



OFFICE OF THE RAMSEY COUNTY ATTORNEY
JOHN J. CHOI, COUNTY ATTORNEY

TO: John Choi, Ramsey County Attorney

FROM: John Kelly, First Assistant Ramsey County Attorney
Hao Nguyen, Trial Division Director

JK

HQN

DATE: July 25, 2025

RE: *In the Matter of the Non-Fatal Shooting of Earl Bennett*
RCAO File Nos. 062-0580035, 062-0580037, 062-0580038, and 062-0580039
BCA File No. 2024-1123

I. INTRODUCTION

On October 28, 2024, at approximately 7:47 P.M., Sergeant LaMichael Shead, and Officers Shawn Marlowe, Chase Robinson and Blake Steffen (collectively referred to herein as the "Four Officers"), each employed by the Saint Paul Police Department ("SPPD"), and while acting in their professional capacities as licensed peace officers, together with numerous other peace officers, responded to five 911 calls made by four different individuals (one person called twice) regarding a male that had discharged a firearm multiple times near the intersection of University and Snelling Avenues in the city of Saint Paul.

After their arrival at the scene at approximately 7:55 P.M., the Four Officers each reported seeing a shirtless, barefoot male later identified as 41-year-old Earl Bennett initially walking southbound in the traffic median on Snelling Avenue towards University Avenue and the nearby Snelling/University Light Rail Transit ("LRT") Station. Video taken from various SPPD vehicles' in-car cameras ("ICCs") and body worn cameras ("BWCs") worn by police officers showed Mr. Bennett holding a handgun to his head as he was first observed walking southbound on Snelling Ave. near the intersection with Charles Ave., moving from the sidewalk to the concrete median to the right traffic lane on Snelling Avenue where he continued to quickly walk toward the nearby Snelling/University Light Rail Transit ("LRT") Station.

SPPD officers repeatedly offered their help to Mr. Bennett while they also issued numerous loud and clear verbal commands directing Mr. Bennett to put down his gun, which he did not do. Mr. Bennett ultimately stopped in the middle of the intersection of University and Snelling Avenues while the Four Officers positioned themselves behind two SPPD vehicles parked diagonally on Snelling Avenue and at various times were approximately 25-40 yards away from where Mr. Bennett was standing. Video taken from a City of Saint Paul Closed Circuit TV ("CCTV") camera located at the intersection of Snelling and University Avenues shows a visibly agitated Mr. Bennett pacing back and forth in the middle of the intersection and on the LRT tracks, while holding a gun to his head with his right hand and yelling incomprehensibly at the Four Officers.

Numerous bystanders can be seen standing both at the entrance to the nearby LRT station platform a few feet away from where Mr. Bennett was pacing back and forth, and at the northwest corner of Snelling and University Avenues. Approximately 50 feet away from Mr. Bennett were numerous occupied motor vehicles in the westbound lane of University Ave. that were stopped at the traffic light because of the presence of both Mr. Bennett and the police. At the same time, occupied motor vehicles can be seen a few feet behind him travelling eastbound on University Avenue during the standoff.

The Four Officers, together with four of their SPPD colleagues, ultimately took cover behind Sergeant Shead's SPPD vehicle that was parked diagonally in the southbound traffic lanes of Snelling Ave. near the crosswalk. Multiple officers at the scene continued to order Mr. Bennett to drop his gun while they prepared to use 40 millimeter less lethal munition ("LLM") projectiles against him. The top half of the LLM projectiles launched by the Four Officers were made of a blue foam rubber material, and the bottom half were made of plastic.

Between 7:57:06 P.M. and 7:57:56 P.M., Officers Borowicz and Suon fired a total of five LLM projectiles at Mr. Bennett, with those LLM rounds being interspersed with numerous additional verbal commands made by multiple officers ordering Mr. Bennett to drop his gun. Despite being struck by one of the LLM rounds, Mr. Bennett did not drop his gun. Numerous verbal commands were again made by many officers directing Mr. Bennett to drop his weapon, but he did not comply with them. Three officers gave written statements that after being struck by the LLM projectile, they each heard Mr. Bennett say something to the effect that if he was hit with another LLM projectile, he was going to make the officers kill him.

In the written statements separately provided by the Four Officers, they each said that Mr. Bennett raised and pointed his gun at the officers. While the audio of the entire incident is captured on many of the ICCs and the BWCs worn by the officers present at the scene, the best video image of the shooting of Mr. Bennett is captured by an adjacent CCTV camera. Video taken from the CCTV camera showed that at 7:57:57.776 P.M., Mr. Bennett raised his firearm towards the Four Officers. The Four Officers responded by firing a collective total of 31 rounds at Mr. Bennett. According to time-stamped audio and video taken from the Four Officers' BWCs, the first audible gunshot fired by the Four Officers occurred at 7:57:58 P.M.

A statement provided to BCA investigators, by L.M., a civilian eyewitness who saw the incident from the nearby LRT station, also corroborated the CCTV video, and that he saw Mr. Bennett first point his handgun at the officers causing them to shoot at him. L.M. also said that the "police were being nice to him, telling [Mr. Bennett] "many times" to drop the gun to 'put the gun down, put the gun down.'" L.M., said he saw Mr. Bennett continue to act in an erratic manner before he suddenly lifted his handgun and pointed it at officers, and that "he was ready to shoot."

Sergeant Shead and Officer Robinson each fired nine (9) and eight (8) handgun rounds, respectively towards Mr. Bennett, while Officers Marlowe and Steffen each fired ten (10) and four (4) rifle rounds, respectively towards him. Fifteen (15) of the rounds fired struck Mr. Bennett and he was transported to Regions Hospital where he was treated for his injuries that resulted in the amputation of his right leg.

The Minnesota Bureau of Criminal Apprehension ("BCA") conducted the investigation of the circumstances resulting in the shooting of Mr. Bennett. The Ramsey County Attorney's Office ("RCAO") then reviewed the evidence gathered by the BCA to determine whether the Four Officers' use of deadly force against Mr. Bennett was justified under Minnesota Statutes, Section 609.066.

This Memorandum identifies the relevant evidence gathered by the BCA during its investigation of the shooting of Mr. Bennett. This evidence includes statements taken from lay witnesses and others, as gathered from interviews conducted by BCA agents; physical evidence, including DNA and ballistics evidence; audio and video taken from ICCs and BWCs worn by the Four Officers who were involved in the incident, including those worn by Sergeant Shead, and Officers Marlowe, Robinson, and Steffen. Written statements from the Four Officers were also provided to the BCA.

Based on our review of the evidence presented to this office by the BCA and for the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Sergeant Shead, and Officers Marlowe, Robinson, and Steffen against Mr. Bennett was necessary and thus justified under Minn. Stat. § 609.066, subd. 2(a)(1)(i-iii), (2) and (b). Accordingly, we recommend that no criminal charges be brought against any of the Four Officers related to this incident.

II. CASE SUMMARY

A. Summary of Facts

1. Information Known to the Officers Upon Their Arrival at the Scene

The Incident Detail Report shows that Officers Marlowe, Steffen, and Robinson were assigned to respond to a report of gunshots fired near the intersection of Snelling and University Avenues at approximately 7:45 P.M. Near that same time, Sergeant Shead stated that he responded after he recently completed his regular shift and hearing radio reports of a non-compliant man holding a gun to his head in the middle of the Snelling/University intersection. In addition to receiving verbal radio information regarding the details of the reported

incident, the Four Officers were also provided the following Computer Aided Dispatch ("CAD") text information to their respective in-car computers:

- "7:44:28 P.M. - TIME DELAY 2 MINUTES....COMP HEARD 4 GUN SHOTS FROM THE DIRECTION OF THE HOSPITAL
- 7:44:57 P.M. - COMP HEARD TWO PEOPLE ARGUING JUST BEFORE GUN SHOTS HEARD
- 7:45:38 P.M. - COMP HEARD 1 SHOT OR CAR BACKFIRE, THEN ANOTHER QUIETER ONE ABOUT A MINUTE LATER / TIME DELAY: 1MINUTE / SOUNDED LIKE IT CAME FROM WEST OF THE INTERSECTION / NOTHING FURTHER SEEN OR HEARD
- 7:46:23 P.M. - COMP GAVE LOCATION AS WEST OF SNELLING AND UNIVERSITY / ANONYMOUS,
- 7:46:42 P.M. - COMP THINKS AT LEAST TWO POSS MS WERE HEADED WB ON UNIVERSITY...COMP HEARD ANOTHER GUN SHOT
- 7:47:19 P.M. - COMP HEARING ANOTHER 2 SHOTS
- 7:47:27 P.M. - COMP CONTINUES TO HEAR GUN SHOTS FROM THE WEST...GUN SHOTS SOUND FURTHER AWAY NOW
- 7:48:56 P.M. - CALLER THINKS THE SHOTS CAME FROM SOUTH SIDE OF UNIV AT THE SNELLING/UNIV TRAIN STATION...
- 7:49:20 P.M. - GUNSHOTS SOUNDED LIKE THEY BEGAN NEAR TURBO TIM'S AUTO REPAIR
- 7:53:18 P.M. - NEW CALLER HEARD 20 GUNSHOTS FROM THE DIRECTION OF THE TRAIN STATION/SNELLING...ANON
- 7:53:27 P.M. - NO SHIRT BLU JEANS SB SNELLING BLK PANTS
- 7:53:39 P.M. - MALE GUN TO HEAD
- 7:53:48 P.M. - 175 CHARLES AND SNELLING
- 7:53:53 P.M. - LESS LEATHAL
- 7:54:54 P.M. - NOW GOING EASTBOUND TO BLOCK NORTH
- 7:55:03 P.M. - NOW WB
- 7:55:20 P.M. - ON SNELLING AND UNIVERSITY WALKING
- 7:56:11 P.M. - CROSSING UNI GOING
- 7:56:15 P.M. - Problem changed from EMS – Medical Assist to Unknown Problem by FEMS
- 7:56:20 P.M. - Problem changed from Unknown Problem to Unknown Problem Bravo by FEMS
- 7:57:21 P.M. - SUBJ IN THE MIDDLE OF INTERSECTION OF SNELLING AND UNIVERSITY
- 7:57:28 P.M. - SNELLING AND SAINT ANTHONY
- 7:57:28 P.M. - TRANSIT ADV TO STOP TRAINS
- 7:57:38 P.M. - LESS LEATHAL HAS BEEN DEPLOYED
- 7:58:11 P.M. - SHOTS FIRED"

The voluntarily given written statements provided to BCA investigators by the Four Officers respectively, also state that each officer knew that they were responding to a call where five (5) separate complaints were made of multiple gunshots having been fired in the vicinity. The Four Officers also stated that after their respective arrivals at the scene, they each observed a shirtless male, holding a handgun to his head walking southbound on Snelling Avenue. The foregoing statements are corroborated by the audio and video taken from the BWCs and ICCs of the Four Officers and those of other responding officers.

The Four Officers arrived at the scene in clearly marked SPPD SUVs and each of them were dressed in dark blue SPPD uniforms that visibly identified them as police officers.

