



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 *AK*
Hao Nguyen, Trial Division Director *HQN*

DATE: April 23, 2025

RE: In the Matter of the Death of Pepsi Lee Heint
RCAO File Nos. 062-0577022, 062-0577027, 062-0577028
BCA File No. 2024-464

I. INTRODUCTION

On May 6, 2024, Officers Chee Lao, Yengkong Lor, and Chiking Chazonkhueze of the Saint Paul Police Department ("SPPD"), while acting in their professional capacity as licensed peace officers, responded to a 911 call from S.L.B. reporting that her child, later identified as her daughter, Pepsi Lee Heint, age 41, was threatening to commit suicide in a home located at 11xx Rose Ave. E. in Saint Paul.

When the three officers arrived at the home, they were summoned by Ms. Heint's mother to a small bedroom located in the rear of the home where Ms. Heint and her mother were both sitting on the floor next to a bed. When the officers entered the bedroom, Ms. Heint's mother was noticeably distraught and pleading with her daughter to not kill herself.

When Officer Lao asked Ms. Heint if she was okay, Ms. Heint gave no verbal response. Instead, Ms. Heint suddenly grabbed a handgun from underneath a nearby blanket, quickly stood up and pointed the gun at Officers Lao and Chazonkhueze who were standing in the bedroom less than two feet away from her, and at Officer Lor who was standing in the doorway of the bedroom. The three officers responded by firing 18 total shots at Ms. Heint, with 15 of the shots striking her, resulting in her death.

The entire incident is captured on the Body Worn Cameras ("BWCs") worn by each of the three officers and occurred within approximately 22 seconds from the time the three officers entered the small bedroom to render assistance to Ms. Heint to the moment that Ms. Heint

suddenly and without warning, pointed a 9 mm handgun at the surprised officers, who then responded by shooting her.

The Minnesota Bureau of Criminal Apprehension ("BCA") conducted the investigation of the circumstances resulting in the death of Ms. Heinl. The Ramsey County Attorney's Office ("RCAO") then reviewed the evidence gathered by the BCA to determine whether the three officers' use of deadly force against Ms. Heinl 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 Ms. Heinl. This evidence includes statements taken from lay witnesses and others, during interviews conducted by BCA agents; physical evidence, including DNA and ballistics evidence; audio and video taken from law enforcement in-car cameras ("ICCs"), and BWCs worn by the officers who were involved in the incident, including those worn by Officers Lao, Lor, and Chazonkhueze. Written statements from the three 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 Officers Lao, Lor, and Chazonkhueze against Ms. Heinl was 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 the three officers related to this incident.

II. CASE SUMMARY

A. Summary of Facts

At approximately 7:19 PM on May 6, 2024, a clearly distraught S.L.B. called 911 to report that her daughter, later identified as Ms. Heinl, was committing suicide. S.L.B. gave her address of "11xx Road Avenue," and then abruptly ended the call without providing any additional information to the 911 operator. The operator identified the correct location of where the call was made as 11xx Rose Ave. E., the home of S.L.B. and Ms. Heinl.

At that time, Officers Chazonkhueze and Lor were on patrol in the SPPD Eastern District sharing a fully marked SPPD police vehicle, along with Officer Lee who was sharing a fully marked SPPD police vehicle with his field training officer, Officer Jordan Trammel. At approximately 7:21 PM, the officers were dispatched to the home with the knowledge that they were responding to the following call – "Caller screaming saying that her son is committing suicide/Caller disconnected/No answer on CBX2." The officers were dressed in dark blue SPPD uniforms typically worn by patrol officers, and each of the officers was wearing a BWC that was activated throughout the entirety of this incident.

The officers arrived at the house and exited their vehicles at approximately 7:24:11 PM. Officer Lao was the first to enter the unlocked screened front entry porch, followed by Officers Chazonkhueze and Lor. Before entering the wide open main front door into the house, Officer Lao began loudly announcing "Saint Paul Police!" three times, and Officer Chazonkhueze also loudly announced "Police!" one time. A female voice is heard from the rear of the house responding to the officers, saying "Here! We're back here!" Led by Officer Lao, the officers followed the voice by proceeding through the living room, a dining room and kitchen before arriving at the doorway of a small bedroom adjacent to the kitchen.

At approximately 7:24:51 PM as he approached the bedroom door, Officer Lao first saw S.L.B. and Ms. Heint sitting near each other on the bedroom floor next to a small bed. Officer Lao was followed into the bedroom by Officers Chazonkhueze and Lor. Officer Lao asked Ms. Heint and S.L.B. four times, "What's going on?" A visibly distraught S.L.B. loudly responded, "She was turning blue! She was turning blue on her mouth! And she wasn't breathing!" Ms. Heint appears to then reach for something toward a nearby blue tote bag and blanket with her right hand. Simultaneously, Officer Lao said "Hey, hey!" while S.L.B. pulls her arm back.

At approximately 7:25:03 PM, Officer Lao asked Ms. Heint three times if she was okay, and Ms. Heint is quietly heard saying, "I'm tired." S.L.B. responded, "She's not okay. Oh, God. She's not okay," while Ms. Heint then replied, "I'm okay." Officer Chazonkhueze then asked if Ms. Heint had taken any drugs and S.L.B. replied, "That's what I asked her."

At approximately 7:25:13 PM, Ms. Heint suddenly reached toward the tote bag and blanket and quickly stood up with a tan colored handgun in her right hand. S.L.B. reached toward Ms. Heint with both of her arms to try to stop her. Officer Lao was standing near the foot of a small bed and was less than two feet to the left of Ms. Heint. Officer Chazonkhueze was slightly behind and to the right of Officer Lao, near a corner of the bedroom. Officer Lor was standing near the bedroom door which was the only entry and exit point for the bedroom.

Approximately one second later, Ms. Heint assumed a shooter's stance by holding the grip and trigger of her 9mm firearm with two hands and pointing it at the officers in a fast-moving sweeping motion initially toward Officer Lor and then moving toward Officers Lao and Chazonkhueze. S.L.B. appeared to reach for Ms. Heint as if to prevent her from shooting the officers. The three surprised officers loudly yelled at Ms. Heint as they each quickly removed their handguns from their respective duty belts and collectively fired 18 shots at Ms. Heint, striking her 15 times. Ms. Heint fell backward onto the bed and her tan colored handgun fell to the floor.

