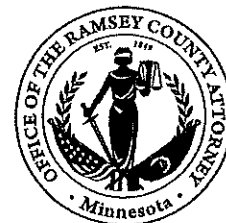


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MEMORANDUM

DATE: September 26, 2018

TO: John Choi, Ramsey County Attorney

FROM: John Kelly, First Assistant Ramsey County Attorney and
Richard Dusterhoft, Adult Criminal Division Director

SUBJECT: In the Matter of the Death of William James Hughes
CA File Nos. 0405170 (Officer Adams) and 0405167 (Officer Jones)

I. Summary

On August 5, 2018 at 2:35 a.m., a male called 911 to report that two gunshots had been fired on the second floor of a three-story house located at 905 St. Anthony Ave. in Saint Paul. The 911 caller then hung up without identifying himself. A 911 call center employee called back the telephone number used by the male to make the 911 call multiple times, but no one answered.

At approximately 2:38 a.m., Officers Matthew Jones and Vincent Adams of the Saint Paul Police Department ("SPPD") arrived at the 905 St. Anthony Ave. house. On their way to the house, Officer Adams used the in-squad computer to learn that there had been previous disorderly conduct calls from that property to which SPPD had responded. The officers said that upon their arrival, the house was dark except for a single outside light in front of the porch door and "one little light" from the upstairs. Both officers were dressed in standard issue blue-colored SPPD police uniforms bearing SPPD shoulder patches, badges and duty belts, and both were also wearing body worn cameras ("BWC") positioned on the chest areas of their uniform shirts.

The officers viewed the circumstances of a middle of the night, 911 hang-up call made by an anonymous caller, reporting multiple shots fired from the second floor of a largely darkened house, as suspicious and possibly dangerous. For this reason, they parked their marked SPPD Ford Explorer SUV about one or two houses away, to the east of 905 St. Anthony Ave. and quietly closed the doors of the SUV, so as not to draw attention to themselves as they approached the house. For the same reason, both officers also withdrew their handguns from their respective holsters.

Video from the BWCs worn by both officers shows them first shining their flashlights along the two side yards next to the house. Officer Jones said they did this to make sure that there was no one in those areas who could ambush them. Their BWC video then shows them both

entering onto the enclosed darkened front porch of the house. With the aid of their flashlights, the officers saw two doors, each respectively marked as #1 and #2. The officers knocked on door #1 and then looked through the first-floor window and did not see any activity inside that space. The officers then focused their attention on the door marked #2 because they assumed that it led to the upstairs.

A male voice from somewhere behind door #2 can be heard on the audio from the officers' BWCs saying, "I'm going to kill you." Both officers are also heard on their BWC audio acknowledging to each other that they heard that statement. Officer Adams said he then heard door #2 unlock from the inside and then open. BWC video from both officers, shows them illuminating the door with their flashlights and from their BWC audio, the officers can be heard giving the following loud, verbal command to Mr. Hughes, saying "Police, come out with your hands up!" This was followed by four additional loud verbal commands from the officers ordering Mr. Hughes to "Come out with your hands up!"

Video taken from Officer Adams' BWC shows Mr. Hughes briefly poke his head out from door #2. Mr. Hughes' hands are not yet visible on the video taken from the officers' BWC. He then steps from out behind the door and onto the porch. The officers can be heard continuing to give verbal commands to "come out with your hands up." Video from the officers' BWC video shows that Mr. Hughes did not comply with the officers' orders to come out with his hands up. Instead, the video shows Mr. Hughes' arms are at his side with a gun visible in his right hand and another object visible in his left hand, that would later be identified as a cell phone. Both officers said they noticed the gun in his right hand and can be immediately heard to begin loudly ordering Mr. Hughes to "put it down."

Video from the officers' BWCs shows that Mr. Hughes also did not comply with the officers' orders to put his gun down. Instead, the video shows Mr. Hughes raise his right hand while still holding the gun. Mr. Hughes does not raise his left arm and hand. Both officers can be heard on the audio from their BWC continuing to loudly order Mr. Hughes to "put it down." Mr. Hughes raised his right hand while holding the gun in a sweeping trajectory that momentarily was pointed at the officers. Believing that Mr. Hughes is about to fire at them, both officers fired a total of 21 rounds at Mr. Hughes. Both officers estimated they were standing approximately 7-10 feet away from Mr. Hughes at the time of the shooting. Mr. Hughes fell to the ground near where he stood and his .45 caliber HiPoint semi-automatic handgun fell into a nearby cardboard box.