2. Actions Taken by Officers Robinson and Steffen Between Their Arrival at the Scene and Their Respective Use of Force Against Mr. Bennett

Officers Robinson and Steffen initially proceeded to canvass the area near Shields Avenue and Aldine Street in their SPPD SUV looking for any possible victim, suspect, witness, or other evidence of the multiple reports complaining of gunshots fired in the area. Officer Steffen was driving the SUV and Officer Robinson was seated in the front passenger seat.

The officers received updated reports that shots were being reported at the intersection of Snelling and University Avenues, and they proceeded to the southeast corner of that intersection, where they spoke to two persons who were standing on the adjacent sidewalk. The two witnesses told the officers that a shoeless, black male had been waving a gun and fired "random" gunshots from the west side of Snelling Avenue across University Avenue.

Officers Robinson and Steffen then proceeded to slowly drive north on Snelling Ave. looking for shell casings or other evidence of the male described by the two witnesses. As they neared the Charles Street intersection, they observed a shirtless and shoeless male with a handgun in his right hand, standing in the median. Statements provided by both officers described the male, later identified as Mr. Bennett, as yelling and appearing agitated. Although the video taken from their respective BWCs or from their ICC did not show the male, the audio taken from those same devices captures a male voice yelling largely unintelligible things, except for, "We don't need police!" Officer Robinson is heard saying "There's a gun in his hand."

Officers Robinson and Steffen quickly turned their car southbound on Snelling Ave. in pursuit of Mr. Bennett. ICC video taken from their SUV shows that the officers see Mr. Bennett walking southbound on Snelling Ave. in the median with a gun in his right hand. The officers stopped and exited their SUV approximately 25 yards north of where Mr. Bennett was walking. Video and audio taken from their ICC and their respective BWCs, capture each officer immediately after exiting their SUV, draw their own service handguns and begin issuing the first of many loud and clear verbal commands for Mr. Bennett to drop his gun, as they ran to a building located at 525 Snelling Ave. seeking protective cover.

While Officers Robinson and Steffen were taking cover next to the building, a clearly identifiable SPPD SUV driven by SPPD Officer Travis Lenander with SPPD Officer Austin Borowicz in the front passenger seat, arrived with its siren activated. As they turned right onto Snelling Ave. from Charles Ave., they first spotted Mr. Bennett standing in the median approximately twenty yards south of them. Officer Borowicz is heard saying "He's got a gun! He's got a gun in his hand!" as they stop and quickly exit from their vehicle in the southbound lane of Snelling Ave. slightly to the northeast of the building where Officers Robinson and Steffen took cover and approximately 50 yards ahead (i.e. south) of the location where Officers Robinson and Steffen parked their vehicle.

Video taken from Officer Borowicz's BWC shows Mr. Bennett with a gun pointed to his head as he continues walking south on Snelling Ave. Video and audio taken from the respective BWCs also show Officers Borowicz and Lenander exit from their vehicle with their service handguns drawn and both are clearly heard ordering Mr. Bennett to drop his gun. Officer Lenander then removed his service rifle from the trunk of the SUV while Officer Borowicz retrieved a 40mm LLM launcher. Officers Robinson and Steffen are seen approximately 15 yards to the northwest of Officers Borowicz and Lenander, standing next to the building located at 525 Snelling Ave., each with their service handguns drawn, as they also ordered Mr. Bennett to drop his gun.

Mr. Bennett did not comply with the officers' orders to drop his gun, and he continued walking south on Snelling Ave. towards University Ave. Officers Robinson and Steffen ran from the building to the SUV occupied by Officers Lenander and Borowicz. Officer Lenander was driving, and Officer Borowicz was seated in the front passenger seat armed with his loaded 40mm LLM launcher. Officer Steffen also retrieved a service rifle from the trunk of the SUV. Officer Borowicz kept his front passenger door open to provide protective cover to Officers Robinson and Steffen as they began jogging behind the SUV as it slowly moved southbound on Snelling Ave. in pursuit of Mr. Bennett.

A man riding a small bicycle on the sidewalk parallel to the moving SUV, later identified as K. P.-W., yelled to the officers that, "Fuck that police shit! He ain't got no bullets!" apparently referring to Mr. Bennett. K.P.-W. told the officers that he was going to ride over to Mr. Bennett and take the gun away from him. Officer Robinson told K.P.-W to "not go over there." K.P.-W. responded that "I'm going to take it from his ass!" to which Officer Robinson replied, "I do not want you to go over there! I do not want you to get shot!" K.P.-W. replied, "He ain't got shit in there to shoot me with!" Officer Robinson responded, "Let us handle it!" K.P.-W. replied, "You need to use some non-lethal shit!", prompting Officer Robinson to respond, "I know. We're trying to use non-lethal! I need you to listen to me right now." Other than providing his name to BCA investigators, K.P.-W. avoided all further contact with, and refused to either speak or otherwise provide a statement to investigators.

Mr. Bennett crossed the westbound lanes of University Avenue and began pacing back and forth across the light rail tracks in the middle of the intersection near the Snelling LRT station. Officer Lenander saw multiple SPPD SUVs parked near the northern portion of the Snelling/University Ave. intersection. One of the vehicles was parked parallel to the intersection with several officers standing behind it and using it as a barrier between them and Mr. Bennett. Officer Lenander stopped his vehicle approximately 20-30 feet behind those police vehicles, and he and Officers Borowicz, Steffen, and Robinson quickly sought cover behind the other parked police vehicles.

3. Actions Taken by Officer Marlowe and Sergeant Shead Between Their Respective Arrivals at the Scene and Their Use of Force Against Mr. Bennett

Officer Marlowe was dispatched to 460 Pierce Street in response to a report of gunshots fired call. While in route, Officer Marlowe was informed of additional gunshots being reported in that area and was informed through his police radio by Officers Steffen and Robinson that a shirtless, black male with a handgun was walking southbound on Snelling Avenue from near the Kimball Court Apartments and that he was holding the gun to his head. Officer Marlowe proceeded to that area and parked his vehicle diagonally across the northbound traffic lanes of Snelling Avenue just a few feet north of University Avenue.

Officer Marlowe quickly exited his vehicle and retrieved his SWAT duty long rifle from the trunk and loaded it with an ammo magazine. A few seconds later, SPPD Officers Suon and Nuah arrived, and they parked their SUV in the left turn lane of southbound Snelling Avenue, a few feet west of Officer Marlowe's SUV. As he took cover behind Officers Suon and Nuah's SUV, Officer Marlowe saw Mr. Bennett walking towards him and loudly ordered him twice to "Stop! Stop!" Officer Marlowe also loudly told Mr. Bennett to "Knock it off! We're here to help you!! No! Knock it off! We're here to help you!" Mr. Bennett responded by saying "I ain't hurting nobody" and ignored Officer Marlowe's commands to stop and continued walking southbound on the western sidewalk on Snelling Avenue past Officers Marlowe, Suon, and Nuah.

As Mr. Bennett walked across the westbound lanes of traffic on University Ave., Officer Marlowe began walking closely behind SPPD Officer Nuah who was holding a ballistic shield. Officers Nuah and Marlowe initially moved to a spot near the crosswalk where they saw Mr. Bennett pacing back and forth in the middle of the Snelling/University intersection holding a gun to his head. The two officers both moved for cover behind one of the SPPD vehicles parked in the northbound traffic lanes of Snelling Avenue near the crosswalk.

At the same time, Officer Suon retrieved a 40mm less lethal munitions launcher from his vehicle and joined Officers Nuah and Marlowe behind the vehicle. Officer Marlowe issued three separate loud and clear orders at Mr. Bennett for him to drop his weapon. A few seconds later, the three officers sought cover behind the SPPD SUV that was recently parked by Sgt. Shead in the southbound traffic lanes of Snelling approximately 10-12 feet to the southwest from their previous location.

Sergeant Shead had just finished his shift and was unloading gear from his marked SPPD SUV at the SPPD Western District facility when he learned from dispatch that there was a non-compliant man in the intersection of Snelling and University Avenues with a gun pointed to his head. Sergeant Shead immediately drove to the scene. As he approached University Avenue from the south on Snelling Ave., he could see from his vehicle a shirtless, light-skin black male, later identified as Mr. Bennett, walking south on Snelling Ave, towards the intersection with University Ave. holding a black firearm to his head. Sergeant Shead stopped

his vehicle at the south side of the intersection where he also observed other officers standing behind police vehicles on the north side of the intersection who appeared to be attempting to negotiate with Mr. Bennett as he walked past them.

As Mr. Bennett walked into the middle of the intersection, he appeared to walk towards Sergeant Shead's vehicle while continuing to hold a gun to his head with his right hand, waving his left arm up and down, and yelling things that could not be heard or understood by the sergeant because his windows were closed. Sergeant Shead backed up his vehicle to create distance from Mr. Bennett, at which point Mr. Bennett changed direction and began to walk eastbound in the intersection towards the entrance to the nearby LRT station. Sergeant Shead then quickly drove his vehicle across University Ave. and parked it diagonally across the southbound traffic lanes of Snelling Ave. near the northerly intersection crosswalk.

Sergeant Shead immediately exited his vehicle, assumed protective cover behind his vehicle, and told dispatch to inform all other law enforcement responders to not approach the scene from the south to avoid creating a possible crossfire issue. He also told dispatch to direct all responders to enter the scene from Sherburne Avenue. At almost the same time, Officers Steffen, Robinson, Lenander, and Borowicz joined Sgt. Shead, and Officers Nuah, Marlowe, and Suon, in taking cover behind Sgt. Shead's vehicle.

Officer Borowicz notified Officer Marlowe that he was in possession of a 40mm LLM launcher ready for use against Mr. Bennett to deescalate the danger he posed to himself and other bystanders. Officer Marlowe replied, "40 him now" (meaning, to launch or fire a 40 mm LLM projectile at Mr. Bennett). Sergeant Shead acknowledged the need to use less lethal munitions against Mr. Bennett but was concerned that given the increased distance between the officers and Mr. Bennett who was then standing near the entrance to the LRT station, that the use of LLM against him could be ineffective thus causing him to move towards the bystanders on the LRT platform, putting them in danger. Sergeant Shead told the officers to "wait, until we get a little bit closer" before using LLM and to not approach Mr. Bennett. Officers Marlowe, Robinson, and Borowicz expressed their agreement with Sergeant Shead's directive.

At approximately 7:56:29 P.M., Mr. Bennett began walking away from the LRT station and towards the middle of the intersection and much closer to the officers, while yelling incomprehensibly. Officer Marlowe again loudly and clearly ordered Mr. Bennett to "Drop your weapon!" Officer Marlowe then told Officer Suon to move towards the rear of Sergeant Shead's vehicle and launch a 40mm LLM projectile at Mr. Bennett.

Officer Suon moved to the rear of the vehicle and loudly ordered Mr. Bennett, to "Put the gun down!" Then Sergeant Shead followed up by loudly and calmly telling Mr. Bennett, "Sir,... Sir,... Sir, we need you to put the gun down!" Mr. Bennett did not comply with either of those orders. At approximately 7:57:01 P.M., Officer Suon using Officer Nuah and his ballistic shield

for cover, loudly announced "Less Lethal! Less Lethal", and five seconds later he and Officer Borowicz each launched a 40mm LLM projectile at Mr. Bennett. Neither of the two projectiles struck Mr. Bennett, and he continued to point his gun at his head.

