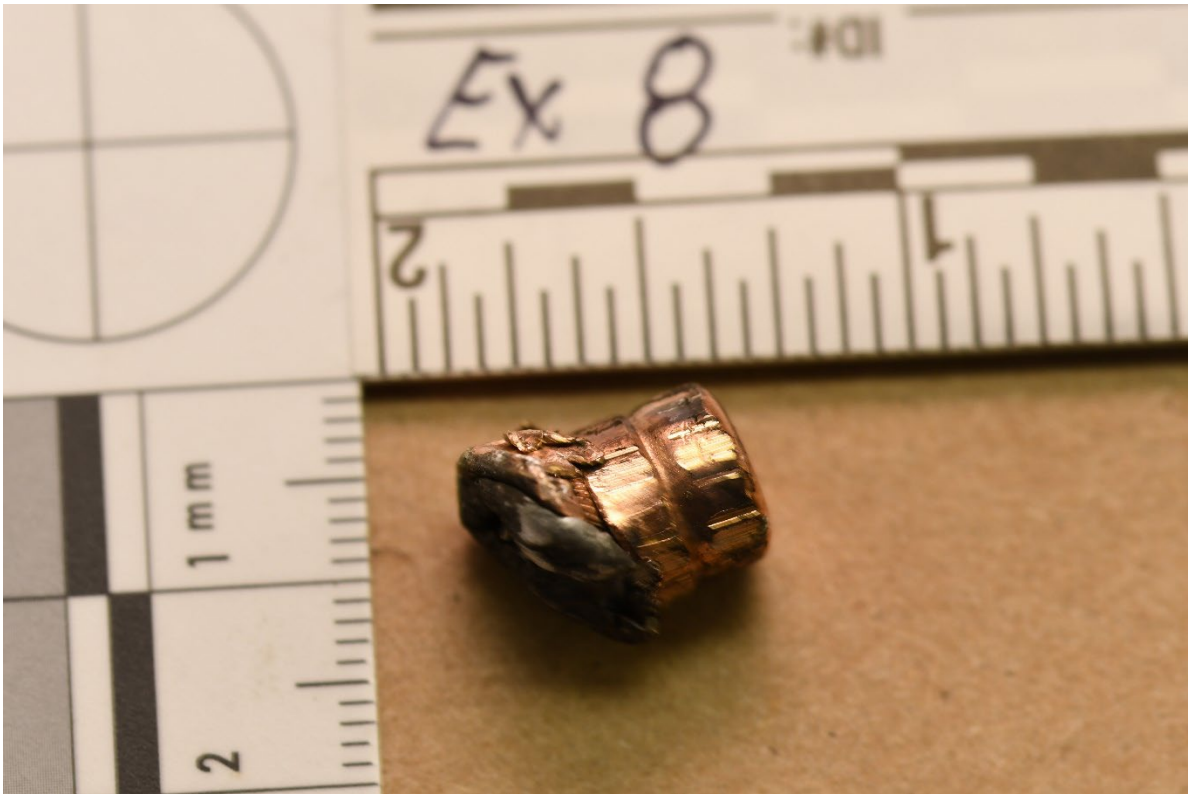




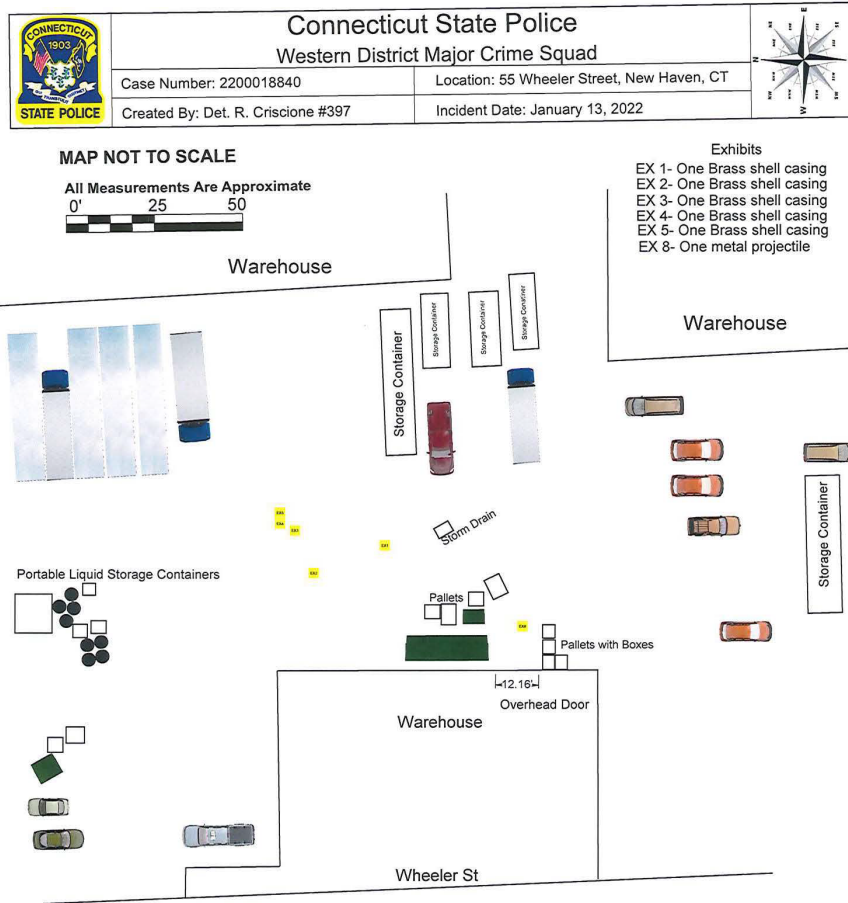


All five casings were Hornaday 9mm Luger R+P. A copper-jacketed projectile was located next to pallets in the parking lot and designated as Exhibit 8.





Detectives placed a FARO Focus at four locations in the parking lot to document the scene. FARO Scene software merged the coordinates into a common coordinate system. From that data, detectives created a detailed scene diagram.



Boston Avenue, Bridgeport

Detectives also photographed the Onofrio Ultimate Foods truck at the scene where it was involved in a motor vehicle accident near the intersection of Boston Avenue and Seaview Avenue in Bridgeport.







The truck was towed to Troop G in Bridgeport where it was searched pursuant to a search warrant.





Given the damage to the exterior of the vehicle, detectives located nothing of evidentiary value. Detectives searched and inventoried the contents of the truck. This search of the interior also revealed nothing of evidentiary value.

ONOFRIO'S SURVEILLANCE CAMERAS

The officers involved in the attempted arrest of Owens at 35 Wheeler Street were not wearing body-worn cameras and their vehicles were not equipped with dash cameras. The Onofrio building at 35 Wheeler Street did have surveillance cameras covering different sections of the parking lot. Three of those cameras provided relevant information.

Camera 10