S.L.B. appeared to reach for the gun but Officer Chazonkhueze immediately grabbed it and moved it away from S.L.B., placing it on the floor near Officer Lao so he could secure it. Officers Chazonkhueze and Lor then both quickly escorted S.L.B. from the bedroom

into the front living room. Officer Lao together with other SPPD officers began performing life-saving emergency first aid measures on Ms. Heint until Saint Paul Fire and Emergency Medical Services ("EMS") professionals arrived on the scene approximately six minutes later and continued performing life-saving measures on her. Ms. Heint was declared deceased at approximately 7:33 PM, and her body was transported to the Ramsey County Medical Examiner's Office.

Officers Lao, Chazonkhueze, and Lor each provided separate written statements to the BCA investigators describing what they saw, heard, and reacted to in the house. Each of those written statements are substantially consistent with their actions as evidenced by the video and audio taken from their respective BWCs.

Although S.L.B told BCA investigators that she believed her daughter fired her gun at the officers, BCA investigators were unable to locate any shell casings or bullets that could be traced to her gun. S.L.B. further said that "the cops shot [Ms. Heint] so that she wouldn't hurt anybody. It wasn't their fault." S.L.B. also provided BCA investigators with Ms. Heint's personal journal in which she wrote, among other things, that May 6, 2024, would be her "Death Day" and describing her dying by firing squad and having come to terms with leaving Earth. The remainder of the multiple-page diary entry clearly corroborated why S.L.B. believed her daughter was suicidal.

The autopsy completed on May 7, 2024, by the Ramsey County Medical Examiner, found that Ms. Heint was struck 15 times by gunfire, and that her death was caused by multiple gunshot wounds.

A tan colored Glock 19x 9mm caliber handgun was found next to Ms. Heint's body. Firearm purchase records show that the gun was purchased by Ms. Heint on November 7, 2023, and testing conducted by the BCA on the gun determined that her DNA was found on the gun.

A total of eighteen (18) shell casings were recovered at the scene by the BCA and were identified by a BCA forensic scientist as having been fired from the three officers. BCA investigators did not find any shell casings or were unable to determine if Ms. Heint fired her weapon. In addition, three spent shell casings were found near Ms. Heint's body but could not be scientifically identified as having been fired from her gun. Two spent shell casings and a bullet were recovered at the scene by the BCA and were identified by a BCA forensic scientist as having been fired from the three officers' Glock 17 Gen 5, 9-millimeter semi-automatic handguns.

III. SUMMARY OF RELEVANT EVIDENCE

A. 911 Call

911 Call of S.L.B. to 911 Dispatch

May 6, 2024, 7:18 PM, Call duration about 12 seconds

"911 what's your emergency?" 911 Dispatcher

"ohh lord ohh lord, my son's committing suicide 11XX Rose Avenue, hurry please." S.L.B.
"Okay 11..."

Phone call is abruptly ended. 911 dispatcher attempts to call S.L.B. back five consecutive times but does not get an answer.

B. Toxicology Results

Toxicology testing and analysis of Officers Lor and Lao showed no presence of alcohol or drugs in their system. Officer Chazonkhueze declined to provide BCA investigators with a toxicology test sample. Toxicology testing and analysis of Ms. Heint's blood showed no presence of alcohol or drugs in her system.

C. DNA

Forensic testing by the BCA of the Glock Model 19X, 9-millimeter caliber pistol bearing serial number CBGA688 that Ms. Heint wielded showed that her DNA was on the grip, slide, and magazine of the firearm.

D. Personal Journal Entries Made by Ms. Heint

S.L.B. found and provided BCA investigators with a 30-page handwritten personal journal entry, signed by Ms. Heint that was addressed to S.L.B. The entries clearly expressed Ms. Heint's troubled emotional state at the time of her encounter with the officers and contains suicidal ideations. Specifically, the title of the entries was "My Death Day, May 6, 2024" with a passage describing Ms. Heint as dying by firing squad and having come to terms with leaving Earth.

E. Interviews of Key Witnesses

Interview of S.L.B.

S.L.B., the biological mother of Ms. Heint, was interviewed by BCA agents and identified her daughter by the name Pepsi Heint. By way of background, S.L.B. explained that Pepsi had come to live with her and had only been in the home for about a week. During that week span, leading up to May 6, 2024, S.L.B. said she was concerned for Pepsi's safety

and worried that Pepsi may want to commit suicide. Pepsi had recently had marital issues with her husband, and the two had split up from one another. During the short time that Pepsi was living with S.L.B., she noticed that Pepsi was preparing her body, she thought in anticipation of killing herself. Pepsi had shaved her legs, fixed up her hair, and even asked S.L.B. to put her hair into braids. S.L.B. said she knew Pepsi was going to attempt to commit suicide because Pepsi offered to give S.L.B. her jewelry box. When Pepsi offered her jewelry up as a gift, S.L.B. confronted Pepsi and asked her if she was going to try and kill herself. S.L.B. said Pepsi denied wanting to commit suicide. S.L.B. told Pepsi she should move on from her husband and encouraged her to go back to school, she wanted Pepsi to make a life for herself.

On May 6, 2024, she was at her residence of 11XX Rose Avenue East, Saint Paul, Minnesota, in Ramsey County. She was in the kitchen doing dishes when she heard gurgling sounds coming from Pepsi's bedroom. S.L.B. ran into the bedroom and saw her daughter lying on the floor unconscious. S.L.B. saw that her daughter's lips were blue, and her body was completely stiff. S.L.B. thought Pepsi had overdosed from Gabapentin, a medication belonging to S.L.B. When she reached her daughter's body, she immediately began chest compressions and was able to bring Pepsi back to consciousness. S.L.B. stated she called 911 and asked for help, telling 911 that her daughter had tried to commit suicide. S.L.B. said she sat next to Pepsi on the floor of the bedroom and waited for law enforcement officers to arrive. After a short period of time, she heard officers in her house. She called out to the officers telling them that she and Pepsi were in the back bedroom. She saw several officers enter the bedroom.