Officers Robinson, Steffen, and Marlowe again yelled multiple times at Mr. Bennett to "get on the ground!" and to "drop your weapon!" Again, Mr. Bennett did not comply with either order. Officer Suon fired another 40mm LLM projectile which appeared to strike Mr. Bennett but did not cause him to either drop his gun or fall to the ground. Officer Marlowe estimated that at the time Mr. Bennett was struck by the LLM projectile, he and the other officers taking cover behind Sergeant Shead's vehicle were approximately 25 yards away from Mr. Bennett.

Written statements provided by Officers Robinson and Marlowe stated that immediately after Mr. Bennett was struck by the LLM projectile, they each heard him say something like, "[i]f you hit me with one of those or if you do that again, I'm going to make you shoot me." SPPD Officer David Longbehn, who later joined the officers positioned behind Sergeant Shead's vehicle, also stated that after Mr. Bennett was struck by the LLM projectile, he too heard Mr. Bennett say, "something to the effect of, 'I'm going to make you shoot me.'"

At this moment, Officers Steffen and Robinson were positioned behind the engine hood area of Sergeant Shead's vehicle, while Sergeant Shead, Officers Marlowe, Nuah, Suon, and Borowicz were positioned behind the trunk area of the vehicle. The officers continued to verbally implore Mr. Bennett multiple times to drop his gun. Officer Steffen loudly directed Mr. Bennett in succession, to "Drop the gun! Get on the ground, man! We want to help you! Get on the ground! Just drop the gun! Get on the ground man! We don't want to hurt you! Get on the ground! Just drop the gun!" This was immediately followed by Officer Robinson loudly telling Mr. Bennett to, "Drop it!" As with the orders previously issued by the other officers on the scene, Mr. Bennett did not follow the foregoing orders issued by Officers Steffen and Bennett.

At approximately 7:57:55 P.M., Officer Borowicz loudly yelled two times, "Less Lethal!", before firing his third LLM projectile at Mr. Bennett at approximately 7:57:57 P.M. According to his written statement, Officer Borowicz stated that he observed the projectile strike Mr. Bennett in his left hip area. Officer Borowicz further stated that he immediately saw Mr. Bennett move his gun away from his head and point the barrel of it at the officers. Similarly, each of the written statements provided by Sergeant Shead and Officers Lenander, Steffen, Robinson, Marlowe, Nuah, and Longbehn stated that each officer also saw Mr. Bennett suddenly point his gun at the officers. L.M., a civilian witness waiting for a train at the Snelling/University Ave. LRT Station at the time that deadly force was used, also told investigators that Mr. Bennett first pointed his gun at the officers and was "ready to shoot," followed by the Four Officers firing their weapons at him.

The time stamp of video taken from the adjacent CCTV camera showed that at 7:57:57.776 P.M., Mr. Bennett pointed his firearm towards the officers. The Four Officers responded by firing a collective total of 31 rounds at Mr. Bennett, with 15 of those rounds striking and

seriously wounding him. According to time-stamped audio and video taken from the Four Officers' BWCs, the first audible gunshot fired by the Four Officers occurred at 7:57:58 P.M.

Within seconds, numerous officers approached the wounded Mr. Bennett and after securing him and the Sig Sauer P365 9mm handgun found next to him, they began to administer first aid to him until Saint Paul Fire and Emergency Medical Services ("EMS") professionals arrived on the scene a few minutes later. He was transported by EMS to Regions Hospital where he underwent surgery resulting in the amputation of his right leg.

III. EVIDENCE

A. Summary of Facts

911 Call from an Anonymous Caller

October 28, 2024, at about 7:44:12 P.M.

The Call Duration is about 1 minute and 52 seconds.

911 OPERATOR: 911. What's the address of the emergency?

CALLER: <inaudible>. What's the address? <inaudible>.

911 OPERATOR: 911. What's the address of the emergency?

CALLER: They're on <inaudible>.

911 OPERATOR: Hello? Do you need police, medical or fire?

CALLER: I'm not gonna remember that. Write like a little list here <inaudible>. Hello?

911 OPERATOR: Hello. This is 911.

CALLER: Yes, yes. Excuse me. Gimme one second. Um, I'm, somebody's trying to write down the address.

911 OPERATOR: Do you need police, medical, or fire?

CALLER: Right. Oh, yeah like, west, south? Um, so, um, basically I'm at Taco Bell. Um, at, um, but it's not exactly at Taco Bell, but I'm just calling basically, um, by the train station. I've been hearin' a bunch of gunshots, like it's probably been already like 20 gunshots already.

911 OPERATOR: Okay.

CALLER: Uh, near Taco, it's not exactly at Taco Bell, but it's somewhere, like, near, like, it's somewhere near, like, um, like uh shots fired close.

911 OPERATOR: Have you, have you called, have you called the scene yet?

CALLER: No.

911 OPERATOR: And you said you heard maybe 20 shots?

CALLER: Yeah.

911 OPERATOR: And what direction did you hear them from?

CALLER: Uh, towards the train station at Snelling.

911 OPERATOR: Okay.

CALLER: Oh, oh, yep. I heard it. There's like, uh, I already see a couple cops over here. But yeah, I'm just calling just to let you guys know.

911 OPERATOR: Okay. Can I get your call back phone number?

CALLER: Uh, oh no, I don't need, I don't need nothin'. There's nothin' wrong here. I'm just calling to let you guys know. Like, you know, just to, I don't know who's hurt.

911 OPERATOR: Okay.

CALLER: Just, you know.

911 OPERATOR: Okay.

CALLER: Get it safe, tryin' to help out.

911 OPERATOR: All right. I've added you to the g-, in your notes, into the call. All right?

CALLER: All righty.

911 OPERATOR: Thank you.

CALLER: Yep, there's a bunch of cops coming.

911 OPERATOR: Yep. All right. Okay.

CALLER: All right.

911 Call from an Anonymous Caller (First of Two Calls)

October 28, 2024, at about 7:43:02 P.M.

The Call Duration is about 2 minutes and 29 seconds.

911 OPERATOR: 911. What's the address of your emergency?

CALLER: Yes?

911 OPERATOR: Hello. 911. What's the address of your emergency?

CALLER: Uh, just, just slightly to the west of Snelling University.

911 OPERATOR: Okay.

CALLER: Uh, it sounded like one gunshot and then maybe, maybe a car backfire afterwards. I can't be certain about either one. It's, all I know I'm, I'm at, by the train station at University and Snelling, St. Paul.

911 OPERATOR: Okay.

CALLER: And to the west about one minute ago, one and a half minutes heard a surprisingly loud, either backfire or gunshots and then...

911 OPERATOR: Okay.

CALLER: A minute later a small, a much small- <background noise inference> so it's, it's, it's now two of them.

911 OPERATOR: Okay.

CALLER: Uh, I guess that's all I have to say. Uh, if you need to, you can call back here, but I don't have more info. I didn't see a thing.

911 OPERATOR: Okay. Hold on don't, don't hang up just yet. Um, you said it sounded like it, s-, came from just west of the University and Snelling, right?

CALLER: Which means it could be one blocks or three, or even four or five blocks...

911 OPERATOR: Yeah.

CALLER: West of University and Snelling. I know my west here.

911 OPERATOR: Okay, gotcha. And it was one shot or car backfire and then another, shortly afterwards, about a minute later?

CALLER: It was one big one that startled me and I figured I, I better grab and call. The other one was pretty mild or quiet comparatively, you know, a tenth, a quarter the volume and it didn't worry me. It easily could have been something to not worry about, but the first one, who knows. It gets to worth checking out.

911 OPERATOR: Okay. And then you said you didn't hear or see anything else other than those two, um, those two, uh, shots or backfires, right?

CALLER: Correct.

911 OPERATOR: Okay. And what was your name?

CALLER: Uh, it's confidential but you can call back. It's, it's the only reason to.

911 OPERATOR: Okay you, so it's a-, anonymous and then you said, can then we call you back at this number (XXX) XXX-XXXX if we need to?

CALLER: I said if you wish to call back of course you may. I'm just tryin' to help out. We've got more people coming near me, so I better hang up.

(Second of Two Calls from Same Anonymous 911 Caller)

October 28, 2024, at about 7:45 P.M.

The Call Duration is about 2 minutes and 26 seconds.

911 OPERATOR: 911. What's the address of your emergency?

CALLER: Uh, gunshots, two of 'em, at Snelling and University by the light rail station on the, I think on the south side of the station. South s-, I think at the south side of the light rail station at Snelling and University. I think there's a person walking, uh, eastbound on the south side of University. Uh, just slightly before, uh, Snelling. I originally reported, reported a gunshot to the west of Snelling without knowing how many blocks, and as I hung up two seconds later, there was a gunshot, uh, right near me, right by me at the, um, on the south side of Snelling and University. And I saw a dark, a, a dark, tall figure walking eastward. Then there was another gunshot, like halved, 10 or 20...

911 OPERATOR: Okay.

CALLER: 15, 20 seconds later. Uh, they, they both seemed to be coming more or less from that dark figure or the direction of that figure. They were coming from south of Snelling and University. I better get a, better get a train here.

911 OPERATOR: Okay. So you, so from the south of, south side of University and Snelling is where you think you heard the, think the shots came from? Hello? Hello? I'm gonna hang up, call us back if you need any-, hear any more.

911 OPERATOR: Okay. Thank you so much. All right. Bye.

CALLER: Thank you. Bye.

911 OPERATOR: Yep. Bye.

911 Call of A.D.

October 28, 2024, is at about 7:42:58 P.M.

The Call Duration is about 7 minutes and 58 seconds.

911 OPERATOR: 911. What is the address of your emergency?

AD: Uh, yeah, XXXXX Street.

911 OPERATOR: What was the name of the street?

AD: XXXXX. There's guys out on, uh-. XXXXX Street.

911 OPERATOR: Okay.

AD: I'm in the apartments there and there's guys out in front of the Denny's and the hospital, and there's gunshots goin' on right now on University.

911 OPERATOR: Gunshots, you, uh, heard gunshots? How many did you hear?

AD: Uh, three of 'em. Four of 'em.

911 OPERATOR: How long ago was this?

AD: This was like two minutes ago.

911 OPERATOR: You said it was coming, uh, by or from the direction of the Denny's, was it?

AD: No, like the hospital-, like right in front of the hospital next to the Denny's.

911 OPERATOR: Right in front of the hospital. Okay.

AD: Or the Health Partners there.

911 OPERATOR: <inaudible, mumbling>. Uh. Four gun shots from the <inaudible, mumbling>. Okay. And then, uh, what else have you heard or seen?

AD: Um, nothing yet. It was just, I, I couldn't really see anything.

911 OPERATOR: Do you see...?

AD: Cause there was...