This camera was located in the northeast area of the building and faced east. As relevant to this investigation, the video depicts the following:

January 13, 2022

11:22:55 – Owens pulls white box truck into parking spot in Onofrio's lot.

11:23:14 – Owens opens driver's door.

11:23:18 – DUSM Masterson and TRO Grasso pull next to Owens' truck.

11:23:22 – TFO Roscoe and Detective Winkler park their vehicle to the rear of the truck.

11:23:27 – Masterson and Grasso exit their vehicle.

11:23:29 – Owens closes driver's door.

11:23:30 – Grasso attempts to open door.

11:23:33 – Winkler is outside of his vehicle to the rear of the truck.

11:23:37 – Grasso, holding driver door handle, steps onto running board of truck. Back-up lights of truck illuminate.

11:23:38 – Masterson points his gun toward truck.

11:23:39 – Truck starts to back up.

11:23:41 – Grasso jumps off running board and runs alongside of the truck as it moves rearward.

11:23:42 – Masterson runs toward the front of the truck as it pivots to drive ahead.

11:23:48 – Truck drives away. Grasso runs behind.

11:23:53 – TFO Matthew Szymczak and Detective Jesse Meade drive near the truck as it pulls away. Roscoe and Winkler start to drive out of parking lot.

11:24:06 – Masterson and Grasso return to their vehicle and leave parking lot.

To view this portion of the video recording from Camera 10 [11:22:50 to 11:24:22], click [here](#).