At approximately 2:40 a.m., both officers can be heard immediately yelling "shots fired" and calling for medics to tend to Mr. Hughes. Other officers entered the porch to begin a public safety search of the house. Paramedics arrived approximately ten minutes after the shooting and pronounced Mr. Hughes dead at the scene. The Ramsey County Medical Examiner's Office determined that Mr. Hughes died as the result of multiple gunshot wounds.

BCA investigators traced the source of the 911 call to an adult male named E.L. E.L. was a friend of Mr. Hughes and had been sharing the second-floor room with him for approximately three months. E.L. told BCA investigators that minutes before he called 911, Mr. Hughes had fired two shots from his .45 caliber handgun into the wall of the room without warning or

explanation while screaming racial epithets. E.L. said Mr. Hughes then kneeled down next to where E.L. was laying on his bed and placed the tip of the barrel of his gun against E.L.'s temple, asking him, "how many rounds do you think are left in this gun?" E.L. said Mr. Hughes' finger was on the trigger of the gun when he asked the question. E.L. said he feared for his life.

As Mr. Hughes attempted to stand up from his kneeling position, he fell backwards allowing E.L. time to gather his shoes and backpack and flee the room and the house. As he was leaving the room, E.L. said he yelled to Mr. Hughes that, "You better believe the cops are coming!" After leaving the house, E.L. said he first called 911 to report the shots fired by Mr. Hughes, and then he called his friend K.B. to tell her he was on his way to her Minneapolis house and that he would be taking the LRT train. E.L. said he walked to the nearest LRT train station. Metro Transit video shows E.L. waiting for an LRT train at the Lexington Parkway station, and eventually boarding a westbound train at 3:20 a.m.

E.L. as well as Mr. Hughes' sister, aunt and cousin, described Mr. Hughes as having a "terminal illness" for many years that made breathing difficult for him. E.L. said that in the two weeks preceding the shooting, Mr. Hughes was "fixated on death" and would engage in morbid conversations with E.L. According to E.L., this included Mr. Hughes providing E.L. with the passwords to all of his accounts and telling E.L. that he could have all of his personal belongings upon his death. E.L. also said that Mr. Hughes would often become confrontational or violent when he drank alcohol. At the time of his death, Mr. Hughes blood alcohol content was .265 and codeine and morphine metabolites were also found in his system.

This Memorandum contains a description of the relevant evidence gathered by the Minnesota Bureau of Criminal Apprehension ("BCA") during its investigation of the shooting of Mr. Hughes. As set forth below, the evidence gathered by the BCA includes statements given by officers and other witnesses, physical, DNA and ballistics evidence, and audio and video recordings taken from the BWCs worn by Officers Jones and Adams.

Based on our review of the evidence presented to us by the BCA, and for the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Officers Adams and Jones in this incident was justified by Minn. Stat. §609.066, subd. 2(1)-(3). Accordingly, we recommend that no criminal charges be brought against those officers related to this incident.

II. Summary of the Relevant Evidence Presented

A. The 905 St. Anthony Ave. Residence

Mr. Hughes resided in a 10' x 12" room on the second floor of a three story, multi-residential house located at 905 St. Anthony Ave. in Saint Paul. The house consisted of four separate living units, with one unit on the first floor, two single-room units on the second floor and one single-room unit on the third floor. Entry to the front of the house must be made through a 7' x 25' enclosed front porch.

Inside the porch, there are two doors to the house. The residents of the first-floor unit can enter and exit their unit using the door marked #1 on the front porch. The residents of the rooms on the second and third floors can only enter and exit their units through a door marked #2 approximately six feet to the east of door #1. Behind door #2 is a dedicated staircase that leads to the upstairs living units. The residents of the second and third floor rooms share a communal bathroom and kitchen, both located on the second floor.

