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Chief Craig,  
For forwarding  
to the Firearms  
Discharge  
Board upon  
review.

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**INTERNAL INVESTIGATIONS SECTION**

Captain Paul H. Humphries, Commander

Case Number: #11060

Date Assigned: 04-18-11

INVESTIGATOR: Sergeant Gregory J. Ventre

Reviewed By: [Signature] Date: 11/3/11

Approved By: [Signature] Date: 11/3/11

Submitted To the Police Chief on: 11/14/11 by

[Signature]  
Lieutenant Colonel Richard L. Janke  
Administration Bureau Commander

**CINCINNATI POLICE DEPARTMENT  
INTERNAL INVESTIGATIONS SECTION  
CASE #11060**

**Introduction:**

Internal Investigations Section (IIS) has completed an administrative review of the critical firearm discharge involving Police Sergeant Andrew Mitchell, Badge: S87, District Five.

On April 18, 2011, at approximately 0259 hours, the Emergency Communications Center received an emergency "911" call from Mr. Jason Weller. Mr. Weller reported that a white male individual known as "Bones" and an unknown white female attacked him with a sword inside his basement apartment located at 4352 Virginia Avenue. Bones and the white female fled from the apartment.

The Emergency Communications Center broadcast the description of the suspects and dispatched District Five officers to 4352 Virginia Avenue, to investigate the reported felonious assault. Sergeant Andrew Mitchell, Badge: S87, District Five, Police Officer Todd Pierson, Badge: P713, District Five, and Police Officer Larry Johnson, Badge: P919, District Five, were dispatched to 4352 Virginia Avenue.

At approximately 0310 hours, Police Officer Brian Kneller, Badge: P161, District Five, located Bones and the white female at 1833 Chase Avenue. Sergeant Mitchell, Officer Johnson, and Police Officer Nicolino Stavale, Badge: P885, District Five, arrived at 1833 Chase Avenue, to assist Officer Kneller.

**Note:** *"Bones" was identified as Mr. David Hebert*

**Note:** *The white female was identified as Ms. Megan Hutchinson.*

Officer Johnson ordered Mr. Hebert to stand up. Mr. Hebert stood up, reached into his right front pants pocket, and removed a switchblade knife from the pocket. Mr. Hebert stepped toward Officer Johnson, slashing the knife back and forth at Officer Johnson.

Sergeant Mitchell fired two shots from his Department issued firearm, striking Mr. Hebert in the chest and left arm. Upon impact of the rounds, Mr. Hebert threw the knife, breaking the front window at 1833 Chase Avenue. Mr. Hebert then fell to the ground and succumbed to his injuries.

**Overview of Scene:**

On April 18, 2011, at approximately **0330 hours**, Internal Investigations Section investigators responded to 1833 Chase Avenue, to monitor the investigation of the Criminal Investigation Section (CIS), Homicide Unit, Criminalistics Squad, and Traffic Unit.

Immediately following the report of shots fired by police, officers on the scene secured the scene with crime scene tape to ensure protection of the evidence. The scene was protected by uniform police officers and entry was restricted to authorized personnel.

Traffic posts were established on the perimeter surrounding the incident scene to divert vehicular traffic away from the scene.

The Criminalistics Squad photographed the scene and collected evidence. The Criminalistics Squad used the Leica Geosystems laser scan to take measurements of the scene.

Internal Investigations Section investigators viewed the incident scene and monitored the interviews of police officers and witnesses at the Criminal Investigation Section office.

**Physical Evidence:**

The Criminalistics Squad collected physical evidence and photographed the crime scene at 1833 Chase Avenue.