911 OPERATOR: The people who, uh, were shooting the guns or...?

AD: I saw like, shadows of 'em. I couldn't see what they were wearing or anything. Uh, cause I heard kinda like a "pop" and I looked out the window and then I heard two people yelling at each other and they were like, I heard like, "Don't mess with me, bro. I'm not one to be fucked with." And then all of a sudden, I hear "pop, pop, pop, pop." Like they were shooting across University or something'.

911 OPERATOR: Okay. And then, so, it was too dark, you couldn't see what they were wearing or anything like that?

AD: No, cause I'm in, I'm up in my apartment and this happened over in front of the hospital.

911 OPERATOR: Okay. Any idea which direction of travel they went?

AD: Um, I believe, uh, west on University. It looked like they were walking.

911 OPERATOR: And then how many people was it?

AD: I don't know. I think it was at least two.

911 OPERATOR: And were they, uh, could you tell if they were male or female?

AD: Sounded like both of them were male. Oh, there's another gunshot again.

911 OPERATOR: Mm-Mmm. Mm. West on University. Okay. You just now heard another gunshot?

AD: Yeah. I don't know where that one came from though.

911 OPERATOR: Uh. Um. One gunshot. Okay. What else are you, uh, hearing and seeing right now?

AD: Um, I'm not seeing anything and I don't hear anything. I just heard the gunshot, but it sounded like a little bit further. Yeah that, it sounded like it's a little further away now. There's two more.

911 OPERATOR: Okay. So two more shots just now? In addition to the one...

AD: Yeah.

911 OPERATOR: You just heard like about 30 seconds ago?

AD: Yep. It sounds further away though, like it's echoing off the buildings.

911 OPERATOR: Okay. Uh, which direction?

AD: Um, my best guess would say west, but I don't know. It's bouncing off the hospital walls, so that could be coming from the east too. Like towards Snelling.

911 OPERATOR: I see.

AD: It sounds like its further away now though it, but it was, when I first called you, it was right here. Like they were shooting' across the train tracks. Like literally a, a football field away from me.

911 OPERATOR: Okay. All right...

AD: And I don't know if you can see on the map, but there's that little park in front of the hospital.

911 OPERATOR: Okay.

AD: Across the street of like...

911 OPERATOR: In what direction?

AD: Turbo Tim's? What's that?

911 OPERATOR: That's where it sounds like they are now?

AD: I don't know about right now, but.

911 OPERATOR: And is, is that where it started or is there a better reference point for the gun shots...

AD: No, it started, so where the cop is right now, it started like right in, across that park <audio garbles>, somewhere in front of the Turbo Tim's. In front of the Turbo Tim's, um, uh, veh-, uh, car automotive place.

911 OPERATOR: Okay. And are there...?

AD: And it sounded like they were shooting across. Yeah, and it sounded like they were shooting across the train tracks on university on both sides, it sounded like.

911 OPERATOR: Okay. Okay. And do you hear anything right now?

AD: No, I don't hear anything at all.

911 OPERATOR: Okay. Near area of fire. Okay. When you saw the two individuals, uh, a little bit, they were on foot, correct?

AD: They were on foot, that's correct. And they were across the street from my building. So, in my, on this, this side of University, there was one guy and I seen him holding up a gun, pointing it kind of towards, like, the Turbo Tim's.

911 OPERATOR: Okay.

AD: But then once I heard a "pop" again, I ducked down and I grabbed my phone, and I called you guys.

911 OPERATOR: Okay. I've already got, I've been, had a, uh, call out for service for officers to be out. So, they are out in the area searching and all that. Um, would you like...

AD: All right, I...

911 OPERATOR: To be contacted by officers?

AD: Um, as far as for what?

911 OPERATOR: Just for extra information?

AD: Yeah, um. Um, yeah, if they need it.

911 OPERATOR: Okay. Well, if you...

AD: But basically, everything I told you is probably...

911 OPERATOR: Sounds good. I'll...

AD: Everything that I know.

911 OPERATOR: So, if anything else happens, if you see anything, you hear anything, we'll just, uh, just call back. Okay?

AD: Okay. Thank you.

911 OPERATOR: Bye-bye. Thanks.

AD:

Bye-bye.

B. Interview and Statements of Key Witnesses

Interview of L.M.

L.M. was interviewed by BCA Agents. L.M. stated on October 28, 2024, he was in the area of University and Snelling Avenues during the time of the incident. He was on the light rail platform waiting for the train to arrive. While he was waiting, he heard a loud commotion coming from the intersection. He looked towards the intersection and saw a male in his twenties or thirties screaming. The male was causing a scene. L.M., saw that police were also present and telling the male to "calm down, calm down." After a short time L.M. realized that the male had a gun in his hand. It appeared to L.M. that the male was high and possibly on methamphetamine or some other type of drugs. The male was walking back and forth in an erratic manner. At one point the male began to threaten to kill himself, he had a gun pointed to his head. L.M. saw and heard police trying to deal with the male. They were being nice to him, telling him to drop the gun to "put the gun down, put the gun down." L.M. said he heard the police say this to the male many times. L.M., saw the male continue to act in an erratic manner, then the male suddenly lifted his handgun and pointed the gun at police officers. It looked like the male was ready to shoot. L.M. then saw officers open fire on the male. The male then dropped to the intersection and officers went to help him and called for EMS. L.M. said that the police did a great job.

Interview of B.R.H.

B.R.H., reported to BCA agents that his Sig Sauer bearing serial #66F606890 was stolen from his vehicle between the dates of October 26 and October 27, 2024. He had physically handled his gun on October 26 and then left to go camping. When he returned home on October 27, 2024, he noticed that his truck had been ransacked. He realized that his gun and 68 rounds of ammunition had been stolen. The gun had a fully loaded magazine with 17 rounds in it. Three more magazines with 17 rounds each were also stolen. When asked if he knew Mr. Bennett, he said he did not know him nor did he give anyone permission to take his gun.

Interview of EMS Coordinator Michael Cox

EMS Coordinator Michael Cox told BCA agents that on October 28, 2024, he was working his normal shift of 24 hours, 7 a.m. to 7 a.m. During the evening of October 28, he heard radio calls from 911 dispatch that shots had been fired. Anticipating that medical intervention would be needed he made his way to the area of University and Snelling. Upon arrival he saw that police had the area locked down for safety. An officer led him to a male who was laying in the middle of the tracks on Snelling and University Avenues. Upon arrival he was told by an officer that Mr. Bennett already had a chest seal placed on his chest. He was also told by an officer that a tourniquet had been applied. Mr. Bennett was laying on his left side in a medical recovery position. This position keeps a person's airway clear and limits blood flow to the lungs. It was clear that medical intervention already began before his arrival. He did not render any other aid to Mr. Bennett as EMS crews immediately arrived on scene and took over. He helped his fellow EMS partners load Mr. Bennett into an ambulance, once inside the ambulance lifesaving care

continued to be provided to Mr. Bennett while on the way to Regions Hospital. He felt the officers on scene who applied a chest seal and tourniquet had done a great job, noting that the officers did everything he would have done while waiting for a fully outfitted ambulance to arrive.

Written Statement of Saint Paul Police Sergeant LaMichael Shead

Saint Paul Police Sergeant LaMichael Shead declined the BCA's request to be interviewed. Instead, he provided a written statement to BCA investigators. The following is a summation of his statement.

On October 28, 2024, at about 7:45 P.M. he was in squad #753 and was nearing the end of a Toward Zero Death detail (TZD) a detail that focuses on driving and traffic safety enforcement. As he was unloading his gear in the Western District parking lot, he heard 911 Dispatch air over the radio that there was a non-compliant man in the intersection of Snelling Avenue and University Ave. with a gun to his own head. Sergeant Shead immediately got into his squad car and drove to the area to assist. As he approached the area from University and Snelling Avenues from the south, Sergeant Shead saw a light-skin African American male (herein Mr. Bennett), Mr. Bennett was shirtless, walking back and forth in the intersection. He was armed with a gun and the gun was pointed at his own head. Sergeant Shead saw several squad cars parked in the North intersection of Snelling and University Avenue. It appeared that the squads were attempting to negotiate with Mr. Bennett.

Mr. Bennett walked directly at Sergeant Shead's squad car. Sergeant Shead heard Mr. Bennett yelling at him, but he was unable to decipher what Mr. Bennett was saying. Sergeant Shead drove away from Mr. Bennett and parked his squad car near the other squads that were parked on the north side of the intersection. He got out of his squad and went to the rear of the squad for cover. He saw Mr. Bennett ignore multiple commands by officers to put the gun down. He saw Mr. Bennett walk through the middle of the intersection continuing to hold the gun to his own head. Fearing of crossfire, Sergeant Shead aired over the radio for approaching squads to not come to the scene via the southside. To deescalate the situation officers began discussing the use of less lethal munition. At one point Mr. Bennett began walking towards the metro transit platform, out of fear that less lethal munitions could strike civilians if Mr. Bennett continued to walk towards the Metro Transit light rail platform, Sergeant Shead told officers not to deploy less lethal munitions.

Suddenly, Mr. Bennett stopped moving towards the platform and instead began walking directly in the direction of Sergeant Shead. Mr. Bennett was still armed with a gun and still holding the gun to his own head. Mr. Bennett was yelling statements that didn't make any sense. Sergeant Shead then pulled his department issued firearm from his holster, pointing it directly at Mr. Bennett telling him to put his gun down. Mr. Bennett ignored his commands and continued to walk back and forth and side to side within the intersection. Sergeant Shead then saw fellow officers deploy multiple rounds of less lethal munitions. These munitions were ineffective, Mr. Bennett continued to hold his gun and remained noncompliant. Sergeant Shead heard several officers give commands for Mr. Bennett to put the gun down, telling Mr. Bennett that no one wanted to hurt him. Mr. Bennett continued to yell multiple remarks that did not make sense.

Suddenly Mr. Bennett pointed his gun directly at Sergeant Shead and at other officers who were on scene. Fearing for his life and the lives of his fellow officers Sergeant Shead fired multiple rounds from his department issued handgun at Mr. Bennett. He fired at Mr. Bennett to stop the threat that Mr. Bennett created by pointing his gun at Sergeant Shead and other officers. After shots were fired, Mr. Bennett fell to the ground and was not moving. Sergeant Shead could see that Mr. Bennett's gun was laying on the ground a few feet away from where Mr. Bennett was laying. Sergeant Shead directed a group of officers to approach Mr. Bennett to provide medical aid and to secure Mr. Bennett's gun. Sergeant Shead then called for medics to come to the scene. Officers provided medical assistance to Mr. Bennett until medics arrived at the scene. Once there, medics transported Mr. Bennett to Regions Hospital. Sergeant Shead then spoke to Sergeant Buckley, who told him to report to headquarters.

Written Statement of Saint Paul Police Officer Shawn Marlowe

Saint Paul Police Officer Shawn Marlowe declined the BCA's request to be interviewed. Instead, he provided a written statement to BCA investigators. The following is a summation of his statement.