Camera 11

This camera was located at the southeast corner of the building facing east. As relevant to this investigation, the video depicts the following:

January 13, 2022

11:22:46 – Owens drives white box truck into parking lot.

11:23:05 – Owens parks truck.

11:23:09 – Masterson and Grasso drive into parking lot.

11:23:17 – Roscoe and Winkler drive into parking lot.

11:23:27 – The two task force cars pull to the driver side and to the rear of the truck.

11:23:29 – Winkler exits passenger side of his vehicle.

11:23:39 – Truck starts to back up.

11:23:43 – Truck moves quickly in reverse. Masterson in view at front of truck.

11:23:44 – Truck in process of turning and starting to go forward. Masterson aiming in vicinity of front driver side tire.

11:23:40 – Flashes seen coming from Masterson’s gun. Szymczak and Meade enter parking lot in a blue vehicle.

11:23:50 – Owens drives truck out of parking lot. Masterson and Grasso follow for a short distance.

11:24:21 – Masterson and Grasso drive out of lot in pursuit of Owens.

To view this portion of the video recording from Camera 11 [11:22:44 to 11:24:23], click [here](#).

Camera 15

This camera recorded the south entrance to the parking lot. As relevant to this investigation, the video depicts the following:

January 13, 2022

11:23:40 – Szymczak and Meade drive into parking lot in a blue vehicle.

11:23:58: Owens drives truck out of parking lot.

11:24:21 – Masterson and Grasso drive out of the lot in pursuit of Owens.

To view this portion of the video recording from Camera 15 [11:23:35 to 11:24:25], click [here](#).

FINDINGS

1. On January 13, 2022, three arrest warrants were outstanding charging Marvin Owens with various offenses, including multiple counts of violation of a protective order, assault in the third degree, reckless endangerment in the first degree, and assault in the second degree. The warrants were based on incidents of alleged domestic violence and involved the same alleged victim.
2. The apprehension responsibility for the three warrants was delegated to the United States Marshals Service Violent Crime Task Force.
3. Bridgeport Police Department Detective Lynn Henschel advised task force officers (TFOs) that Owens had a history of weapons possession and was known to carry a firearm in his vehicle. Henschel also reported that Owens was aware of the arrest warrants and might try to flee.

4. TFOs learned that Onofrio Ultimate Foods in New Haven employed Owens.
5. On January 13, 2022, Detective Elizabeth White determined that Owens' personal vehicle was parked in the Onofrio's parking lot and that Owens was on the job making a delivery out of state.
6. TFOs responded to New Haven and took up positions near Onofrio's business premises at 35 Wheeler Street, New Haven.
7. At approximately 11:40 a.m., Owens drove a white Onofrio Ultimate Foods box truck into the parking lot and parked the truck facing a wall. He opened the driver's door. DUSM James Masterson and TFO Nicholas Grasso followed Owens into the parking lot stopping next to the driver's side of the truck. TFO Adam Roscoe and Bridgeport Police Detective Robert Winkler also drove into the lot and stopped behind Masterson's vehicle.
8. Grasso exited his vehicle and approached Owens who closed the truck's door. Grasso was wearing a police tactical vest with "POLICE" on the front and back. Grasso attempted to open the driver's door but it was locked. Grasso stepped onto the truck's running board. He announced "Police" and for Owens to open the door.
9. Masterson exited his vehicle and was at the front of the truck. Winkler also exited his vehicle and was at the rear of the truck on the driver's side.
10. Owens ignored Grasso's commands, started the truck's engine, and began rapidly moving in reverse. Grasso was still on the running board and Winkler was to the rear.
11. As the truck reversed, Masterson determined that the moving truck presented an imminent risk of serious injury to Grasso, Winkler, and Roscoe. To eliminate the threat, he fired five rounds at the truck's driver side front tire.
12. Owens drove out of the parking lot and onto I-95 southbound. The Connecticut State Police took over the pursuit. Owens did not comply with police efforts to pull him over. During the chase, the tires on the truck's two front wheel shredded off.
13. Owens exited I-95 at exit 29 in Bridgeport. The pursuit ended when Owens collided with two vehicles near the intersection of Boston Avenue and Seaview Avenue. Owens fled on foot but was quickly apprehended.
16. In his two handwritten submissions to the Office of Inspector General, Owens made the following assertions:

a. A person in black attempted to enter his truck yelling for Owens to open the door. He then stepped back pulled out a gun and started firing towards the driver side door of the truck.