When the officers entered the bedroom, S.L.B. and Pepsi were still seated on the floor next to each other. After the officers entered the room, S.L.B. saw Pepsi reach underneath a pillow and retrieve a handgun. After getting the handgun, she saw Pepsi point the gun directly at officers. S.L.B. then ducked, putting her head onto the floor and covered herself with her hands. S.L.B. stated she then heard several gunshots being fired. After the gunshots stopped, she looked up and saw that Pepsi had been shot and was dead. S.L.B. believes she grabbed for Pepsi's gun throwing it away from Pepsi's body. S.L.B. said she was then immediately escorted out of the room by officers. S.L.B. stated the officers shot Pepsi because they didn't want Pepsi to hurt anyone. Saying, "They did it, so she didn't hurt anybody, the cops, it wasn't their fault, they were there to help me, to help her, to get her into a hospital." S.L.B. told BCA agents that she found a suicide note and a small doll in her jacket pocket. She believes that Pepsi left the note for her to find. The note was written by Pepsi and described wanting to die. S.L.B. gave the note to BCA agents. S.L.B. also told agents that the gun Pepsi grabbed for and pointed at officers was purchased by Pepsi, telling agents Pepsi bought the gun for a security job.

Written Statement of SPPD Officer Lao

On May 6, 2024, at about 7:00 PM, he was on duty patrolling the East District of the City of Saint Paul, Ramsey County, Minnesota when he was dispatched to a suicide in progress call at a location on Rose Avenue between Duluth Street and Frank Street. When he arrived on scene, he saw that SPPD Officers Lor and Chazonkhueze were already at the residence. Officer Chee Lao stated because he was designated as primary lead officer for the call, he walked past and then ahead of officers Lor and Chazonkhueze. The front door of the residence was wide open, and he entered the residence announcing himself as Saint Paul police officer. When he announced his presence, no one in the house responded. He walked further into the living room and announced himself once more. He then heard a female voice calling out to him saying "HERE!" He followed the female's voice toward the back of the home and found two females sitting on the floor of a small bedroom.

Officer Lao entered the bedroom and asked the two females what was going on. One of the females, an elderly female, responded that her daughter (herein Ms. Heinl) was "blue," she said this while holding Ms. Heinl's hand. As Officer Lao was trying to assess the situation, he saw officer Chazonkhueze enter the room and walk past him, going to his right side. As soon as that happened, Officer Lao saw the elderly female, whom he considered the mother of Ms. Heinl, let go of her daughter's hand. Officer Lao saw Ms. Heinl start to look for something from under a blanket. Almost immediately at that time, Officer Lao heard officers who were standing at the door to the room call out to the Ms. Heinl to "STOP!" Officer Lao then also commanded Ms. Heinl to "STOP" what she was doing. Ms. Heinl did not listen or comply. Officer Lao saw Ms. Heinl with her right hand pull out a tan colored handgun from under a blanket. Officer Lao then saw what he believed to be a muzzle of a handgun pointed at him. In that moment he ducked down and turned to his left to avoid being shot. As he did a full turn, he drew his department issued handgun. When he completed his turn, he found himself facing Ms. Heinl. He saw that she was sitting on a bed with the gun still in her hand, pointing the gun at him and other officers. In response Officer Lao aimed his handgun at Ms. Heinl and fired several shots. Ms. Heinl did not move after being shot. Ms. Heinl's mother then grabbed the handgun away from her daughter at which point Officer Chazonkhueze took hold of the gun, placing it on the floor away from Ms. Heinl. Officer Lao then walked to the gun and stood next to it.

Other officers immediately entered the room and began providing cardiopulmonary resuscitation (CPR). As he stood there, Saint Paul Sergeant Flaherty entered the room and escorted Officer Lao out of the scene. Officer Lao in his written statement noted he chose to use deadly force upon Ms. Heinl only after Ms. Heinl aimed a handgun at him and other officers who were present in the room. Officer Lao believed that Ms. Heinl's intention was to shoot him, his partners, and possibly the other female in the room. Officer Lao stated he believed that his life, the life of his partners, and the life of the other female in the room were in imminent danger. Officer Lao stated he believed if he had not used

deadly force in response to Ms. Heinl's actions, those in the room with him may have been killed or injured. Officer Lao stated he only shot Ms. Heinl to protect himself and others from death or great bodily harm.

Written Statement of SPPD Officer Lor

On May 6, 2024, at about 7:20 PM, Officer Lor and his partner SPPD Officer Chazonkhueze were assigned to the Patrol Division working the Eastern District of the City of Saint Paul, Ramsey County, Minnesota. They were dispatched to a residence on the eleven hundred block of Rose Avenue East for a report of a suicide in progress. He was the driver, and his partner was in the passenger seat. They were in a fully marked Saint Paul Police Department squad car. Their squad car has a laptop equipped with a Computer Aided Dispatch (CAD) system. A note from the system provided by 911 dispatch stated that a mother had called and said her son was trying to kill himself. Upon arrival, he and his partner approached the house and saw that the front door was open. At the same time, he saw SPPD Officers Lao and Jordan Trammel arrive onto the scene and approach the front of the residence. He saw Officer Lao enter the open door of the residence with Officer Chazonkhueze following behind him. He then followed Officer Chazonkhueze with Officer Trammel trailing behind them. Once inside the residence, the four of them called out and announced their presence in the home.

Initially no one from inside the home responded back to them. Officer Lor stated they all entered the home because they felt a suicide was in progress and believed there was an ongoing medical emergency. A short time after being inside the house, he and other officers heard a female voice yelling from the rear of the house. He stated the officers quickly walked through the dining area, kitchen and toward a bedroom near the back of the home. Inside the bedroom he saw two adult females sitting on the ground. One being an elderly female, whom he believed to be the mother who called 911. The other female appeared to be between the ages of twenty-five and thirty years old (herein Ms. Heinl). He saw Officer Lao enter the bedroom and attempt to talk to Ms. Heinl. While this was happening, he heard the mother say, "She was turning blue!" Officer Lor upon hearing this considered that this medical emergency could be a drug overdose and said he then looked around the bedroom for signs of drug use and drug paraphernalia. Next, he saw Officer Chazonkhueze enter the bedroom and walk to the right side of Officer Lao. Officer Lor stated he remained at the doorway of the bedroom and was looking directly at Ms. Heinl, noting that she was not responding to Officer Lao's questions or commands whatsoever.