B. BCA Interview of Mr. Hughes' Roommate, E.L.

1. E.L.'s Recent Observations of Mr. Hughes

BCA investigators interviewed E.L., an adult friend of Mr. Hughes. For the six weeks preceding his death, Mr. Hughes and E.L. shared the same second floor room at 905 St. Anthony Ave. E.L. said he slept on a low-to-the floor futon bed while Mr. Hughes slept on a much more elevated bed he estimated to be 4-5 feet above the floor, located approximately five feet away. E.L. said that during this period, he generally got along with Mr. Hughes.

E.L. described Mr. Hughes as a "relatively stable person" except when he used chemicals such as illegal drugs, particularly heroin, and alcohol. E.L. said that Mr. Hughes was a "chronic user of drugs" who would take any drug if offered, but that he used "every dollar he had" to purchase heroin. E.L. described himself as a former drug user who currently is in the methadone program at Hennepin County Medical Center.

E.L. said that once or twice a week Mr. Hughes would "hit" the alcohol, causing him to be confrontational with residents and others, and "say very inappropriate things at the top of his lungs" including racial epithets. E.L. also said that he observed Mr. Hughes "kick the shit out of his girlfriend over drug shit, plenty of times."

E.L. told investigators that at least one year ago, Mr. Hughes acquired a .45 caliber gun that he kept under his pillow. Because Mr. Hughes "lived the drug lifestyle," E.L. said there was an "element of paranoia" exhibited by Mr. Hughes and that he was obsessed with weapons. E.L. said that Mr. Hughes "always" carried a knife to be "ready." E.L. said Mr. Hughes was "fixated on self-defense and weaponry."

E.L. said that Mr. Hughes told him five years ago that he had a terminal disease involving scarring of his lungs. E.L. said that Mr. Hughes would often have difficulty breathing.

E.L. said that during the two weeks preceding his death, Mr. Hughes "had been fixated with death." E.L. said Mr. Hughes engaged him in "morbid conversations" in which he told E.L. how he wanted his own funeral arrangements. E.L. also said Mr. Hughes shared the passwords to his phones and accounts with E.L. and told E.L. that he could have his other personal belongings. E.L. said in retrospect that "you could draw conclusions" about Mr. Hughes' fixation with death and weapons and his recent escalating behaviors.

2. The August 3, 2018 Incident

On August 3, 2018, between midnight and 1:00 AM, E.L. said that he and Mr. Hughes were watching television from their respective beds in the room when Mr. Hughes asked E.L. if he wanted to hear what a .45 handgun sounds like when fired through a pillow. E.L. said that as he openly questioned the seriousness of Mr. Hughes' question and much to E.L.'s surprise, Mr. Hughes then fired his .45 caliber handgun through a pillow inside their room. E.L. said the bullet fired by Mr. Hughes struck a kerosene lamp in the room causing it to explode, scattering glass in the room.

Because Mr. Hughes seemed surprised by the shot, E.L. believed that Mr. Hughes mistakenly thought the gun's safety was on when he pulled the trigger. E.L. also said that on the following morning, Mr. Hughes seemed embarrassed and apologized to E.L. for firing his gun. E.L. said that he had never previously seen Mr. Hughes fire his gun. E.L. said that Mr. Hughes had consumed drinks that evening but that he was not drunk. E.L. spent the following night at the home of his girlfriend and did not see Mr. Hughes.

3. The August 4, 2018 Incident, Including the 911 Call

On August 4, 2018, between 9:00 p.m. between 10:00 p.m., E.L. returned to the room he shared with Mr. Hughes. E.L. said that he and Mr. Hughes each had a couple of drinks of rum together and they watched three or four episodes of the television series "Shameless" for "a couple of few, hours." E.L. said that he did not know how much alcohol that Mr. Hughes had consumed before he arrived at the room, but that he seemed to be intoxicated. E.L. said that as he began to fall asleep, he could hear Mr. Hughes begin watching You Tube videos at loud volume.

Later that night at approximately 2:15 a.m., E.L. said he saw Mr. Hughes fall from his bed onto the floor "pretty hard." E.L. said he then heard Mr. Hughes loudly yell, "I hate niggers!" and that he was going to "do the world a favor" by "basically going on a killing spree." E.L. said Mr. Hughes told him that he was going to leave him his gun because he had plenty of other weapons. E.L. said he repeated the racial epithet.