b. Owens did not know that any officer was involved until the police pursuit.

c. The person who fired at Owens never stated or attempted to state that he was a United States Marshal.

d. When the Marshal approached the truck, his firearm was not drawn. It was only when the Marshal got onto the truck that he reached for his firearm.

e. Owens never came out, exited, or opened the door to the truck.

f. Owens never got back into the truck and shut or locked the door.

g. The officer who jumped onto the truck never identified himself as a United States Marshal. While on the truck, he reached for a weapon and jumped down. Owens then put vehicle in reverse and the officer fires his weapon.

h. There was zero threat.

The import of these assertions are that (1) none of the officers involved in the attempted arrest of Owens were identifiable as police officers, (2) Owens never opened, closed or locked the door to the truck, (3) TFO Grasso fired at the truck's driver door, and (4) Owens' action posed "zero threat." I reject these assertions for the following reasons:

IDENTIFICATION AS POLICE

The credible evidence supports Grasso's statement that he wore a tactical vest labeled POLICE on the front and back. Detectives photographed Grasso wearing such vest and it is visible on the video recordings.

The video also shows Grasso at the door of the truck gesturing. I find credible his statement that he verbally identified himself as a police officer at that time.

DOOR

The video from Camera 10 shows Owens opening the door shortly after parking the truck. As Grasso and Masterson approach the truck, the video shows Owens pulling the door

closed. That the door was locked is demonstrated by Grasso's repeated unsuccessful efforts to open it.

ACTIONS OF TFO GRASSO

Grasso never fired his gun. The video from Camera 10 shows his efforts to open the truck's driver door and his jumping from the truck's sideboard as it moves in reverse. At no time, does he fire his weapon. To the contrary, both videos show that Masterson was the only person who fired his weapon.

ZERO THREAT

Task force officers had intelligence that Owens was aware that the police had warrants for his arrest and that he might run. His actions in rapidly backing the truck up while TFOs were either on the truck or in close proximity, posed a grave threat of injury to them.

The desperation of Owens' efforts to avoid arrest at all costs is evident from his flight from police during a twenty-mile pursuit from New Haven to Bridgeport. The shredding of the tires on both front wheels and having to drive on bare rims did not make him stop. It took a motor vehicle collision in Bridgeport to stop the truck. Even then, Owens attempted to flee on foot.

Owens' general assertion is that his flight was due to fear from an unexpected encounter with a man in all black who fired at the truck's door and had nothing to do with the police trying to arrest him. I find that not to be credible.

LEGAL STANDARD

The use of force by a police officer is governed by General Statutes §53a-22. The version of that statute in effect on January 13, 2022, in relevant part, provides:

“(a)(1) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or prevent an escape from custody.

(2) A peace officer ... who is effecting an arrest pursuant to a warrant or preventing an escape from custody is justified in using the physical force prescribed in subsections (b), (c), and (d) of this section unless such warrant is invalid and known by such officer to be invalid.

(b) Except as provided in subsection (a) ... of this section, a peace officer ... is justified in using physical force upon another person when and to the extent that he or she reasonably believes such use to be necessary to: (1) Effect an arrest or prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense, unless he or she knows that the arrest or custody is unauthorized; or (2) defend himself or herself or a third person from the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(c) (1) ... a peace officer ... is justified in using *deadly physical force* upon another person for the purposes specified in subsection (b) of this section only when his or her actions are objectively reasonable under the circumstances, and:

(A) He or she reasonably believes such to be necessary to defend himself or herself or a third person from the use or imminent use of deadly physical force ..." (Emphasis added).

The statute further provides:

"For the purpose of evaluating whether the actions of a peace officer ... are reasonable under subdivision (1) of this subsection, factors to be considered include, but are not limited to, whether (A) the person upon whom deadly force was used possessed or appeared to possess a deadly weapon, (B) the peace officer ... engaged in reasonable de-escalation measures prior to using deadly physical force, and (C) any conduct of the peace officer ... led to an increased risk of an occurrence of the situation that precipitated the use of force," §53a-22 (c)(2).