Evidence #1 – Body of David Paul Hebert

Evidence #2 – Personal property of David Paul Hebert (wallet, lighter, misc. keys, cellular phone, Top cigarette papers, a pouch of tobacco, Louisiana drivers license, and Oregon driver's license)

Evidence #3 – Colt 45 Malt Liquor bottle, 40 oz

Evidence #4 – 9mm Winchester casing

Evidence #5 – 9mm Winchester casing

Evidence #6 – Switchblade knife, marked "Frank B Italy" with 6 inch blade and 7 inch handle

## Evidence #7 – Projectile

### Executive Summary of Incident:

On April 18, 2011, at approximately 0222 hours, the Emergency Communications Center received an Emergency “911” call from Mr. Steve Vonder regarding a domestic disturbance inside the basement apartment at 4352 Virginia Avenue. Mr. Vonder cancelled the call for service while speaking to the Emergency Communications Center prior to officers being dispatched, stating there was no longer a disturbance.

On April 18, 2011, at 0259 hours, the Emergency Communications Center received an Emergency “911” call from Mr. Weller. Mr. Weller reported that a white male individual known as “Bones” and an unknown white female attacked him with a sword inside his basement apartment at 4352 Virginia Avenue.

Bones and the white female fled from the apartment. Mr. Weller was injured in the attack; however, he was able to provide Emergency Communications Center with a physical and clothing description of the two individuals. The description was: Suspect #1, “Bones,” white male in his forties, five feet ten inches tall, ninety pounds, wearing all black clothing. Suspect #2 was a white female in her twenties, one hundred twenty pounds, wearing unknown clothing. Suspects took the weapon with them and were last seen in an unknown direction.

At approximately 0259 hours, the Emergency Communications Center broadcast the description of Mr. Hebert and Ms. Hutchinson and dispatched Sergeant Mitchell, Officer Pierson, and Officer Johnson to 4352 Virginia Avenue to investigate the reported felonious assault.

At approximately 0310 hours, Officer Kneller observed Mr. Hebert and Ms. Hutchinson at 1833 Chase Avenue. Officer Kneller advised the Emergency Communications Center, via police radio, of Mr. Hebert’s and Ms. Hutchinson’s location.

Officer Kneller exited his police vehicle and approached Mr. Hebert and Ms. Hutchinson. Mr. Hebert was seated on the sidewalk on the south side of Chase Avenue with Ms. Hutchinson standing next to him.

Sergeant Mitchell, Officer Johnson, and Officer Stavale arrived at 1833 Chase Avenue to assist Officer Kneller and took cover positions around Mr. Hebert. Officer Johnson began questioning Mr. Hebert about the location of the knife used in the assault of Mr. Weller. Mr. Hebert denied he possessed a knife.

Officer Johnson told Mr. Hebert to stand up. As he stood up, Mr. Hebert reached into his right front pants pocket. Officer Johnson **ordered Mr. Hebert twice to remove his hand from his pants pocket.**

Mr. Hebert disregarded Officer Johnson's orders and produced a switchblade knife, which **was opening as Mr. Hebert pulled the knife from his pocket. Mr. Hebert stepped toward Officer Johnson while slashing the knife, back and forth at Officer Johnson.**

Officer Johnson began backing up from Mr. Hebert to create distance and started to remove his Department issued firearm from the holster. Sergeant Mitchell, who had taken a cover position behind Mr. Hebert, drew his Department issued firearm from the holster and fired two shots striking Mr. Hebert in the chest and left arm. **Upon impact of the rounds, Mr. Hebert threw the knife** breaking the front window at 1833 Chase Avenue. Mr. Hebert then fell to the ground.

Sergeant Mitchell advised the Emergency Communications Center, via police radio, that shots had been fired which had taken effect and requested the Cincinnati Fire Department respond to the scene for medical assistance. **At approximately 0316 hours, Cincinnati Fire Department personnel arrived at 1833 Chase Avenue.** Cincinnati Fire Department personnel pronounced Mr. Hebert dead at the scene.

Lieutenant Joseph Milek, Badge: L15, District Five, arrived on the scene and identified the involved officers, established the crime scene perimeters, coordinated street closures, and designated staging areas for both police and media. Lieutenant Milek also requested standby officers from other districts to assist with securing the crime scene and to handle calls for service in the District Five area.

Captain Jeffery Butler, Badge: C20, Night Chief, arrived on the scene and conferred with Lieutenant Milek before assuming command of the incident.