E.L. said that he then saw Mr. Hughes aim his .45 caliber handgun in a direction above the refrigerator and fired into the wall of the room without warning. E.L. described Mr. Hughes firing his gun as follows: "He just shot the wall. No pillow, no accident. He shot the fucking wall. And I don't know if you saw the room, but it is like 10' x 12.' A .45 caliber gun in an enclosed room like that, is fucking loud. Plaster in the face. You know ...it was crazy."

E.L. said Mr. Hughes then walked up to the wall and placed the end of the barrel of his gun against the wall and fired the gun again. E.L. said the gun then appeared to be jammed leading Mr. Hughes to yell "Motherfucker! As he was trying to jack another round into the chamber. All the while, having a hard time balance himself due to his intoxication." E.L. believed that Mr. Hughes was then able to unjam the gun, allowing him to chamber another round.

Mr. Hughes then asked E.L. why he was wearing an orange colored baseball hat. E.L. said he told Mr. Hughes that he was "talking nonsense." E.L. said he was still laying on his futon bed when Mr. Hughes then kneeled down next to him, placed the barrel of the gun against E.L.'s temple and asked him, "How many rounds do you think are left in this gun?" E.L. said that he could feel the heat from the barrel and that Mr. Hughes' finger was on the trigger. E.L. asked Mr. Hughes to "please" take his loaded gun away from his head. E.L. said that Mr. Hughes' actions "scared the shit out of me."

E.L. said that Mr. Hughes bizarrely continued to ask why his hat was colored orange. E.L. described himself as now being in "survival mode" and began thinking how he could escape. E.L. said that Mr. Hughes then stood up from his kneeling position and when he took a step backwards, his pants fell down to his ankles, causing him to trip and fall backwards onto the floor. Because he knew that Mr. Hughes was temporarily incapacitated by his fall and that he was unlikely to be able to quickly lift his gun, E.L. said that he knew he had about "ten seconds" to safely leave the room. E.L. then grabbed his backpack, shirt and shoes and quickly exited the room. As he left the room E.L. told Mr. Hughes that, "You better believe the cops are coming."

After E.L. exited the house and was walking towards Victoria Avenue, he used his cell phone to call 911 to report "two shots fired, 905 St. Anthony Ave." and hung up. A 911 dispatcher immediately called him back. E.L. then called his girlfriend, K.B., and said he was coming to her home. As he walked to the nearby Lexington Parkway LRT station to catch a train to K.B.'s house, he saw several police cars speeding towards the 905 St. Anthony Ave. house. E.L. said that he was also concerned that Mr. Hughes would exit the room with his gun and confront another resident.

C. BCA Interview of Officer Matthew Jones

Officer Matthew Jones has a bachelor's degree in Financial Management and has been a police officer with Saint Paul for 5 ½ years.

Officer Jones said that he and his partner responded to a call based on a 911 call of multiple shots fired at an address, upstairs. The 911 caller had disconnected without identifying himself and dispatch had been unable to reach the caller. While on the way, Officer Adams was able to find information on the in-car computer that police had responded to the address on prior incidents, which Officer Jones described as disorderly conduct calls.

Officer Jones said that when they arrived at the address and as soon as he got out of the squad car, he drew his firearm. He illuminated the exterior of the residence with his flashlight, saw no one, and he followed Officer Adams into the porch. Inside, Officer Jones said there were two doors into the building from the porch, numbered "1" and "2". Looking through the windows, Officer Jones saw no one and could tell that door "1" led to the main-floor unit. Officer Jones said that because the call involved shots in the upper unit, he was concerned about anyone in the lower unit, and wanted to get them out before dealing with anyone upstairs.

Officer Jones said that they knocked on door number "1", saw no movement inside, then heard someone coming down the stairs and heard a male voice say "I'm going to kill you". Officer Jones said that Officer Adams repeated what they had both heard, that someone said "I'm going to kill you." Officer Jones said the door opened and he could hear someone inside the doorway, but couldn't see the person. Officer Jones said he directed the person to come out with his hands up and a male, identified later as Mr. Hughes, stepped out with a gun in his hand, which was down by his side. Officer Jones said he and Officer Adams told Mr. Hughes to drop the gun several times but, instead, the male made a deliberate motion, bringing the gun up. Officer Jones said he saw the gun coming up, feared that Mr. Hughes was going to shoot him or his partner, and fired at Mr. Hughes. Officer Jones was unsure how many shots he fired, but estimated he fired ten rounds.