Within a few seconds after that, Officer Lor saw Ms. Heinl quickly move to her right and frantically pull on a blanket that was on the ground next to where she was sitting. Officer Lor stated he then took a step toward Ms. Heinl and saw that she was holding a tan colored handgun that appeared to look like a Glock handgun. He saw that the handgun was equipped with a magazine and believed the gun Ms. Heinl was wielding to be a real and operable weapon. Upon seeing Ms. Heinl holding the gun he yelled at his partners to alert them of the threat. Officer Lor then stated he unholstered his department issued

Glock 17 handgun aiming it at Ms. Heinl. He then saw the elderly female, who he presumed was the mother attempting to grab onto Ms. Heinl. He saw Ms. Heinl begin to stand up looking in the direction of Officers Lao and Chazonkhueze. He saw Ms. Heinl raise the tan handgun she was holding and point it directly toward Officers Lao and Chazonkhueze. It was at that moment the elderly female appeared to be able to pull at Ms. Heinl's waist getting her down onto a nearby bed.

Fearing for his life and the lives of Officers Lao and Chazonkhueze, he pointed his department-issued handgun at Ms. Heinl and made the decision to shoot her in order to stop the threat of death or great bodily harm. After firing his weapon at Ms. Heinl, he lowered his gun and assessed the situation. He then escorted the elderly female out of the house, while others stayed inside to provide medical assistance to Ms. Heinl. He then released custody of the elderly female to another officer and reported to the on-scene sergeant. In summation, Officer Lor said he chose to use deadly force on Ms. Heinl only after she presented a handgun and pointed it at him and his partners. It was his belief that Ms. Heinl intended to shoot him, his partners, and/or the elderly female.

Written Statement of SPPD Officer Chazonkhueze

On May 6, 2024, at about 7:20 PM, he was on patrol for the Saint Paul Police Department working with his partner, Officer Yengkong Lor. They were dressed in full police attire and driving a fully marked police squad number 2172. They responded to 11XX Rose Avenue East for a 911 hangup call for help, wherein the complainant stated their son was attempting to commit suicide. Officer Chazonkhueze stated he and his partner were the first to arrive on scene. They approached the residence and, as they did so, he noticed there was a four season porch at the front of the house that led to the main entry of the residence. He saw that the door was wide open, but rather than enter, he and his partner waited for additional officers to arrive. After a short time passed, Officers Trammel and Lao arrived on scene. Officer Lao was the first one who made entry into the residence, with him and other officers following behind Officer Lao. Once inside he heard Officer Lao announcing several times in succession that police were in the residence.

A female voice was heard calling out from the back room. He followed officers to the back bedroom and saw two females sitting on the floor. The females were facing each other, the bedroom was small and the space tight. Office Lao was the first to make contact with the two females. One female was wearing all black and appeared to be between 25 to 30 years old. The other female was about 40 to 50 years old. The younger female was seated on the floor nearest the bed and facing the bedroom door. The elderly female was facing the younger one and had her back to the door. Officer Chazonkhueze heard an officer ask what was going on. The elderly female responded by saying that the younger female was all blue. He looked at the younger female and saw that she appeared disoriented. At that point he entered the room and walked to the south side, standing only a few feet from both seated females.

As he continued to look around the room, he heard the younger female (herein Ms. Heint) begin to shuffle around. He could not however see what Ms. Heint was doing because Officer Lao was standing directly between him and Ms. Heint. As this was happening, he heard other officers in the room begin screaming and yelling something at Ms. Heint. He looked over Officer Lao's right shoulder and saw Ms. Heint begin to stand up. He saw Ms. Heint point a tan colored handgun at Officer Lor who was standing at the bedroom door. Ms. Heint then continued to move the gun toward her left and point her gun at him and Officer Lao. Officer Lao then walked backward toward his direction getting so close to Officer Chazonkhueze that he remembers having to move Officer Lao with his arm to prevent them from colliding into each other.

Officer Chazonkhueze stated he saw Ms. Heint continue to point the gun at him and his fellow officers. He saw the elderly female push Ms. Heint causing her to fall backward onto the bed. As Ms. Heint fell backward, she still had the gun in her hands. He then quickly unholstered his duty firearm and fired it at Ms. Heint six times. He fired his gun to protect the life of the elderly female, the life of his partner, and his life. He fired his weapon to protect life and to prevent great bodily harm to those in the room with him. As he shot, he could also hear gun shots being fired from other officers as well. He saw Ms. Heint stop moving, lying motionless on the bed with her gun on her chest. He then stopped shooting to assess the situation and radioed to dispatch that he and officers were involved in a shot-fired call. A few moments later the elderly female stood up and grabbed Ms. Heint's gun off her chest. He then rushed the elderly female to take control of the gun, and the elderly female dropped the gun on the floor. He then slid the gun away from the elderly female, grabbed her, and walked her out of the room. He requested medics to the scene and then reported to Sergeant Flaherty.

F. Body Worn Camera (BWC) Footage

Officer Lor BWC

Date 05/06/2024, Duration of the footage is 19 mins and 53 seconds

Start Time 7:21:15

The first thirty seconds of the footage has no sound. Officer Lor is seen in the driver's seat while his partner, Officer Chazonkhueze, is sitting on the front passenger seat. At about thirty seconds into the footage, recording of the audio began. The squad car's sirens can be heard as Officer Lor drives them to the scene. At one minute and thirty-six seconds Officer Chazonkhueze is seen getting a less lethal pepper ball gun ready. The red slide of the less lethal pepper ball gun is clearly visible. At two minutes and twenty-two seconds the squad stops and is placed in park at the scene of the location. Officer Lor exits the driver's side of the vehicle and immediately begins walking toward the address.

Three minutes and nine seconds in the footage Officer Chazonkhueze notes that the front door is open, while Officer Lao is seen walking toward the house and up the front steps. Officer Lao then announces, "Saint Paul Police." He does this announcement three times

as officers enter the front of the residence moving deeper into the house. At three minutes and twenty-seven seconds a female's voice is heard calling from the back of the house. The female is yelling, "Here, back here!" At three minutes and twenty-nine seconds Officer Lor is seen behind Officers Chazonkhueze and Lao as they work their way through the house walking toward the back of the residence. Officers walk through the kitchen area to the back bedroom. An elderly female (herein S.L.B.) is distraught and screaming, "She was turning blue I think, and she wasn't breathing."

At three minutes and thirty-six seconds S.L.B. is seen sitting on the floor with Ms. Heint, Heint is awake and sitting up, her eyes are open, and she is looking forward. S.L.B. is visibly distraught, crying, and telling officers that Ms. Heint was turning blue in the mouth. Officer Lao is seen walking into the bedroom and standing next to Ms. Heint, while Officer Chazonkhueze is seen stopping at the doorway.