Captain Butler assigned the following control supervisors to the officers involved in the incident:

- Sergeant John Hudson, Badge: S88, District Three, was assigned as the control supervisor for Sergeant Mitchell.
- Sergeant Jeffery Battison, Badge: S151, District Two, and Sergeant Donnan Murnan, Badge: S151, District Two, were assigned as control supervisors for Officer Johnson.
- Sergeant Troy Bastin, Badge: S238, District Four, and Sergeant Jennifer Jones, Badge: S911, District Four, were assigned as control supervisors for Officer Stavale.

- Sergeant Anthony Faillace, Badge: S93, District One, and Captain Butler were assigned as control supervisors for Officer Dawson.
- Lieutenant Milek was assigned as the control supervisor for Officer Kneller.

Police Officer John Neal, Badge: P209, District Five, transported Ms. Hutchinson to the Criminal Investigation Section office.

Homicide Unit investigators interviewed witnesses while Criminalistics Squad investigators collected and recorded evidence. Personal Crimes Unit investigators canvassed the area for additional witnesses.

Doctor Anant Bhati, Hamilton County Coroner, Doctor William Ralston, Chief Deputy Coroner, and Mr. Charlie Beaver, Coroner's Office Investigator, responded to the scene to investigate the death of Mr. Hebert. The Hamilton County Coroner's Office took charge of Mr. Hebert's body.

#### **Synopsis of Homicide Unit Interviews:**

**Mr. Jason Weller, White/Male/37, 4352 Virginia Avenue, Apartment #5, Cincinnati, Ohio 45223, Telephone: [REDACTED]**

On April 17, 2011, at approximately 1530 hours, Mr. Weller met Mr. Hebert at a kickball tournament held in Hoffner Park at 4101 Hamilton Avenue.

Mr. Weller and Mr. Hebert began drinking beer while at the kickball tournament.

Mr. Weller observed that Mr. Hebert was in possession of a large switchblade knife at the park, which Mr. Hebert received at Junker's bar, 4156 Langland Avenue. Mr. Weller asked Mr. Hebert why he had an illegal knife.

Mr. Hebert told Mr. Weller he was staying in his van at an unknown location and the owner of the house had become upset with Mr. Hebert. Mr. Weller invited Mr. Hebert to stay at his apartment at 4352 Virginia Avenue. Mr. Weller and Mr. Hebert left the park. Mr. Weller and Mr. Hebert returned to Junker's bar and consumed more alcoholic beverages.

Mr. Hebert used Mr. Weller's cellular telephone to call Ms. Hutchinson. Mr. Hebert arranged to meet Ms. Hutchinson at the United Dairy Farmers store at 1560 Chase Avenue. Mr. Weller did not know Ms. Hutchinson. Ms. Hutchinson met Mr. Hebert and Mr. Weller at the United Dairy Farmers store where Ms. Hutchinson gave Mr. Hebert "mushrooms."

Ms. Hutchinson and Mr. Hebert consumed the mushrooms. Mr. Weller did not consume any of the mushrooms. Mr. Weller, Mr. Hebert, and Ms. Hutchinson walked from the United Dairy Farmers store to Mr. Weller's apartment.

**Note:** *Mushrooms, known as "Psilocybin Mushrooms," are a fungi which contain psychoactive compounds psilocybin and psilocin which causes hallucinogenic effects. Psilocybin and psilocin are listed as a Schedule I drug under the United Nations 1971 Convention on Psychotropic Substances.*

Ms. Hutchinson began kissing and flirting with both Mr. Weller and Mr. Hebert. Mr. Hebert went into the bathroom followed by Ms. Hutchinson. Ms. Hutchinson exited and re-entered the bathroom with Mr. Hebert several times causing Mr. Weller to question what Mr. Hebert and Ms. Hutchinson were doing.

Mr. Weller was lying on his bed when Mr. Hebert quickly exited the bathroom with a large bladed knife that belonged to Mr. Weller. The knife had a rounded handle that Mr. Weller described as a pirate knife. Mr. Hebert approached Mr. Weller with the knife. Mr. Weller grabbed the knife with his left hand as Ms. Hutchinson moved toward Mr. Weller. Mr. Weller struck Ms. Hutchinson with his elbow and forearm knocking her backwards. Mr. Hebert pulled the knife back cutting Mr. Weller's left hand. Mr. Hebert and Ms. Hutchinson fled from the apartment with Mr. Hebert's dog.