On October 28, 2024, at about 7:44 P.M., he was assigned to squad #169 and was dispatched to the area of 460 Pierce Street in regard to a shots fired call. While in route, 911 dispatch updated officers that 911 was receiving more 911 calls alerting them that more shots were being fired in the area. As he continued in route to the scene, squad #168 Officers Steffen and Robinson could be heard calling over the radio that a male (herein Mr. Bennett) was walking southbound on Snelling Avenue North from Kimble Court. Officers Steffen and Robinson aired that they could see that Mr. Bennett was armed with a gun and gave a description of the suspect as being a shirtless, black male who had a gun pointed at his own head.

Upon arrival to the area, Officer Marlowe blocked northbound traffic just to the north of Snelling Avenue North. Officer Marlowe then exited his squad car and saw that Mr. Bennett was walking towards him. Concerned for his safety, he tactically moved to the rear of his squad car and retrieved his SWAT duty long rifle. He could see Mr. Bennett getting closer to his location. About that same time Officer Marlowe saw Officers Suon and Nuah arrive to the scene in their squad car. As they drove north on Snelling Avenue in the westbound lane, Officer Marlowe used their squad car as cover as Mr. Bennett continued to advance walking towards him. Officer Marlowe saw that Mr. Bennett still had the gun pointed at his own head. Officer Marlowe could hear Mr. Bennett yelling inaudible unclear statements that he couldn't understand. Wanting to deescalate the situation, Officer Marlowe tried to call out to Mr. Bennett telling him that he was there to help Mr. Bennett. Officer Marlowe called out to Mr. Bennett several times telling Mr. Bennett to drop his gun, but Mr. Bennett never listened.

Instead of complying with Officer Marlowe's commands, Officer Marlowe saw Mr. Bennett continue to walk his way to the intersection of Snelling Avenue North and University Avenue West. Once Mr. Bennett got to the intersection, he remained there for the entirety of the incident. Numerous other officers arrived on scene allowing Officer Marlowe to gain more cover. One officer had less lethal munition while another was equipped with a ballistics shield. Officer

Marlowe saw that the intersection was very busy with vehicle and pedestrian traffic. Additionally, Officer Marlowe saw there were pedestrians located on the Metro Transit train platforms. Officer Marlowe saw that Mr. Bennett was irate and angry; he continued to point his gun at his own head. Given the heavy presence of pedestrian and bumper-to-bumper traffic, coupled with the fact that Mr. Bennett was becoming irate, Officer Marlowe became increasingly concerned for the public's safety. Officer Marlowe was also concerned for his safety and the safety of the other officers who were on scene, noting that an unruly crowd was beginning to gather at their backs. On one side the officers were focused on Mr. Bennett, while to their backs a crowd began to develop. Officer Marlowe then instructed the officers who were equipped with less lethal munitions to deploy them at Mr. Bennett. The first two rounds of less lethal munitions deployed at Mr. Bennett missed him. Officer Marlowe instructed officers to deploy additional rounds of less lethal munitions at Mr. Bennett. One of the additional rounds struck Mr. Bennett in the midsection area of his body. After Mr. Bennett was struck, Officer Marlowe heard Mr. Bennett say something to the effect of, "if you do that again, I'm going to make you shoot me." Mr. Bennett then was struck a second time with a less lethal munition round. Upon Mr. Bennett being struck with the second less lethal munition round, Officer Marlowe saw Mr. Bennett quickly point his gun in Officer Marlowe's direction and the direction of other Saint Paul police officers. Officer Marlowe also noted Mr. Bennett's firearm was pointed in the direction of civilians who were present behind him and his fellow officers. Officer Marlowe determined that Mr. Bennett's action of pointing his gun at him, his fellow officers and civilians created an immediate and deadly threat. Officer Marlowe felt afraid and was in fear of losing his life and the lives of fellow officers and civilians who were on scene. Officer Marlowe quickly aimed his rifle at Mr. Bennett and fired multiple rounds at Mr. Bennett until he was no longer a threat. Mr. Bennett fell to the ground. Officer Marlowe and other officers approached Mr. Bennett to secure the gun and to provide life saving measures and aid. As they did this Officer Marlowe kept his rifle at the ready to provide cover to officers that were providing medical aid to Mr. Bennett. This cover was necessary because an unruly crowd was developing and close to the crime scene. Officer Marlowe stood by Mr. Bennett's firearm but did not touch it. He stayed at the scene until sergeant Buckley directed him away from the scene and back to headquarters.

Written Statement of Saint Paul Police Officer Chase Robinson

Saint Paul Police Officer Chase Robinson declined the BCA's request to be interviewed. Instead, he provided a written statement to BCA investigators. The following is a summation of his statement.

On October 28, 2024, at about 7:50 P.M., Officer Robinson and his partner Officer Steffen were assigned to squad #168. He and his partner were sitting in their squad of the Western District Police Department parking lot at 389 Hamline Avenue North. It was dark outside, and the weather was clear. A call came out regarding shots fired in the area of Snelling and University Avenues. Officer Robinson noted in his written statement that the area of Snelling and University is one of the busiest intersections in the Western District due to the number of cars, foot traffic and the Metro Transit Green Line that runs east and west on University Avenue. Officer Robinson also noted the area is home to multiple businesses, buildings, restaurants, apartment buildings,

convenience stores and gas stations. The area is decently lit with streetlights and lights from vehicular traffic.

Officer Steffen was driving while Officer Robinson was seated in the front passenger seat as they responded to the scene. They were in a fully marked Saint Paul Police Department issued squad car. While in route to the scene, he activated his body worn camera. While they and other officers were headed to the scene, 911 dispatch updated officers that a caller was still actively hearing the firing of gunshots. As he and Officer Steffen arrived at the location, he could not hear any gunshots. They then drove through the area to look for evidence or signs of shots being fired but could not locate any. As they drove towards the area of Snelling and University Avenues, Officer Robinson could see a dark-skin African American male standing on the northeast corner of the intersection of Snelling and University Avenues. Officer Robinson rolled down his window and asked the male if he had heard any gunshots being fired. The male then told him and his partner that a light-skin African American male was shooting a gun in the area of Snelling Avenue and University Avenue. Officer Robinson then asked the male what the male who was shooting the gun was wearing. The male responded that he did not remember but noted that the shooter was not wearing any shoes.

As Officers Steffen and Robinson continued to drive northbound on Snelling Avenue when they approached the address of 545 Snelling (Kimball Court), Officer Robinson saw a light-skin African American male. The male was not wearing a shirt or shoes. Upon looking closer at the male (herein Mr. Bennett) Officer Robinson could see that Mr. Bennett was holding a black handgun in what appeared to be his right hand. Upon seeing this, Officer Steffen turned their squad around and headed southbound on Snelling Avenue towards the intersection of Charles Avenue. At that location Officer Robinson exited the squad car and drew his department-issued handgun and pointed it at Mr. Bennett. Officer Robinson then gave commands, yelling at Mr. Bennett to drop the gun. While giving Mr. Bennett commands, Officer Robinson saw that Mr. Bennett was holding a gun to his own head. Mr. Bennett then continued to walk southbound on Snelling Avenue. As Mr. Bennett did so, Officer Robinson ran towards the address of 525 Snelling Avenue North (Dey Distribution) to take cover.

Written Statement of Saint Paul Police Officer Blake Steffen

Saint Paul Police Officer Blake Steffen declined the BCA's request to be interviewed. Instead, he provided a written statement to BCA investigators. The following is a summation of his statement.

On October 28, 2024, at about 7:46 P.M. he and his partner Officer Chase Robinson were dispatched by 911 to the area of Snelling Avenue and University Avenue, in the city of Saint Paul, Ramsey County, Minnesota. He and Officer Robinson were sent to the area in response to reports of gun shots being fired. Initially upon entering the area, he and his partner went to the area of Shields and Aldine Street, attempting to locate potential witnesses, victims, suspects or evidence related to the shots fired call. As he and his partner canvassed the area, 911 dispatchers updated them that multiple calls were coming in suggesting the shots fired occurred at the intersection of Snelling and University Avenues.

Upon arrival to the area, Officer Steffen informed 911 dispatch that they would stop at the light rail intersection to locate witnesses and gather more information. At the light rail station Officer Steffen and his partner encountered two individuals who said they had witnessed a crime. Both individuals told officers they saw shots being fired at the intersection of Snelling and University Avenues. Describing the male who fired the shots as not having any shoes or clothing on that they could remember. They told officers the male was walking northbound on Snelling University.

Given the initial information provided by dispatch of shots being fired and hearing corroborating eyewitness accounts of the incident, Officer Steffen and his partner immediately began searching north on Snelling Avenue from University Avenue. As they drove towards the intersection of Charles Avenue, Officer Steffen could see a male, later identified as Earl Bennett. Officer Steffen saw Mr. Bennett was shirtless and shoeless, and Mr. Bennett was seen standing in the center median, yelling unintelligibly. Officer Steffen then saw Mr. Bennett begin to walk towards his and his partner's squad car. As their squad car moved slowly north on Snelling Avenue away from Charles Avenue, Officer Steffen could see what appeared to be a handgun in one of Mr. Bennett's hands. Seeing the firearm and worried about the potential threat, Officer Steffen drove their squad car in the southbound lane of Snelling Avenue with the intention of exiting the squad car to give commands for Mr. Bennett to surrender.

Officer Steffen and his partner gave verbal commands to Mr. Bennett, but he refused their commands and did not comply. Instead of listening to officers, Mr. Bennett walked away in a southerly direction on Snelling Avenue, away from Charles Avenue. As Mr. Bennett walked away, Officer Steffen could see Mr. Bennett raising a firearm pointing it at his own head while continuing to disregard officer commands. Officer Steffen then radioed to dispatch and officers, alerting them of the ongoing situation. Officer Steffen noted that the area of Snelling and University Avenues is densely populated with pedestrians and vehicular traffic and because there were so many people in the area, his fear for the public's safety was heightened. He felt it was urgent for a swift and effective response as to mitigate the danger and risks to public safety.

While waiting for additional officers to arrive, Officer Steffen took cover behind a nearby building. From his position of cover, he was able to maintain a visual of Mr. Bennett. Officer Steffen saw Squad #175 arrive. The squad was occupied by Saint Paul Officers Travis Lenander and Austin Borowicz. Officer Steffen continued to watch Mr. Bennett and saw him continue to walk away from squad cars, further distancing himself from officers while heading into the very populated intersection of Snelling and University Avenues. Seeing that the officers on scene were not equipped with long range tools, Officer Steffen made the decision to retrieve a rifle from Squad #175.

Officer Steffen saw Mr. Bennett arriving to the intersection. Once there, Officer Steffen saw several other officers attempt to make contact and speak to Mr. Bennett. Mr. Bennett refused to comply and still held a gun in his hand. Officer Steffen then positioned himself behind a squad car and again gave commands to Mr. Bennett. He told Mr. Bennett to drop his gun and to lie down on the ground. Officer Steffen assured Mr. Bennett that the police's intent was to avoid harm. Officer Steffen encouraged Mr. Bennett to comply so no one would be hurt. Despite his

commands Mr. Bennett continued to not listen. Officer Steffen observed officers deploy less-lethal tools at Mr. Bennett. Mr. Bennett continued to refuse orders and began approaching officers while still having his gun aimed at his own head. Suddenly and without notice, Officer Steffen saw Mr. Bennett shift the gun away from his own head into a firing position directly aiming towards him and other officers. Officer Steffen felt that the moment was critical, he stated he perceived an imminent threat of death or great bodily harm to himself and to other officers. This feeling was a direct result of Mr. Bennett's actions of aiming his gun directly at Officer Steffen and his fellow officers. In response to the immediate threat created by Mr. Bennett, Officer Steffen fired three to four rounds from his rifle at Mr. Bennett.