Between three minutes and fifty-four seconds and four minutes and seven seconds the following occurs. Officer Chazonkhueze moves into the bedroom. Ms. Heint is still seated on the ground and is seen looking to her right and then down toward the ground. Officer Lor stands in the bedroom doorway. Ms. Heint then reaches to her right toward a tote and blanket. She then is seen retrieving a handgun that appears to be tan in color. The handgun, prior to be wielded by Ms. Heint, was hidden under some blankets that were immediately next to Ms. Heint. After grabbing the tan colored handgun Ms. Heint begins to stand up and point the gun at Officer Lao. S.L.B. is still seated on the ground and reaches up at Ms. Heint's waist. Officer Lor draws his handgun and points it at Ms. Heint. Ms. Heint is seen holding her tan colored handgun with both hands and takes a shooting stance with both her arms stretched out in front as she continues to wield and aim the gun. Shouting can be heard, followed by multiple gun shots. The slide of Officer Lor's handgun can be seen cycling back and forth multiple times. Ms. Heint is seen falling backward onto the bed and floor. Officer Chazonkhueze uses his radio and airs "374, shots fired." S.L.B. is seen crawling toward and onto Ms. Heint. An officer is heard saying "Drop the gun." S.L.B. checks on Ms. Heint as she lies motionless on the bed and floor.

Between four minutes and eighteen seconds and the end of the video the following occurs. Officer Chazonkhueze escorts a distraught and crying S.L.B. out of the bedroom with Officer Lor following behind them. Officer Lor radios for medics to stand by for one minute. Officers Lor and Chazonkhueze check S.L.B. for weapons and items that may be on her person. Officer Lor then escorts S.L.B. outside the house. He then uses his radio and airs that it is safe for medics to enter the scene. Officer Chazonkhueze and S.L.B. remain standing outside while other officers begin arriving to the scene. Officer Lor is seen standing on the sidewalk until Officer B. Lee comes up to him and brings him back to a squad car. Officer Lor then sits in the passenger seat of the squad car as radio traffic can be heard. A short time later Officer Lor is asked to exit the passenger seat of the squad. He is then read a public safety statement. In response to the questions of the public safety statement Officer Lor says that no one else was injured besides the person

that was shot. Officer Lor stated he shot in the back bedroom area of the house and stated that S.L.B. was a witness to the shooting. Officer Lor then turns his body worn camera off. End of video.

Officer Chazonkhueze BWC

Date 05/06/2024, Duration of the footage is 17 mins and 34 seconds

Start Time 7:21:16

The first thirty seconds of the footage has no sound; Officer Chazonkhueze is in the front passenger seat, and Officer Lor is seen driving the squad car. At about thirty seconds into the footage, audio recording begins and the squad car's emergency sirens can be heard.

From one minute and thirty-six seconds to three minutes and nine seconds the following occurs. Officer Lor is seen driving to the scene, as they get closer to the location Officer Chazonkhueze begins getting a less lethal pepper ball gun ready. The gun has a red colored slide on it. The squad car stops as Officer Lor parks at the scene and exits the vehicle. Officer Lor is seen walking up to the address. Officer Chazonkhueze notes the front door to the house is open. Officer Lao is seen walking up to the house and goes up the front steps.

Between three minutes and sixteen seconds and nine minutes and fifty-seven seconds Officer Lao can be heard announcing, "Saint Paul Police" He makes this announcement three times as he and officers enter the house moving through the front door into the main area of the residence. While officers are inside the residence, a voice can be heard calling from the back of the residence. A person is yelling, "Here, back here!" At three minutes and thirty-five seconds officers arrive at the back bedroom. Sitting on the floor is an elderly female, later identified as S.L.B. Next to her is Ms. Heint. Ms. Heint appears to be awake, sitting up with her eyes wide open. S.L.B. is crying and telling officers that her daughter's, Ms. Heint's, mouth was turning blue. Officer Lao is seen walking into the bedroom and standing next to Ms. Heint. Officer Chazonkhueze doesn't enter the room, but instead stops at the doorway.

Officer Lao is seen and heard asking Ms. Heint if she is okay. Ms. Heint responds to him saying that she is fine. At three minutes and forty-seven seconds Officer Chazonkhueze moves away from the doorway and walks into the bedroom to the right walking around Officer Lao. Ms. Heint comes into view and is seen getting up off the floor into a standing position. Officers look surprised and caught off guard. Immediately several officers begin yelling and giving commands. Ms. Heint is seen holding a tan colored handgun. Ms. Heint is pointing the gun directly at officers. S.L.B. is seen trying to reach up and at Ms. Heint. Ms. Heint is now wielding the gun with both of her hands and is in a shooting stance, with arms raised straight out and firearm pointed directly at officers. At three minutes and fifty-nine seconds Officer Chazonkhueze's handgun appears into camera view. At this point in the footage, multiple shots can be heard going off. The camera shows the slide of Officer Chazonkhueze's gun cycling back and forth several times in a row. Numerous

shell casings can be seen being ejected from his handgun. Ms. Heint is seen falling back and down onto the bed and floor.

At four minutes and four seconds Officer Chazonkhueze airs over the radio "374, shots fired." He then immediately reaches down and moves Ms. Heint's gun away from her reach. S.L.B. is seen checking on Ms. Heint and begins to cry. Ms. Heint is motionless. S.L.B. asks officers to please get her out of there. Officers assist S.L.B. out of the bedroom. S.L.B. asks Officer Chazonkhueze if she can retrieve her cell phone because she wants to be able to call and notify her grandson. An officer is heard saying to have medics standby for a minute. Officer Lor then appears into camera view and checks S.L.B.'s body for weapons or contraband. Finding nothing, Officer Lor then escorts S.L.B. out of the residence and outside. Officer Lor then airs that it's safe for medics to enter the scene. Both Officers Lor and Chazonkhueze stand by with S.L.B., while additional officers continue to arrive on scene. At one point, Officer Chazonkhueze goes to the corner and directs other officers as to what is needed on scene. Officer Chazonkhueze then gets into the passenger seat of an officer's squad car; there he is read a public safety statement and asked questions. He then tells a sergeant that no one else was injured besides the person shot. He stated other officers present were witnesses to the shooting. After answering the questions, the video ends.