Mr. Weller telephoned the Emergency Communications Center to report the assault.

Mr. Weller told the responding officers that Mr. Hebert had cut him with a knife and had taken his wallet which had been attached to his pants.

Mr. Weller had no further contact with Mr. Hebert after Mr. Hebert and Ms. Hutchinson left the apartment.

**Ms. Megan Hutchinson, White/Female/25, 4** [REDACTED]

**Note:** *Ms. Hutchinson was interviewed by Homicide investigators twice on April 18, 2011, and once on April 20, 2011.*

Ms. Hutchinson has known Mr. Hebert, also known as "Bones," for approximately ten years. On Sunday, April 17, 2011, Ms. Hutchinson and Mr. Hebert were at Hoffner Park playing kickball.

Mr. Hebert had a stiletto style switchblade knife on his person, which Mr. Hebert had shown to Ms. Hutchinson.

Later that day, Ms. Hutchinson left Hoffner Park to attend a party with co-workers in Batavia, Ohio.

Later in the evening, Mr. Hebert telephoned Ms. Hutchinson to meet her at the United Dairy Farmers store at 1560 Chase Avenue. At approximately 2230 hours, Ms. Hutchinson met Mr. Hebert at the United Dairy Framers Store. Mr. Weller was with Mr. Hebert.

Ms. Hutchinson ate a mushroom stem and gave Mr. Hebert a mushroom stem to eat. Ms. Hutchinson, Mr. Hebert, and Mr. Weller began walking through alleys in the Northside neighborhood before responding to Mr. Weller's apartment at 4352 Virginia Avenue.

Ms. Hutchinson, Mr. Hebert, and Mr. Weller were socializing in the apartment while Mr. Hebert and Mr. Weller reminisced about the past.

Mr. Weller became upset because Ms. Hutchinson would not have sex with him. Mr. Weller was jealous and pulled a large knife and attacked Mr. Hebert. Mr. Hebert took the knife away from Mr. Weller, cutting Mr. Weller's hand. Mr. Hebert gave the knife to Ms. Hutchinson who then put the knife on a television in the apartment. Ms. Hutchinson and Mr. Hebert left the apartment with Mr. Hebert's dog.

Ms. Hutchinson and Mr. Hebert walked southbound on Virginia Avenue to Chase Avenue. Mr. Hebert stopped at 1833 Chase Avenue, and sat down on the sidewalk to roll a cigarette while Ms. Hutchinson stood next to him.

A Cincinnati Police officer in a marked police vehicle stopped and shined the spotlight on Ms. Hutchinson and Mr. Hebert. The officer asked Ms. Hutchinson and Mr. Heber what they were doing.

The police officer exited the vehicle and approached Ms. Hutchinson and Mr. Hebert. Several additional officers arrived on the scene.

Ms. Hutchinson did not know why the officers had approached them. Ms. Hutchinson heard a "POW POW," then was removed from the scene by a police officer and placed in a police vehicle. Ms. Hutchinson was unaware of what had happened but believed Mr. Hebert had been tased by a police officer.



*Note: Ms. Hutchinson was interviewed a second time on April 18, 2011, at the Criminal Investigation Section.*

Ms. Hutchinson remembered that when the police officer told Mr. Hebert to stand up, Mr. Hebert looked at Ms. Hutchinson and told Ms. Hutchinson to take care of Shady, his dog. Mr. Hebert gave Ms. Hutchinson the leash and stood up. Shortly after Mr. Hebert stood up, Ms. Hutchinson heard two gunshots.