Officer Steffen saw Mr. Bennett fall to the ground. He and other officers approached Mr. Bennett and secured the area. Medical assistance for Mr. Bennett was immediately called to the scene. Officer Steffen stayed with Mr. Bennett until he was instructed to clear the scene by his supervisor.

C. Body Worn Camera and Closed Circuit TV Footage

Saint Paul Police, Sergeant LaMichael Shead's Body Worn Camera Footage

The video was 14 minutes and 47 seconds long.

Date and Timestamp: October 28, 2024, video begins 7:53:25 P.M.

7:53:25: Video began. Sgt. SHEAD in the driver's seat of vehicle in motion.

7:53:55: Audio began.

7:56:02: Vehicle stopped, and Sgt. SHEAD exited vehicle.

7:56:47: Overheard "put the gun down" multiple times.

7:57:07: Less lethal round deployed.

7:57:13: Overheard "drop your weapon".

7:57:29: Less lethal round deployed.

7:57:45: Less lethal round deployed.

7:57:55: Overheard "drop your weapon".

7:57:57: Multiple gunshots overheard.

7:58:16: Sgt. SHEAD and several officers approached male subject on the ground.

7:58:38: Mr. Bennet is secured, and medical care began.

7:02:18: Ambulance on scene.

7:07:42: Video ended.

Saint Paul Police Officer Shawn Marlowe's Body Worn Camera Footage

The video was 15 minutes and 44 seconds long.

Date and Timestamp: October 28, 2024, Video Begins at 7:52:57 P.M.

7:52:57: Video began. Officer MARLOWE seated in driver seat of vehicle in motion.

7:53:27: Audio began.

7:54:19: Vehicle stopped, and Officer MARLOWE exited.

7:55:01: Officer MARLOWE announced, "we are here to help you".

7:55:05: Mr. Bennett is observed walking away from Officer MARLOWE with a handgun pointed at his head.
7:55:24: Mr. Bennett continues to walk away from officers.
7:55:31: Officer MARLOWE announced "We are here to help you, drop the weapon now".
7:55:42: Officer MARLOWE announced "drop your weapon" several times.
7:56:45: Overheard "drop your weapon".
7:57:07: Less lethal deployed.
7:57:13: Officer MARLOWE announced, "drop your weapon".
7:57:29: Less lethal deployed.
7:57:45: Less lethal deployed.
7:57:55: Overheard "drop your weapon".
7:57:56: Less lethal deployed.
7:57:57: Multiple gunshots overheard.
7:58:25: Officer MARLOWE and other officers approached male on the ground.
Medical care began.
7:08:42: Video ended.

Saint Paul Police Officer Chase Robinson's Body Worn Camera Footage

The video was 24 minutes and 17 seconds long.

Date and Timestamp: October 28, 2024, Video Begins at 7:45:32 P.M.

7:45:32: Video began. Officer ROBINSON seated in passenger seat of vehicle in motion.
7:46:02: Audio began.
7:50:56: Several individuals overheard describing Mr. Bennett's description to officers.
7:51:17: Unknown male overheard saying "he ain't got no bullets".
7:52:41: Officer ROBINSON aired "male with a gun".
7:53:01: Vehicle stopped, and Officer ROBINSON exited.
7:53:13: Officer ROBINSON announced, "drop the gun".
7:53:33: Officer ROBINSON announced, "drop the gun" as Mr. Bennett continued to move away from officers.
7:53:55: Officer ROBINSON announced, "put your gun down".
7:55:07: Unknown male overheard yelling "he ain't got no bullets" several times.
7:56:16: Officer ROBINSON spoke with unknown male who stated "I'll go tackle his ass. Motherfucker doesn't have any fucking bullets".
7:57:07: Less lethal deployment heard.
7:57:24: Overheard "drop the gun".
7:57:29: Less lethal deployment heard.
7:57:45: Less lethal deployment heard.
7:57:46: Overheard "drop the gun".
7:57:55: Overheard "drop the gun".
7:57:56: Less lethal deployment heard.
7:57:57: Multiple gunshots heard.

7:58:16: Officer ROBINSON and several officers approached the male subject on the ground.

7:58:40: Mr. Bennett is secured, and medical care began.

7:58:55: Handgun visible on ground near male subject.

7:02:16: Ambulance on scene.

7:09:49: Video ended.

Saint Paul Police Officer Blake Steffen's Body Worn Camera Footage

The video was 29 minutes and 10 seconds long.

Date and Timestamp: October 28, 2024, Video Begins at 7:46:38 P.M.

7:46:38: Video and audio began. Officer STEFFEN seated in driver's seat of vehicle in motion.

7:50:56: Several individuals overheard describing Mr. Bennett's description to officers.

7:51:17: Unknown male overheard saying "he ain't got no bullets".

7:53:01: Vehicle stopped, and Officer STEFFEN exited.

7:53:03: Overheard "drop the gun".

7:53:10: Overheard "drop the gun".

7:53:33: Overheard "drop the gun".

7:55:05: Unknown male stated "He ain't got no bullets".

7:57:07: Less lethal deployment heard.

7:57:12: Overheard "drop your weapon".

7:57:29: Less lethal deployment heard.

7:57:30: Overhead "drop the gun".

7:57:36: Overheard "We don't want to hurt you, get on the ground."

7:57:45: Less lethal deployment heard.

7:57:56: Less lethal deployment heard.

7:57:57: Multiple gunshots heard.

7:58:18: Officer STEFFEN and other officers approached Mr. Bennett who is on the ground.

7:58:36: Handgun visible on the ground near Mr. Bennett.

8:04:48: Officer STEFFEN seated in passenger side of vehicle.

8:15:49: Video ended.

Footage from City of Saint Paul Closed Circuit TV (CCTV)

Camera located at Snelling Avenue and University Avenue Intersection.

Date and Timestamp: October 28, 2024, 7:57:54 through 7:58:32

The Saint Paul City Closed Circuit camera overlooks the intersection of University Avenue and Snelling Avenue. The camera is facing in a southeasterly direction. To the left of the frame the Metro Transit platform can be seen. The light rail train tracks for eastbound and westbound can also be seen. Mr. Bennett is seen shirtless and shoeless; he is wearing light-colored blue jeans, a white-colored belt, and dark boxers. In his righthand is a handgun. Mr. Bennett is visibly agitated; he is pacing from side to side and yelling at officers. With his right hand wielding a black-colored handgun, he holds the weapon to the right side of his head. At time stamp 7:57:57 P.M., Mr.

Bennett takes the firearm away from his own head, extends his right arm, and aims his firearm directly towards officers who are positioned in front of him. Several rounds can be seen being fired at Mr. Bennett. Some rounds hit the ground directly in front of him. Mr. Bennett can be seen being struck by law enforcement rounds. Mr. Bennett is seen falling to the ground, his gun falls from his hand and bounces away from where his body lands. The officers who Mr. Bennett aimed his firearm at are seen approaching from the north side of the intersection and appear from the bottom of the camera frame. They approach Mr. Bennett, provide medical aid, and secure Mr. Bennett's firearm.

D. Firearms Ballistics

The Bureau of Criminal Apprehension Crime Scene Team conducted a search of the scene. The team determined a total of 31 rounds were fired by the Four Officers. Sergeant Shead fired 9 rounds from his department-issued handgun, a Glock17 Gen 5 bearing serial #BXNY608. Officer Robinson fired 8 rounds from his department-issued handgun, a Glock17 Gen 5 bearing serial #BXNY437. Officer Marlowe fired 10 rounds from a department-issued rifle, a Colt AR15 bearing serial #1778193. Officer Steffen fired 4 rounds from a department-issued rifle, a Nordic Components NC-15 bearing serial #02590.

BCA investigators determined and medical records showed Mr. Bennett was struck by 15 rounds. Mr. Bennett was found to be wielding a black handgun, Sig Sauer Model P365-XMACRO 9mm Luger bearing serial #66F606890. Mr. Bennett's handgun was determined to be unloaded and devoid of a magazine.

BCA agents through their investigation determined the handgun wielded by Mr. Bennett was reported stolen in Apple Valley, Minnesota. The lawful gun owner, B.R.H., informed BCA agents that two days earlier from the time of the incident of October 26, 2024, he noticed that his truck had been ransacked. Inside the truck was his Sig Sauer, the handgun was loaded with a fully loaded magazine containing 17 rounds. Also stolen were three fully loaded magazines each containing 17 rounds. In sum a total of 68 rounds and a holster and the gun were stolen from his truck. B.R.H., does not know Mr. Bennett. A total of 31 cartridges were located on scene, with a combination of seventeen handgun FC 9 mm Luger cartridges and fourteen Speer 223 rifle cartridges. Five spent rounds of 40mm LLM were also located on scene.

Several projectiles were recovered from various areas of the scene. A less lethal round was located at the top of a rain gutter, two less lethal rounds were located south of the light rail station near Snelling Avenue. One projectile was located west of the light rail shelter just to the west of Snelling Avenue and University Avenues. Trajectory analysis showed bullets fired by law enforcement originated from the northwest and traveled southeast approximately leveled with the ground. Some of these rounds perforated and left defects on the ground at the southeast corner of Snelling and University Avenues. Several projectiles impacted items in the area, striking a crosswalk sign, light post, fence, light rail train station pillar near the shelter on the east side. A projectile perforated the east side wall of the light rail station shelter.

E. Toxicology

Toxicology testing and analysis of Mr. Bennett's blood showed the presence of Methamphetamine (.44 mg/L) in his system.

The Four Officers refused to voluntarily provide blood samples needed for toxicology testing.

F. DNA

Forensic testing by the BCA of the stolen Sig Sauer model P365 9mm Luger bearing serial #66F606890 pistol that Mr. Bennett wielded showed that his DNA was on the firearm.

G. Injuries

The only person injured on scene was Mr. Bennett. Medical records showed Mr. Bennett sustained multiple gunshot wounds to his extremities and chest. One injury resulted in the amputation of Mr. Bennett's right leg. Mr. Bennett survived his injuries.

IV. LEGAL ANALYSIS AND RECOMMENDATION

A. Applicable Law

Minnesota Statute, Section 609.066, subdivision 2(a)(1)(i)-(iii) and (2), provides that the use of deadly force¹ by a peace officer in the line of duty is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

(1) to protect the peace officer or another from apparent death or great bodily harm, provided that the threat:

(i) can be articulated with specificity;

(ii) is reasonably likely to occur absent action by the law enforcement officer; and

(iii) must be addressed through the use of deadly force without unreasonable delay; or

¹ Minnesota Statutes, Section 609.066, subdivision 1, defines "deadly force" as "force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force."

(2) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or

(3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in clause (1), items (i) to (ii), unless immediately apprehended.”