Accordingly, a police officer is justified in using deadly physical force upon another person when the officer reasonably believes such force to be necessary to defend the officer or a third person from the use or imminent use of deadly physical force.⁵ "Deadly physical force" means "physical force that can be reasonably expected to cause death or serious physical injury." General Statutes § 53a-3(5). "Serious physical injury" means "physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ." General Statutes §53a-3(4).

The reasonableness of a police officer's belief under § 53a-22 is evaluated pursuant to a subjective-objective formulation. *State v. Smith*, 73 Conn. App. 173, 185, 807 A.2d 500, cert. denied 262 Conn. 923, 812 A.2d 865 (2002). Under this test, the first question is whether, on the basis of all of the evidence, the police officer in fact honestly believed that deadly force was necessary to defend himself/herself or a third person. *Id.* If it is determined that the police

⁵ It is arguable that §53a-22 should not apply to Masterson's use of force. As noted above, that statute applies to the use of force against another *person*. Masterson, the TFOs, and civilian witness all agree that the shots were fired at the truck's front tire. Whether the use of force directed to a truck is also a use of force against the occupant of the truck, is an issue that I need not address. Masterson's use of force is justified either way.

officer honestly believed that deadly force was necessary, the second part of the test asks whether the police officer's honest belief was reasonable from the perspective of a reasonable police officer in the officer's circumstances. *Id.* at 198.

The United States Supreme Court has explained this test in a civil rights case: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on scene rather than with the 20/20 vision of hindsight. ... [T]he calculus of reasonableness must embody allowance of the fact that police officers are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

UNITED STATES MARSHALS SERVICE (USMS) POLICY

The United States Marshals Service Policy Directives pertaining to the use of force in effect on January 13, 2022, set forth the following directives:

A. Policy Statements: The use of force by USMS personnel must be objectively reasonable and may range from verbal commands to the use of deadly force.

2. **Deadly Force:** USMS personnel may use deadly force only when necessary; that is, when there is an objectively reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to USMS personnel or to another person.

a. If feasible, and if doing so would not increase the danger to USMS personnel or others, a verbal warning to submit to the authority of USMS personnel shall be given prior to the use of deadly force.

b. Deadly force may not be used solely to prevent the escape of a fleeing subject or prisoner.

c. Firearms may not be fired solely to disable moving vehicles or prevent a fugitive's escape.

d. Warning shots are not authorized.

POSTC STANDARD⁶

The State of Connecticut Police Officer Standards and Training Council (POSTC), on November 19, 2019, adopted an updated Model Policy regarding motor vehicle pursuits. As relevant here, Section 8 of the Model Police provides:

“1. Officers shall not discharge their firearms at a moving vehicle or its occupants unless the occupants are using, or threatening the use of, deadly physical force against the officer or another person by means other than the vehicle.

a. This does not preclude exigent circumstances such as, but not limited to, where the officer reasonably believes that there are no other means available to avert the threat of the vehicle, or if such vehicle is being utilized as a weapon against the officer(s), or another person such as in a vehicle ramming attack.

c. No officer should intentionally position his or her body into a path of a fleeing motor vehicle unless such tactic is approved by the law enforcement unit that employs such police officer and in accordance with an established written policy. Wherever possible, the involved officer should make an effort to move to an area of safety if the vehicle becomes a threat, including retreating from the threat if practical.”

This policy expresses the general proposition that police officers should not discharge their firearms at moving vehicles. The policy, however, authorizes the use of a firearm in certain exigent circumstances. One such circumstance is where the officer reasonably believes that there are no other reasonable means available to avert the threat posed by the vehicle.

ANALYSIS

Under Connecticut law as applicable here, a determination as to whether a police officer’s use of deadly force was objectively reasonable requires, in part, consideration of four questions:

1. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that he/she or a third person was facing either the actual or imminent use of deadly force when the officer used deadly force?

2. Was that actual belief reasonable in the sense that a reasonable police officer in the officer’s circumstances at the time of the officer’s actions, viewing those circumstances from the officer’s point of view, would have shared that belief?