*Note: On April 20, 2011, at approximately 1406 hours, Ms. Hutchinson was interviewed a third time regarding the Officer Involved Shooting at 1833 Chase Avenue on April 18, 2011.*

Ms. Hutchinson and Mr. Hebert were walking when they observed a police vehicle at 1833 Chase Avenue. Mr. Hebert sat on the sidewalk when the officer shined his light on Ms. Hutchinson and Mr. Hebert and asked what they were doing. Ms. Hutchinson told the officer they were walking home.

The officer exited the police vehicle but did not ask any other questions. He then placed Ms. Hutchinson in handcuffs and placed her in the rear of the police vehicle.

Ms. Hutchinson may have seen the police handcuff Mr. Hebert but she could not hear what was being said.

Ms. Hutchinson heard three gunshots but did not think it was a gun being fired. Ms. Hutchinson then saw Mr. Hebert fall back and strike his head on the ground.

Ms. Hutchinson stated she was intoxicated from consuming alcoholic beverages and mushrooms and her recollection of the incident may not be accurate.

Ms. Hutchinson did not recall what she said while being interviewed by Homicide investigators on April 18, 2011.

Ms. Hutchinson believed she was seated in the rear of a police vehicle when Mr. Hebert was shot.

**Police Officer Anthony Dawson, Badge: P806, District Five**

On April 18, 2011, at approximately 0259 hours, Officer Dawson was on duty in uniform operating a marked police vehicle. Officer Dawson responded to the Northside neighborhood following a reported felonious assault on Virginia Avenue.

Officer Dawson heard, via his police radio, the description of a white male and white female suspect with a dog. The white male suspect was broadcast as wearing all black clothing. A Bowie style knife was also reported to have been used in the assault.

Officer Kneller advised the Emergency Communications Center, via police radio, that he observed the suspects at Chase Avenue and Florida Avenue.

Officer Dawson turned his police vehicle around, pulled onto Chase Avenue, and parked his police vehicle.

As Officer Dawson was parking his police vehicle, he heard two gunshots. Officer Dawson exited his police vehicle and asked the other officers on scene if anyone was injured. Sergeant Mitchell also asked the officers if they were injured. Officer Dawson observed Mr. Hebert lying on the ground. **Officer Dawson checked Mr. Hebert's condition.**

Cincinnati Fire Department personnel arrived on the scene and evaluated Mr. Hebert's injuries. Fire personnel were unable to revive Mr. Hebert.

Officer Dawson did not fire any gunshots from his Department issued firearm.

*Note: Criminalistics Squad confirmed Officer Dawson did not discharge his Department issued firearm.*

#### **Police Officer Nicolino Stavale, Badge: P885, District Five**

On April 18, 2011, at approximately 0259 hours, Officer Stavale was on duty in uniform operating a marked police vehicle. Officer Stavale responded to 4352 Virginia Avenue for a reported felonious assault where a sword was used. The Emergency Communications Center broadcast, via police radio, that the male and female suspects were no longer on the scene.

When Officer Stavale arrived at 4352 Virginia Avenue, he was told by Officer Pierson that the scene was secured. Officer Pierson told Officer Stavale to assist Sergeant Mitchell's search for Mr. Hebert and Ms. Hutchinson. Sergeant Mitchell had observed Mr. Hebert and Ms. Hutchinson walking on Virginia Avenue when Sergeant Mitchell had originally responded to 4352 Virginia Avenue.

Officer Stavale drove southbound on Virginia Avenue toward Chase Avenue when Officer Kneller advised, via police radio, that he had located Mr. Hebert and Ms. Hutchinson at 1833 Chase Avenue.

Officer Stavale observed Officer Kneller, Officer Johnson, and Sergeant Mitchell standing near Mr. Hebert and Ms. Hutchinson. Mr. Hebert was seated on the sidewalk and Ms. Hutchinson was holding a dog by a leash. Officer Stavale positioned himself behind Officer Johnson. Officer Johnson told Mr. Hebert to stand up.

As Mr. Hebert stood up from the sidewalk, he put his right hand into his right front pants pocket. Mr. Hebert walked towards Officer Johnson. Officer Johnson backed away from Mr. Hebert and told Mr. Hebert two times to remove his hand from his pocket.