Officer Lao BWC

Date 05/06/2024, Duration of the footage is 13 mins and 35 seconds

Start Time 7:21:19

The first thirty seconds of the footage has no sound. At thirty seconds audio recording begins. Officer Lao arrives to the scene and is seen parking and exiting his squad car. As he enters the residence, he is heard announcing police presence three times. At first no one is responding to his announcement, but then a voice is heard from the back room. The voice is yelling, "Back Here!" Officer Lao goes through the kitchen and toward the sound of the voice, coming to a stop at a back bedroom. Once there an elderly female, later identified as S.L.B., is seen sitting on the floor, and next to her is an adult female, later identified as Ms. Heint. S.L.B. is wailing and crying, telling officers that Ms. Heint was turning blue in the mouth. S.L.B. tells Officer Lao that Ms. Heint stopped breathing. Officer Lao asks both women, "What going on?" He repeats his question four times.

Officer Lao then walks to the left side of Ms. Heint and asked her if she was okay. Ms. Heint can be heard saying that she was tired but otherwise okay. S.L.B. then interjects and says, "She's not okay, Oh god she's not okay." At three minutes and fifty-two seconds Ms. Heint stands up and is seen moving something to the right of her direction around. Officers are visibly surprised and caught off guard. Officers are standing in close quarters of each other with about 2 feet between them and Ms. Heint. S.L.B. jumps away from Ms. Heint as Ms. Heint gets to her feet and into a standing position. Several officers begin to yell and give commands to Ms. Heint to stop. Several shots are heard going off, and Ms. Heint falls backward onto the bed and floor. At three minutes and fifty-nine seconds Officers Lao

and Chazonkhueze can be seen with their department issued handguns drawn and aimed in Ms. Heint's direction. S.L.B. checks on Ms. Heint and begins to cry. Ms. Heint is unresponsive and lies motionless on the bed and floor. Officers help S.L.B. out of the room. An officer is heard asking where gun is, and Officer Lao responds saying that he had it. Ms. Heint is seen being moved to the floor, with Officer Lao immediately beginning CPR until medics arrive to take over lifesaving efforts. Officer Lao leaves the bedroom and goes outside the residence. He is placed in a squad car to wait for a sergeant. At eleven minutes and forty-five seconds the public safety statement is read to him. Officer Lao states he was facing North so his shell casings should be East of where he was. Officer Lao said there was one other lay witness and confirmed that there was no other crime scenes besides the rear bedroom where the shooting took place.

G. Firearms and Ballistics Evidence

A records trace revealed the firearm wielded by Ms. Heint, a Glock 19X bearing serial number CBGA688 was purchased by her on November 7, 2023, from Bill's Gun Shop and Range out of Circle Pines, Minnesota. Ms. Heint was the sole purchaser and owner of the firearm.

Analysis of ballistic evidence collected and later forensically tested by the Bureau of Criminal Apprehension laboratory confirmed that eighteen rounds were fired on scene. Officer Lor fired 4 rounds, Officer Chazonkhueze fired 6 rounds, and Officer Lao fired 8 rounds. A total of 18 rounds were discharged between all three officers, with 15 of those rounds striking Ms. Heint.

IV. AUTOPSY

On May 7, 2024, Ramsey County Medical Examiner Kelly Mills, M.D., performed the autopsy of on the body of Ms. Heint. Dr. Mills determined that Ms. Heint died from injuries resulting from multiple gunshot wounds.

V. 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

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."

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 by the law enforcement officer;²

(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

(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:

² An Order dated December 17, 2021, from Chief Judge Leonardo Castro, Second Judicial District, in Case No. 62-CV-21-3582, Minnesota Chiefs of Police Assoc., et al. v. Gov. Timothy Walz, et al., struck the words “by the law enforcement officer,” as unconstitutional.

“(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.³

³ 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”).

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 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).

B. Analysis and Recommendation – The Use of Deadly Force by the Three Officers Against Ms. Heint Was 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 three officers against Ms. Heint was objectively reasonable under each of the situations set forth in Minnesota Statutes, Section 609.066 subdivisions 2(a)(1)(i)-(iii) and (b).

1. Minnesota Statutes, Section 609.066, Subdivision 2(a)(1)(i)-(iii)

Under this provision of Section 609.066, "the use of deadly force 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 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 deadly force without unreasonable delay;"

Circumstances Known to the Three Officers Before They Exited from Their Vehicles After Arriving at 11xx Rose Avenue East

In his written statement, Officer Lao stated that before he exited his vehicle at 11xx Rose Avenue, he was aware of the following information:

- "...I was patrolling in the East District along with Officer Trammel when I was dispatched to a suicide in progress call."

In his written statement, Officer Lor stated that before he exited his vehicle, he was aware of the following information:

- "...my partner Officer Chazonkhueze and I responded to 11xx Rose Avenue East...for a report of a suicide in progress...The first CAD comment stated the caller told Ramsey County Dispatch that her son was attempting to harm themselves."

In his written statement, Officer Chazonkhueze stated that before he exited his vehicle, he was aware of the following information:

- "We responded to 11xx Rose Avenue East for a 911 hangup where the complainant stated her son was attempting to commit suicide and then hung up."

Each of the above statements are corroborated both by the actual 911 call made by S.L.B. and the CAD communications provided to the officers and make clear that the officers knew they were responding to a suicide in progress call. Likely because S.L.B. was so distraught when she made the call, it is difficult to conclusively determine whether she said "son" or "daughter" when identifying the person who was attempting to commit suicide. The 911 operator believed she said "son" and that is what was told to the officers.

Circumstances Known to, and Observations Made by, the Three Officers Between the Time They Initially Entered Ms. Heintz's Home and When Ms. Heintz Pointed Her Gun at Them

Given the reported circumstances by which they were dispatched to the house located at 11xx Rose Avenue, the response of the officers would be guided by 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....."

After Officer Lao verbally announced their arrival at the wide-open front door, a female voice summoned the officers to the back bedroom on the first floor. Officer Lao entered the home first, followed by Officer Chazonkhueze, then Officer Lor, and finally Officer Trammel. The officers entered the small bedroom in that same order, except Officer Trammel, who remained outside the bedroom. None of the officers had yet unholstered their firearms and instead entered the bedroom as if they were responding to a person in emotional or medical crisis.