Additionally, Minn. Stat. Sec. 609.066, subd. 2(b) also requires that:

“...[a] peace officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (a), clause (1), items (i) to (iii).”

In 2020, the Minnesota Legislature, pursuant to Minn. Stat., Section 609.066, Subd. 1a(1)-(4), declared the following to be the legislative intent regarding the authorized use of deadly force by peace officers:

“(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

(2) as set forth below, it is the intent of the legislature that peace officers use deadly force only when necessary in defense of human life or to prevent great bodily harm. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case;

(3) that the decision by a peace officer to use deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for

occasions when officers may be forced to make quick judgments about using deadly force; and

(4) that peace officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers."

When interpreting the meaning of a statute, a court's primary goal is to "interpret and construct laws so as to ascertain and effectuate the intention of the legislature." Lietz v. Northern States Power Co., 718 N.W.2d 865 (2006)

To bring charges against a peace officer for using deadly force in the line of duty, a Minnesota prosecutor must be able to prove beyond a reasonable doubt that the use of force was not justified.²

The United States Supreme Court has recognized in the case of Tennessee v. Garner, 471 U.S. 1 (1985), that the use of deadly force by a peace officer is justified where the officer has probable cause to believe that the suspect poses a threat of serious bodily harm either to the officer or to others. In Graham v. Connor, 490 U.S. 386 (1989), the Court further held that an objective reasonableness standard should be used to evaluate an officer's use of force. The determination of reasonableness requires "careful attention to the facts and circumstances of each particular case."

In Graham, the Court outlined a non-exhaustive list of factors for balancing an individual's rights versus an officer's rights. The Court identified several factors, including: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the Four Officers or others; and 3) whether the suspect was actively resisting arrest or attempting to evade arrest by flight. The Court also made clear that whether an officer used reasonable force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Court held that allowance should be made for the fact the law enforcement officers are often required to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. See also, City and County of San Francisco v. Sheehan, 575 U.S. 600, 615, 135 S.Ct. 1775, 1776-77 (2015); see also, Barnes v. Felix, 605 U.S. ___, ___ S.Ct ___, 2025 W.L. 1401083 (May 15, 2025).

² RCAO charging guidelines provide that charges should only be filed in a criminal case "when credible admissible evidence creates a reasonable probability of obtaining a conviction at trial." This is similar to both the American Bar Association's Minimum Requirements for Filing and Maintaining Criminal Charges 3-4.3(a) ("A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice) and the National District Attorneys Association Charging Standard 4-2.2 ("a prosecutor should file charges that...[the prosecutor] reasonably believes can be sustained by admissible evidence at trial").

Most recently, the Court in Barnes held that the “totality of circumstances’ inquiry has no time limit.” Specifically, the Court explained that “... the situation at the precise time of the shooting will often be what matters most; it is, after all, the officer's choice in that moment that is under review. But earlier facts and circumstances may bear on how a reasonable officer would have understood and responded to later ones... Taking account of that context may benefit either party in an excessive-force case. Prior events may show, for example, why a reasonable officer would have perceived otherwise ambiguous conduct of a suspect as threatening. Or instead, they may show why such an officer would have perceived the same conduct as innocuous. The history of the interaction, as well as other past circumstances known to the officer, thus may inform the reasonableness of the use of force.” Barnes, 605 U.S. ___, ___ S.Ct ___, 2025 W.L. 1401083 at 4.

B. Analysis and Recommendation – The Use of Deadly Force by the Four Officers Against Mr. Bennett Was Necessary and Justified Under Minnesota Law

After carefully considering the evidence in this case and the objective legal standard recognized by the U.S. Supreme Court and Minnesota law, we believe, for the following reasons, that the use of deadly force by the Four Officers against Mr. Bennett was objectively reasonable under each of the situations set forth in Minnesota Statutes, Section 609.066 subdivisions 2(a)(1)(i)-(iii) and (b) and thus was necessary and justified.

Circumstances Known to the Four Officers at the Time They Used Deadly Force Against Mr. Bennett

The relevant evidence presented to us in this case shows that each of the Four Officers were aware of the following circumstances which informed their actions at the time they used deadly force against Mr. Bennett:

- That they were responding to multiple 911 calls reporting several gunshots being fired near the intersection of University and Snelling Avenues by a male bearing the physical description of Mr. Bennett.
- That the intersection of University and Snelling Avenues is one of the busiest and most heavily utilized intersections in Saint Paul, used by motorists, bicyclists, and bus and LRT riders, and that at the time deadly force was used, there were numerous bystanders and occupied motor vehicles within proximity to Mr. Bennett.
- That from the moment that each of the Four Officers arrived at the scene at approximately 7:52 P.M., they all observed Mr. Bennett walking southbound on Snelling Avenue towards the LRT Station located in the intersection with University Ave. holding a 9mm handgun with his right hand and with the gun barrel pointed towards his head.
- That consistent with the SPPD policy concerning responding to persons in crisis, the four officers, together with other SPPD officers on the scene, made numerous efforts throughout the entirety of this incident to communicate with Mr. Bennett while also issuing several directives for him to both drop his weapon and to get on the ground.³

³ Section 403.00 of the SPPD Policy Manual, entitled, “Responding to Individuals in Crisis.” Section 403.00 provides in relevant part as follows:

“Goal:

This policy sets out the procedures and standards for responding to individuals with a mental health disorder or experiencing a mental health crisis. Individuals in mental health crisis will be treated with dignity, respect and given access to the same law enforcement, government, and community resources provided to all community members.

Response:

1. Respond promptly and safely.
2. Avoid conditions that would necessitate the need for red lights and siren.

Arrival:

1. Evaluate the situation and your options for addressing the call.
2. Take action to protect yourself and others present, including the individual in crisis.
3. If possible, get all information available through witnesses, family and others.
4. Establish communication with the individual.
5. Consider the legal situation.
 - A. Is the individual a danger to themselves or others if not immediately detained?
 - B. Is there probable cause, based on demonstrable fact or testimony that would support a criminal charge?

Assessing Risk

Not all people affected by a mental or behavior health disorder, or who are in mental or behavioral health crisis, are dangerous. Some may present dangerous behavior only under certain circumstances or conditions. Officers should assess whether someone may be a danger to themselves, the officer, or others by considering the following:

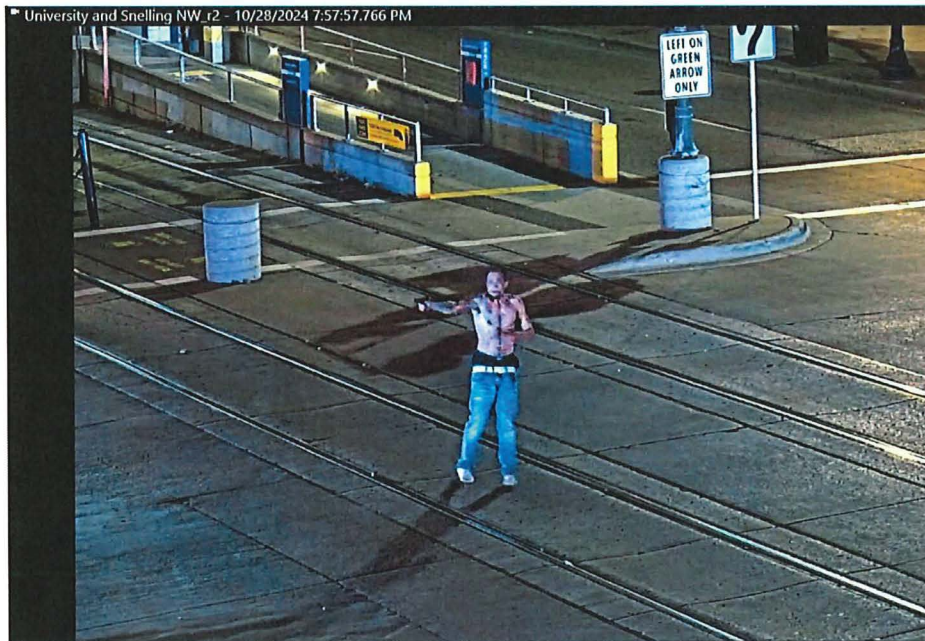
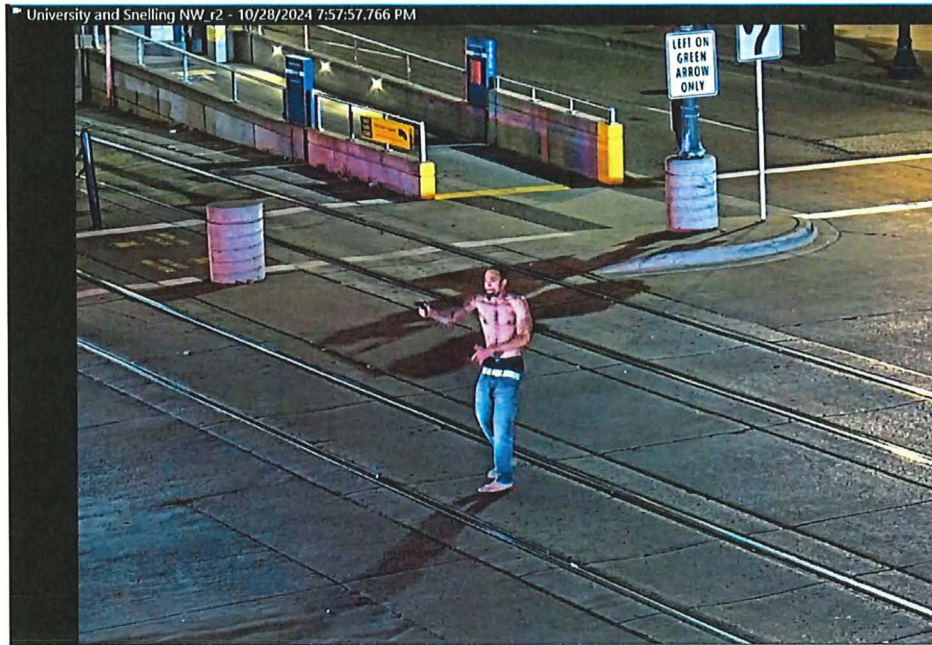
- The person’s ability to access weapons;
- The person’s statements, conduct or inferences that suggest the person will commit a violent or dangerous act;
- The person’s history, which may be known to officers, the COAST Unit, family, friends or a neighbor’s indications that the person lacks self-control, particularly lack of physical and psychological control over rage, anger, fright or agitation. Signs of lack of self-control include extreme agitation, inability to sit still or communicate effectively, wide eyes and/or rambling incoherent thoughts and speech, clutching oneself or other objects to maintain control, begging to be left alone. Offering assurances that one is all right may also suggest that the individual is losing control.
- The volatility of the environment. Agitators who may upset the person, create a less stable environment or incite violence should be carefully noted and controlled.

An individual affected by a mental or behavioral health disorder or crisis may rapidly change his or her conduct or demeanor from calm and responsive to physically active and agitated or non-responsive. This behavior change may result from an external trigger (such as an officer who states, “I have to handcuff you now,”) or from internal stimuli (such as delusions or hallucinations). Variations in a person’s demeanor or conduct does not mean they will become violent or threatening. Officers should observe, and be prepared at all times, for a rapid change in behavior....