Mr. Hebert retrieved a silver knife from his pocket and swung the knife toward Officer Johnson. While Mr. Hebert swung the knife, Officer Stavale heard two gunshots. **Following the gunshots, Mr. Hebert threw the knife** at the residence at 1833 Chase Avenue, breaking the front window. Mr. Hebert fell to the ground with his head toward the curb, perpendicular to the sidewalk.

Sergeant Mitchell took a cover position over Mr. Hebert and told Officer Stavale to search Mr. Hebert for additional weapons. Officer Stavale searched Mr. Hebert and found no additional weapons on Mr. Hebert. Officer Kneller walked Ms. Hutchinson away from the scene.

Officer Stavale did not fire any shots from his Department issued firearm.

*Note: Criminalistics Squad confirmed Officer Stavale did not discharge his Department issued firearm.*

**Police Officer Brian Kneller, Badge: P151, District Five**

On April 18, 2011, at approximately 0259 hours, Officer Kneller was on duty in uniform operating a marked police vehicle. Officer Kneller responded to the Northside neighborhood for a reported felonious assault at 4352 Virginia Avenue. Officer Kneller heard the Emergency Communications Center broadcast the description of the suspects.

Officer Kneller observed Mr. Hebert and Ms. Hutchinson at 1833 Chase Avenue. Mr. Hebert was seated on the sidewalk with Ms. Hutchinson standing next to Mr. Hebert holding a dog by a leash. Officer Kneller broadcast, via police radio, he had located the suspects. Officer Kneller exited his police vehicle and approached Mr. Hebert and Ms. Hutchinson. Officer Kneller stood east of their location, next to a tree. Officer Kneller told Ms. Hutchinson to be seated on the ground and waited for additional police officers to respond.

Officer Johnson arrived on the scene and took a position west of Officer Kneller in front of Mr. Hebert. Officer Johnson began asking Mr. Hebert questions. **The officers heard a broadcast that a large knife had been used.** Officer Johnson told Mr. Hebert to stand up and asked if **he still had a knife.** Mr. Hebert's right hand quickly disappeared under his coat or in his waistband.

**Officer Johnson told Mr. Hebert to remove his hand from his pocket.** Mr. Hebert removed a knife and swung the knife at Officer Johnson. When Mr. Hebert pulled the knife, Officer Kneller believed Mr. Hebert was intending to assault one of the officers.

Mr. Hebert **moved toward Officer Johnson** as he swung the knife. **Officer Kneller was drawing his Department issued firearm from the holster** when he heard two gunshots. Mr. Hebert stopped, threw the knife at the residence at 1833 Chase Avenue, and fell on his back to the ground.

Officer Kneller handcuffed Ms. Hutchinson and placed her inside a police vehicle while Sergeant Mitchell secured the dog. Officer Kneller heard one of the officers broadcast that shots had been fired which took effect. Officer Kneller also heard a request for the Cincinnati Fire Department to respond to the scene for medical assistance.

Officer Stavale searched Mr. Hebert for additional weapons. Officer Johnson searched the front yard at 1833 Chase Avenue for the knife thrown by Mr. Hebert. Cincinnati Fire Department personnel arrived on the scene to treat Mr. Hebert's injuries.

Officer Kneller did not fire any rounds from his Department issued firearm.

***Note: Criminalistics Squad confirmed Officer Kneller did not discharge his Department issued firearm.***

**Police Officer Larry Johnson, Badge: P919, District Five**

On April 18, 2011, at approximately 0259 hours, Officer Johnson was on duty in uniform operating a marked police vehicle. Officer Johnson responded to the Northside neighborhood for a reported felonious assault at 4352 Virginia Avenue where a sword was used in the offense.

The Emergency Communications Center broadcast a description of a white male, known as "Bones" and a white female with a dog had left the scene and were walking on Virginia Avenue toward Chase Avenue.

Officer Kneller broadcast, via his police radio, that he had located Mr. Hebert and Ms. Hutchinson at 1833 Chase Avenue. Officer Johnson responded to 1833 Chase Avenue to cover Officer Kneller.