Immediately upon Officer Lao's entry into the bedroom, he observed S.L.B. and Ms. Heint sitting near each other on the bedroom floor next to a small bed with S.L.B. holding Ms. Heint's hands. Consistent with Section 403.00, Officer Lao attempted to calmly evaluate the situation by asking Ms. Heint and S.L.B. four times, "What's going on?" A visibly distraught S.L.B. loudly responded, "She [meaning Ms. Heint] was turning blue! She was turning blue on her mouth! And she wasn't breathing!"

Ms. Heint then suddenly reached with her right hand for something nearby on the floor under a tote bag and blanket. Simultaneously, Officer Lao firmly said "Hey, hey!" in attempt to verbally stop her while S.L.B. physically pulled Ms. Heint's arm back. Officer Lao then asked Ms. Heint twice if she was okay, and "What is going on today?" Ms. Heint is quietly heard saying, "I'm tired." Almost simultaneously, S.L.B. responded, "She's not okay. Oh, God. She's not okay!" while Ms. Heint then again very quietly replied, "I'm okay."

Officer Chazonkhueze then asked if Ms. Heint had taken any drugs and S.L.B. replied, "That's what I asked her." Then suddenly and without warning or any noticeably objective provocation, Ms. Heint with her back toward the officers thus obstructing the officers' view of her hands, again reached toward the tote bag and blanket. In his written statement, Officer Lao said he ordered Ms. Heint to "Stop!" and he also heard other officers "yelling for [Ms. Heint] to stop." Audio taken from the officers' respective BWCs capture their simultaneous and collective loud and verbal reactions to Ms. Heint's sudden actions. However, because of the poor acoustics in the small bedroom, many of the words spoken by the officers are difficult to decipher, with exception of "No!"

Approximately one second later, Ms. Heint quickly stood up and turned toward the officers holding a tan colored handgun in her right hand that she sweepingly pointed at the officers. S.L.B. appeared to reach for Ms. Heint in attempt to prevent her from shooting the officers. Officers Lao and Chazonkhueze were positioned a few feet away from Ms. Heint in a corner of the tiny bedroom with no ready access to retreat to safety. Although Officer Lor was standing near the only egress door in the bedroom, video from his BWC clearly shows Ms. Heint pointing her firearm at him as well before he could reasonably retreat to safety.

The three officers immediately drew their sidearms and fired 18 shots at Ms. Heint, with 15 of those rounds striking her.

The Three Officers' Use of Deadly Force Against Ms. Heint Was Necessary, And Thus Justified, Under Minn. Stat. Sec. 609.066, Subd. 2(a)(1)(i-iii) and Was in Conformance with the SPPD's Responding to a Person in Crisis and Use of Force Policies

A split second after the most recent attempt by Officer Lao to establish, in a thoughtful and empathetic manner, a relationship with Ms. Heint, she suddenly and without warning grabbed a previously unseen firearm, assumed a shooters stance by gripping it with two hands, and ominously pointed it at the three officers. Despite the best efforts of the three officers to help her with her crisis as required in Section 403.00 of the SPPD Policy Manual, Ms. Heint's actions tragically compelled them to justifiably use deadly force against her.

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."

In this matter, we believe that the three officers, as displayed through their actions and words, reasonably and properly evaluated the above three elements before using deadly force.

In his written statement, Officer Lao stated that:

"after a moment of telling [Ms. Heinl] to stop [reaching for something under a nearby blanket], I saw [her] pull a tan colored handgun out from under the blanket with her right hand. I believed I saw the muzzle pointed at me. In this moment, I ducked down and turned to my left to avoid being shot, doing a full turn while drawing my department issued handgun. After I did the full turn, I was again facing [Ms. Heinl] who was sitting/laying on the bed with the gun still in her hand pointed in the direction of myself and other officers. In response, I aimed my handgun at [her] and took several shots."

Still Photo Taken from Officer Lao's Body Worn Camera



In his written statement, Officer Chazonkhueze said that:

"I continued to look around the room when I heard some shuffling from where [Ms. Heint] and S.L.B.] was seated. I was unable to see what was going on because Officer Lao was standing in front of me. As this was happening, I heard other officers in the room begin screaming or yelling something at [Ms. Heint]. When I looked over Officer Lao's right shoulder, I saw [Ms. Heint] stand up and point a tan handgun at Officer Lor who was standing at the bedroom door. [Ms. Heint] then continued to move the gun towards her left at Officer Lao's and my direction...While [Ms. Heint] was pointing the handgun at us, [S.L.B.] pushed [Ms. Heint] and [Ms. Heint] fell back backwards onto the bed. [Ms. Heint] still had the gun in her hand and was now seated on the bed. I quickly unholstered my department issued Glock 17 and shot six times at [Ms. Heint] to protect [S.L.B.], the other officers, and myself from death or great bodily harm."