A situation where an individual in crisis is apparently agitated but not violent requires thoughtful action:

1. Confirm that the individual is unarmed and does not have access to weapons.
2. Reduce fear, anxiety and tension in the individual by slowing things down.
 - A. Avoid any show of force.
 - B. Try to establish a friendly or understanding relationship with the individual.
 - C. If possible, determine whom they trust or have faith in and summon that individual to the scene.
 - i. Clergy
 - ii. Physician
 - iii. Relative or friend
3. Practice patience by slowing things down.
4. Do not make statements as to your opinions regarding the individual’s mental state.
5. Consider calling a supervisor.....”

- That Mr. Bennett did not comply with any of the directives issued by the officers on the scene, including those issued by the Four Officers, and he continued to proceed towards the Snelling/University LRT Station.
- That throughout the entire incident, Mr. Bennett did not accept either the officers' efforts to verbally engage with him or their offers to help him, and instead he was often yelling incomprehensibly at the officers and others within his vicinity and was visibly acting in a manner that could be reasonably described as agitated.
- That when Mr. Bennett stopped near the entrance of the Snelling/University LRT Station, the Four Officers, together with four other SPPD officers, took cover behind Sergeant Shead's SPPD SUV that was parked diagonally in the southbound traffic lanes of Snelling Avenue near the University Ave. intersection crosswalk.
- That given the distance between Sergeant Shead's vehicle and Mr. Bennett's location near the entrance of the LRT Station occupied with several bystanders, it was decided by the officers behind the vehicle to delay the use of LLM against Mr. Bennett out of concern that the LLM would not be as effective and could result in Mr. Bennett moving closer to the bystanders and placing them in greater danger.
- That within seconds after that decision, Mr. Bennett began to move away from the LRT Station and moved closer to the officers.
- That Mr. Bennett's agitated state of behavior did not abate after he moved away from the entrance to the LRT station and moved closer to the officers.
- That because of his proximity to the officers it was decided that the use of LLM against Mr. Bennett was needed to peaceably end the threat posed by Mr. Bennett to the officers and the numerous civilians in the vicinity.
- That Officers Suon and Borowicz each fired a 40mm LLM round at Mr. Bennett, with neither round hitting Mr. Bennett. Before every LLM round was fired during this incident, the firing officer loudly announced "Less Lethal! Less Lethal!"
- That Officer Borowicz fired another 40 mm LLM round that again missed Mr. Bennett. Officer Suon then fired a 40mm LLM round that struck Mr. Bennett but did not cause him to either drop his weapon or fall to the ground. Officers Robinson, Marlowe, and Longbehn each stated that after Mr. Bennett was struck by the LLM fired by Officer Suon, they heard Mr. Bennett say, "something to the effect of, "[i]f you hit me with one of those or if you do that again, I'm gonna' make you shoot me."
- That seconds later, Officer Borowicz fired a third 40mm LLM round that although it struck Mr. Bennett, it did not cause him to drop his weapon or fall to the ground. Instead, Mr. Bennett raised his gun with his right hand and pointed the barrel towards the officers behind Sergeant Shead's vehicle.
- That although the audio of the entire incident is captured on many of the ICCs and the BWCs worn by the officers present at the scene, the most complete and best video image of the shooting of Mr. Bennett is captured by an adjacent CCTV camera. Video taken from the CCTV camera showed that at 7:57:57.776 P.M., Mr. Bennett raised his firearm with the gun barrel pointing towards the four officers. The following are still screen images taken at that moment from the CCTV:



- That the Four Officers responded by firing 31 total rounds at Mr. Bennett, with 15 of those rounds striking and severely wounding him. Sergeant Shead and Officer Robinson each respectively fired nine and eight rounds from their handguns, and Officers Marlowe and Steffen each respectively fired ten rounds and four rounds from their rifles.
- That according to time-stamped audio taken from the four officers' BWCs the first audible gunshot fired by the Four Officers occurred at 7:57:59 P.M.

- That both the time-stamped CCTV video images and BWC audio corroborates the written statements provided by Sergeant Shead and Officers Lenander, Steffen, Robinson, Marlowe, Nuah, and Longbehn who each stated they saw Mr. Bennett suddenly point his gun at the officers compelling the Four Officers to use deadly force against Mr. Bennett. Additionally, L.M., a civilian witness waiting for a train at the Snelling/University Ave. LRT Station at the time of the shooting, also told investigators that Mr. Bennett first pointed his gun at the officers and was “ready to shoot,” followed by the Four Officers firing their weapons at him.
- The handgun found next to Mr. Bennett in this incident was reported stolen to Apple Valley Police on October 27, 2024, by a person other than Mr. Bennett, and was tested by the BCA and found to contain Mr. Bennett’s DNA.

The Four Officers’ Use of Deadly Force Against Mr. Bennett Was in Conformance with the SPPD’s Use of Force Policy

Section 264.00 of the SPPD Officer Use of Force Policy, sets forth the following elements when evaluating deadly force situations:

- “1. **Ability** - Ability exists when a person has the means or capability to cause grave injury, serious bodily harm or death to an officer or another. This may include, but is not limited to the person’s physical ability, size, age, strength, combative skill, level of aggression, and any weapons in their immediate control.
2. **Opportunity** - Opportunity exists when a person is in a position to effectively resist an officer’s control or to use force or violence upon the officer or another. Examples that may affect opportunity include relative distance to the officer or others, and physical barriers between the subject and the officer.
3. **Imminent Jeopardy** - Based upon all the facts and circumstances confronting the officer, the officer reasonably believes the individual poses an imminent threat to the life of the officer(s) or others and the officer must act immediately to prevent death or serious bodily injury.”

Based on the relevant evidence presented to us, we believe that the Four Officers’ use of deadly force was in conformance with the SPPD’s Use of Force Policy in: 1) that Mr. Bennett posed an imminent threat to the lives of those officers to whom he pointed his 9mm handgun at as well as the many bystanders in the immediate area, including the two persons who are seen on video taken from Sergeant Shead’s BWC standing approximately 20 feet away from Sergeant Shead on the southwest corner of Snelling/University Avenues; and 2) that Mr. Bennett had demonstrated both the ability and opportunity to cause grave injury, serious bodily harm, or death to others, when he suddenly and without warning raised his 9mm firearm and pointed the barrel at the officers positioned behind Sergeant Shead’s vehicle; and 3) that absent the use of deadly force by the four officers’ use of deadly force without unreasonable delay against Mr. Bennett, they and other nearby bystanders were reasonably likely to suffer great bodily harm or be killed.

The determination by the Four Officers that the use of deadly force against Mr. Bennett was necessary to protect the many peace officers and civilians in the immediate area are articulated with specificity by all the relevant witnesses both in their words and actions and are well-supported by the above-described circumstances. Mr. Bennett repeatedly refused to drop his weapon when ordered to do so, followed by the prudent and thoughtful decision by the officers to use LLM five times against him in an effort, albeit without success, to peaceably and safely end the incident. This was immediately followed by his decision to suddenly point his handgun at the officers, in a manner both captured on the CCTV video and described by L.M. that "[h]e was ready to shoot" at the officers.

Under the foregoing circumstances, given the immediate risk to their own lives and those lives of the many nearby civilians near that intersection, and notwithstanding the earlier offhand and unsubstantiated comments made to Officers Robinson and Steffen by K.P-W. that his gun had no bullets, it would be both unreasonable and likely irresponsible, for the Four Officers to not use deadly force against Mr. Bennett without unreasonable delay. It is for the foregoing reasons that we believe that the use deadly force against Mr. Bennett by the Four Officers was justified and necessary under Minnesota Statutes, Section 609.066 subdivisions 2(a)(1)(i)-(iii)⁴

The Four Officers Did Not Violate Minnesota Statutes, Section 609.066, Subdivision 2(b)

Minnesota Stat. Sec. 609.066, subd. 2(b) provides that:

"A peace officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great

⁴ We feel it necessary to explain why we did not address whether the use of deadly force against Mr. Bennett was also necessary and thus justified under Minn. Stat. Sec. 609.066, Subd. 2(a)(2). This provision essentially justifies the use of deadly force by a peace officer whom the officer knows or has reasonable grounds to believe has committed a felony and the officer reasonably believes that the person will cause death or great bodily harm under the threat criteria in Sec. 609.066, Subd. 2(a)(1)(i-iii), unless immediately apprehended.

It is our understanding that Mr. Bennett is currently in custody in the Hennepin County Jail where he is a defendant charged by the Hennepin County Attorney's Office with three counts of second-degree murder in which three persons were shot and killed. The alleged three homicides occurred in Minneapolis on October 27 and 28, 2024, and we further understand that shortly after he was transported to Regions Hospital for medical treatment on the evening of October 28, Mr. Bennett was identified by Minneapolis Police Department as a suspect in those three homicides.

There is no evidence in the investigative file presented to our office that indicates that any of the Four Officers who used deadly force against Mr. Bennett, as well as any of the other officers who responded to this incident, had any knowledge of the identity of Mr. Bennett, or his alleged connection to the three Minneapolis homicides, at the time deadly force was used against him. It is for this reason, that our recommendation in this matter does not include our analysis as to whether the use of deadly force against Mr. Bennett was also necessary and justified under Minn. Stat. Sec. 609.066, Subd. 2(a)(2). However, for the sake of transparency we do believe that his alleged status as a suspect in that triple homicide case is deserving of being considered as appropriately relevant to his motives and conduct in this matter.

bodily harm to the peace officer or another under the threat criteria in paragraph (a), clause (1), items (i) to (iii)."

The Four Officers responded to at least four 911 calls reporting gunshots fired near the intersection of University Ave. and Snelling Ave. Officers were later notified that the description of the man responsible for firing those gunshots matched those of a man later identified as Mr. Bennett. While the Four Officers observed Mr. Bennett holding a 9mm handgun pointed towards his head, there was no evidence presented to us that Mr. Bennett verbally expressed any suicidal thoughts to any of the officers on the scene.

Despite that, the officers who encountered Mr. Bennett on that night, including the Four Officers, reasonably and properly attempted to conduct their interactions with Mr. Bennett as if he was a person in crisis. All the repeated attempts made by the officers, including the Four Officers, to deescalate the situation and help Mr. Bennett were suddenly and unexpectedly rebuffed by him when he pointed his firearm at the officers, including the Four Officers, who were positioned behind Sergeant Shead's SPPD vehicle, forcing the Four Officers to use deadly force against him to protect themselves and several nearby bystanders. Accordingly, for the same reasons set forth in Section IV. B. of this Memorandum, the decision by the Four Officers to use deadly force against Mr. Bennett was objectively reasonable based on the totality of the circumstances then known to the Four Officers without the benefit of hindsight.

VI. CONCLUSION

Again, for all the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Sergeant Shead and Officers Robinson, Marlowe and Steffen against Mr. Bennett was justified and necessary under Minn. Stat. § 609.066, subd. 2(a)(1)(i-iii), (2) (b), and it is our recommendation that no criminal charges be brought against the Four Officers related to this incident.