Officer Johnson arrived on scene and observed Mr. Hebert and Ms. Hutchinson sitting on the sidewalk in front of 1833 Chase Avenue. Officer Johnson approached and asked Mr. Hebert **where his sword was. Mr. Hebert denied any knowledge of a sword** stating he and Ms. Hutchinson were only walking the dog. Officer Johnson ordered Mr. Hebert to stand up.

As Mr. Hebert stood up, he placed his right hand into his right pants pocket. Officer Johnson ordered Mr. Hebert to remove his hand from his pocket. Mr. Hebert stepped toward Officer Johnson with his hand still inside his pants pocket. Officer Johnson again ordered Mr. Hebert to remove his hand from his pocket. Mr. Hebert removed his hand from his pocket holding a knife and continued to move toward Officer Johnson.

Because of the look in Mr. Hebert's eyes and his movement towards Officer Johnson while holding a knife, Officer Johnson believed that Mr. Hebert was going to assault him. Officer Johnson stepped back from Mr. Hebert and began to remove his Department issued firearm from the holster when he heard two gunshots.

Mr. Hebert threw the knife at the residence at 1833 Chase Avenue, and then fell to the ground. Sergeant Mitchell broadcast, via his police radio, that shots fired had taken effect and requested the Cincinnati Fire Department respond to the scene for medical assistance. **Officer Stavale checked on the condition of Mr. Hebert.**

Officer Johnson located the knife which had broken a window in the front of 1833 Chase Avenue. The knife was sticking in the ground in the front yard.

***Note: On April 27, 2011, Officer Johnson responded to the Criminal Investigation Section Homicide Unit to be interviewed a second time. Officer Johnson had recalled additional information regarding the critical firearm discharge which occurred on April 18, 2011.***

Officer Johnson recalled that when Mr. Hebert was ordered by Officer Johnson to stand up, he looked at Ms. Hutchinson and stated, "Take care of my dog." Mr. Hebert then stood up, put his hands in his pocket, and produced a knife.

**Sergeant Anthony Mitchell, Badge: S87, District Five**

On April 18, 2011, at approximately 0259 hours, Sergeant Mitchell was on duty in uniform operating a marked police vehicle. Sergeant Mitchell was dispatched to a call for service at 4352 Virginia Avenue, for a reported felonious assault. As Sergeant Mitchell responded from the District Five station, he observed two individuals walking southbound on Virginia Avenue.

Sergeant Mitchell took a mental note of the white male with short hair wearing a black leather jacket and a white female, clad in all dark clothing walking a dog, and continued to 4352 Virginia Avenue.

When Sergeant Mitchell arrived at 4352 Virginia Avenue, he observed a large amount of blood on the sidewalk. Sergeant Mitchell located Mr. Weller who stated Mr. Hebert and Ms. Hutchinson had cut him with a knife and had taken his wallet from a chain attached to his pants. Sergeant Mitchell determined the offense to be an aggravated robbery. Mr. Weller provided Sergeant Mitchell with the description of Mr. Hebert and Ms. Hutchinson and confirmed they had a dog with them.

Officer Pierson arrived on the scene and was instructed to complete the offense report and to request medical assistance for Mr. Weller. Sergeant Mitchell broadcast, via his police radio, the descriptions of Mr. Hebert and Ms. Hutchinson and the location he last observed them while responding to 4352 Virginia Avenue. Sergeant Mitchell heard another officer broadcast, via his police radio, that both suspects had been stopped at 1833 Chase Avenue.

Sergeant Mitchell responded to 1833 Chase Avenue, and observed Mr. Hebert seated on the sidewalk with outstretched legs facing westbound with Ms. Hutchinson sitting next to Mr. Hebert holding a dog by a leash. Officer Kneller was standing in front of Mr. Hebert.

Sergeant Mitchell took a cover position next to a tree east of Mr. Hebert. **One of the officers** began questioning Mr. Hebert and Ms. Hutchinson. Ms. Hutchinson answered the questions and stated she and Mr. Hebert were walking the dog and had not done anything.