Still Photo Taken From Officer Chazonkhueze's Body Worn Camera

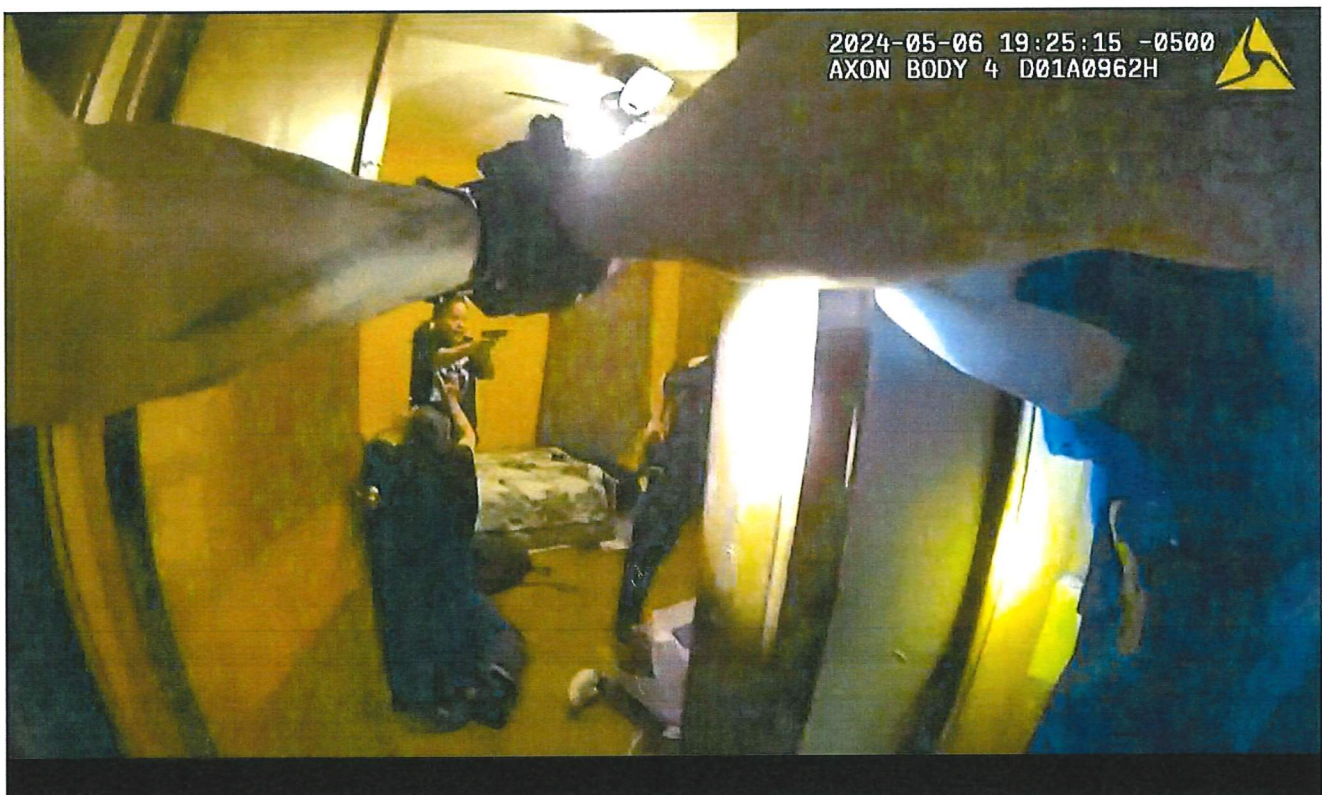


Finally, Officer Lor stated in his written statement that:

"[w]ithin a few seconds after Officer Chazonkhueze moved deeper inside of the bedroom, [Ms. Heinl] quickly moved to her right and began to frantically pull on a blanket that was on the ground near where she was sitting. I took a step towards her and was attempting to instruct Officer Lao to not allow [Ms. Heinl] to search for items as it may be an officer safety concern. As soon as I took a step towards [Ms. Heinl], I observed [Ms. Heinl] holding a tan handgun that appeared to look like a Glock handgun. I could see there was a handgun magazine inserted in the magazine well of the handgun. My observations of the tan handgun made me believe [Ms. Heinl] was now holding a real and live handgun....After seeing [Ms. Heinl] holding the handgun, I began to yell at my partners on scene to alert them of the threat. I unholstered my department issued Glock 17 handgun and aimed my handgun at [Ms. Heinl]....

I made a step to my right and moved behind a wall next to the doorway of the bedroom and saw that I now had a clearer view of [Ms. Heinl] after repositioning. After repositioning, I saw that [Ms. Heinl] was still holding the tan handgun while sitting on the bed. I feared that Officer Lao, Officer Chazonkhueze, and I were at risk of great bodily harm or death after seeing that [Ms. Heinl] was in possession of a handgun and pointing it at officers. Therefore, I aimed my handgun at [Ms. Heinl] and made the decision to shoot at [Ms. Heinl] to stop the threat..."

Still Photo Taken From Officer Lor's Body Worn Camera



It is our further opinion that the three officers were objectively reasonable in their beliefs, based on the totality of the circumstances known to them at the time they used deadly force: 1) that Ms. Heint posed an imminent threat to their lives as specifically articulated by the evidence presented to us, and that Ms. Heint had demonstrated both the ability and opportunity to fulfill that threat, which she did when she suddenly and without warning assumed a shooter's stance by holding the grip and trigger of her 9mm firearm with two hands and pointing it at the officers; and 2) that absent the officers' use of deadly force without unreasonable delay against Ms. Heint, they were reasonably likely to be killed, or suffer great bodily harm.

2. Minnesota Statutes, Section 609.066, Subdivision 2(b)

Under this provision of Section 609.066,

"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 another under the threat criteria in paragraph (a), clause (1), items (i) to (iii)."

We also believe that the three officers did not violate Minnesota Statute Section 609.066, subd. 2(b) in this case for two reasons.

First, the three officers responded to a 911 call involving a suicidal person, who after the incident was identified as Ms. Heint, in an appropriate manner as required by the SPPD's policy on responding to individuals in crisis. Tragically, their repeated attempts at helping Ms. Heint were suddenly and unexpectedly rebuffed by her when she grabbed a hidden firearm from under a nearby blanket and assumed a shooter's stance by holding the grip and trigger of the gun with two hands and pointing it at the officers. Accordingly, for the same reasons set forth in Section IV. B. 1 of this Memorandum, the decision by the three officers to use deadly force against Ms. Heint was objectively reasonable based on the totality of the circumstances then known to the three officers without the benefit of hindsight.

Second, when they were dispatched to the house located at 11xx Rose Avenue, the officers were incorrectly told by dispatch that the suicidal subject of the 911 call was the "son" of the caller. When they entered the somewhat chaotic scene in the small bedroom, they only saw two women present, S.L.B. and Ms. Heint. During their very brief interaction with Ms. Heint, she never actually communicated in either words or actions to the officers that she was suicidal. The existence of the above-referenced entries made by Ms. Heint in her diary were never shared with the officers prior to the incident and were only provided to BCA investigators after Ms. Heint's death. The officers did not even know that Ms. Heint had a gun until she suddenly stood up and pointed it at the three officers.

S.L.B. attempted to inform the officers upon their arrival that her daughter's "mouth had turned blue" and S.L.B. openly wondered if her daughter had experienced a drug overdose. However, when Officer Lao asked Ms. Heint if she was okay, S.L.B. interjected "she is not okay," only to have Ms. Heint disagree with S.L.B. by calmly saying, "I'm okay." These facts combined with the rapidity by which Ms. Heint unexpectedly grabbed a previously unseen handgun and pointed it at the officers, we further believe there is sufficient reasonable doubt to establish that any of the three officers objectively and reasonably knew that Ms. Heint posed a danger of self-harm.

VI. CONCLUSION

Again, for all of the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Officers Lao, Lor, and Chazonkhueze, against Ms. Heint was justified under Minn. Stat. § 609.066, subd. 2(a)(1)(i-iii), (2) and (b), and we recommend no criminal charges be brought against the three officers related to this incident.