⁶ The statutory definition of “police officer” does not include United States Marshals. See General Statutes §7-294a(9). POSTC Standards, therefore, do not apply to them. The POSTC Standards are included in this report as an example of best practices.

3. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that the use of deadly force was necessary to defend himself/herself or a third person from such threat?

4. Was that actual belief reasonable, in the sense that a reasonable police officer in the officer's circumstances at the time of the officer's actions, viewing those circumstances from the officer's point of view, would share the belief that deadly force was necessary?

Additionally, the reasonableness of the officer's conduct also turns on whether (1) the other person possessed a deadly weapon (or appeared to), (2) the officer attempted reasonable de-escalation measures, and (3) the situation was not precipitated by the officer's own conduct.

The credible evidence supports Masterson's statement that he actually believed that other task force officers were facing death or serious physical injury had they been hit or run over by the accelerating box truck moving rearward toward them. Such actual belief was not exaggerated or unfounded and a reasonable police officer in the same circumstances at the time would have felt the same way. The credible evidence further supports Masterson's stated belief that discharging his firearm at the reversing truck was the only readily available feasible means to defend other officers from the threat that they faced. Such belief was reasonable because a reasonable police officer in the same circumstances at the time would have shared that belief. Moreover, the exigencies of the situation did not permit the utilization of any de-escalation techniques, and the use of deadly force was not precipitated by police conduct.

It is arguable that, at the time Masterson fired his last shot, the moving truck no longer posed a threat to other officers. See Camera 11 at time 11:23:45 (elapsed time 8:45). For several reasons, I do not see this possibility as undermining my conclusion that Masterson's use of force was justified. First, Masterson's discharge of his firearm lasted only about four seconds. Second, Owens' erratic driving posed a continuing threat to others. Third, the video does not show Grasso's exact location with respect to his proximity to the truck at the time of the last shot. Fourth, Masterson's actions to stop the threat posed by the truck were one continuous unit. Fifth, the situation presented a classic need for split-second decision-making. This was not a situation where shots were fired as the truck drove away from the officers and out of the parking lot. It is also relevant that Masterson's shots were directed at the truck's tire.

I would note that I fully endorse the general prohibition against shooting at moving vehicles contained in federal, state and local police standards. Masterson's conduct, however, falls within the exception for situations in which moving vehicles pose an imminent danger to others.

CONCLUSION

The investigation establishes that DUSM James Masterson used deadly force to protect other officers who were in imminent danger from Owens' efforts to avoid arrest. I therefore conclude that such use of force was justified under Connecticut law. The Office of Inspector General will take no further action on this matter.

Submitted this 17th day of November, 2022.

A handwritten signature in blue ink that reads "Robert J. Devlin, Jr." written over a horizontal line.

ROBERT J. DEVLIN, JR.

INSPECTOR GENERAL

ADDENDUM

Recommendations

On January 13, 2022, Connecticut law did not require the use of body worn cameras (BWCs). Such use was mandated by statute effective July 1, 2022. Had the TFOs in the present case worn cameras, it would have provided a real time account of what transpired in the parking lot of Onofrio Ultimate Foods.

The United States Department of Justice (DOJ) addressed the subject of BWCs in two memos issued by Deputy Attorney General Lisa Monaco. On October 29, 2020, Monaco announced that the DOJ would *permit* federally deputized officers, that is task force officers, to activate BWCs while serving arrest warrants, during planned arrest operations, and during the execution of search warrants. On June 7, 2021, Monaco announced a change in DOJ policy to *require* federal agents and task force officers to wear and activate BWC recording during (1) a pre-planned attempt to serve an arrest warrant and other pre-planned arrest operations, including the apprehension of fugitives sought on state and federal warrants; or (2) the execution of a search or seizure warrant or order. The memo directed federal law enforcement agencies to submit to the DOJ their own BWC policies and name a senior official with responsibility to implement such BWC policy.

As of the time of this report, there are ongoing and productive discussions about the use of BWCs by TFOs and the availability of such recordings to non-federal agencies. My recommendation is that TFOs should wear cameras during the preplanned activities noted in the DOJ memo, as well as unplanned vehicle stops, arrests, and searches, provided such actions are reasonably foreseeable.