Mr. Hebert stood up and put his right hand into his right front pants pocket. The officer ordered Mr. Hebert several times to remove his hand from his pocket. Sergeant Mitchell **knew** Mr. Hebert was involved in the aggravated robbery where a weapon was used.

Mr. Hebert pulled out a long object from his pocket. Sergeant Mitchell observed the object was a silver bladed knife and pulled his Department issued firearm from his holster and checked his backdrop. Mr. Hebert raised the knife and stepped toward Officer Kneller in an overt aggressive manner putting Officer Knellers' life in danger.

Mr. Hebert was moving the knife in a downward motion toward Officer Kneller when Sergeant Mitchell took a half step to the right, checked the backdrop again, and fired two gunshots at Mr. Hebert. Mr. Hebert fell to the ground.

*Note: The Criminalistics Squad's Leica Geosystems laser scans of the Officer Involved Shooting scene measured the distance between Sergeant Mitchell and Mr. Hebert at approximately 9 feet.*

*Note: The Criminalistics Squad's examination of Sergeant Mitchell's Department issued firearm, ammunition, and recovered casings revealed Sergeant Mitchell discharged his firearm two times during the incident.*

Sergeant Mitchell took a cover position over Mr. Hebert and ordered Officer Stavale to put on surgical gloves to search Mr. Hebert for additional weapons. Sergeant Mitchell directed an officer to remove Ms. Hutchinson from the scene and secure her in a police vehicle. Sergeant Mitchell then broadcast, via his police radio, that shots had been fired, which took effect, and requested medical assistance. No additional weapons were recovered from Mr. Hebert.

Sergeant Mitchell checked Officer Kneller to determine if he had sustained any injury or was cut by Mr. Hebert. Sergeant Mitchell secured the dog to a hand railing and secured the crime scene.

*Note: The Cincinnati Police Department's Homicide Unit also interviewed the following control supervisors for the officers involved. The involved officers made no statements to these control supervisors in reference to this incident.*

**Captain Jeffrey Butler, Badge: C20, Patrol Administration/Night Chief**

**Lieutenant Joseph Milek, Badge: L15, District 5**

**Sergeant John Hudson, Badge: S88, District 3**

**Sergeant Jeffery Battison, Badge: S151, District Two**

**Sergeant Donnan Murnan, Badge: S151, District Two**

**Sergeant Troy Bastin, Badge: S238, District Four**

**Sergeant Jennifer Jones, Badge: S911, District Four**

**Sergeant Anthony Faillace, Badge: S93, District One**

**Additional Information:**

IIS responded to the incident scene at 1833 Chase Avenue, and made the following assessments:

- District Five officers were assigned to posts around the inner perimeter of the incident scene. The scene was secured with crime scene tape. Traffic posts were established on the outer perimeter. Police Officer Jarrod Cotton, Badge: P375, District Five, maintained a crime scene log of personnel who entered and exited the incident scene.
- The staging area for police personnel was established at Chase Avenue and Florida Avenue.
- A media staging area was established at Chase Avenue and Kirby Avenue. Police Sergeant Danita Kilgore, Badge: S711, Public Information Office, responded to the media staging area and addressed requests from the media.

IIS reviewed the recorded radio transmission and Computer Aided Dispatch for incidents #LCP1100418000130, #LCP1100418000159, #LCP1100418000165, #FCF110418000022, and #FCF110418000026.

IIS reviewed mobile digital recorder video from the following police vehicles; equipment #03387, #05317, #06320, #06326, #08320, #08370, #08372, #10318, and #50832. There was no video footage that captured the shots fired during the Officer Involved Shooting, at 1833 Chase Avenue.

IIS reviewed crime scene photographs from 1833 Chase Avenue, and 4352 Virginia Avenue, taken by Criminal Investigation Section Criminalistics Squad personnel.



IIS completed a Form 18F, Use of Force, for the firearm discharge by Sergeant Mitchell.

IIS reviewed the Form 301, Incident Report, completed by Police Officer Todd Pierson, Badge; P713, District Five, regarding the aggravated robbery offense at 4352 Virginia Avenue.

PHH/GJV