Officer Jones remembered immediately saying "come on, man", and explained he was frustrated and was asking the male why he made the officers shoot him. Officer Jones saw that the gun had dropped in a box next to the male, and Jones approached and kicked the box away so that the male couldn't reach the gun. He looked up the stairs inside the door to make sure no one else was coming down, then called up the stairs for anyone else inside to come out with their hands up.

D. BCA Interview of Officer Vincent Adams

Officer Vincent Adams has a bachelor's degree in Criminal Justice, a two-year degree as a paramedic, and has been a Saint Paul police officer for five years.

Officer Adams said that he and his partner, Officer Jones, responded to a call to 905 Saint Anthony regarding shots fired. Officer Adams, who was in the passenger seat of the squad car, read the call-comments while they were in route, and knew that there had been two shots fired in the upstairs level, and that the 911 caller was not answering when the dispatcher tried to call back. Officer Adams said that on arrival, they parked a couple houses away, quietly shut the squad's doors, and approached on foot, with their weapons drawn. He said they did this because they were concerned about ambush and could approach more quietly on foot and move quicker if shot at. Officer Adams said he used his flashlight to check the windows and saw no one. He recalled a chain-link fence with a gate that was partially open.

Officer Adams said they entered the porch and found two doors; the door to the left leading to the main-level unit of the duplex, and the right door apparently going to the upstairs unit or units. Officer Adams said that Officer Jones suggested they check with anyone in the downstairs unit first to see if they heard anything upstairs. Officer Jones knocked on door #1 and they heard what Officer Adams thought was someone coming down the stairs and a voice say, loudly and distinctly, "I'm going to kill you." Officer Adams said he immediately repeated his hearing of those words to Officer Jones. He said Officer Jones acknowledged to him that he heard those words.

Officer Adams heard the door unlock from the inside and then open. Officer Adams said he illuminated the door with his flashlight and gave verbal commands, saying "police department" and "come out with your hands up." Officer Adams said a male, who was later identified as Mr. Hughes, looked out the door at the officer while they were directing him to come out with his hands up. Officer Adams said Mr. Hughes walked out of the door with a black handgun in his right hand, down at his side. Officer Adams said he and Officer Jones immediately and repeatedly directed Mr. Hughes to put it down, but that Mr. Hughes just stared at them. Officer Adams said it appeared to him that Mr. Hughes was comprehending what he was being told, but then moved with his right hand, bringing the gun up. Officer Adams said that he and Officer Jones were in an enclosed porch and he believed that Mr. Hughes was bringing the firearm up to fire at the officers. He said, fearing for his life and his partner's life, and having no other option, he fired at Mr. Hughes. Officer Adams was not sure how many rounds he fired but estimated that it was 10 or 11.

Officer Adams said that Mr. Hughes fell to the floor, dropping the firearm into a box that was to the right of Mr. Hughes, next to the door. After Mr. Hughes fell to the floor, the officers approached and Officer Adams said Officer Jones kicked the box out of Mr. Hughes' reach, then Officer Adams immediately called for medics.

E. BCA Interview of K.B.

K.B. told investigators that she and E.L. had been dating "off and on" for the past five years, but that they talk to each other every day. She said that E.L. had been staying at 905 St. Anthony Ave. for approximately three months. In previous recent conversations, K.L. said that E.L. told her that Mr. Hughes said he was dying and was talking more about his death. She said that E.L. told her that Mr. Hughes was "acting out more, getting more drunk, drinking more." K.B. said that earlier on August 4, she reminded E.L. that he could stay with her if he ever needed a safe place to stay.

At approximately 2:30 a.m. on August 5, she said E.L. called her to say he needed to come over to her place right away, and that he would take the LRT train to her home. K.B. said that she could hear that E.L. "was scared in his voice."

When E.L. arrived at K.B.'s home early in the morning of August 5, he told her that Mr. Hughes was "out of his mind drunk, he couldn't even stand up and he was mumbling incoherently" while he held his handgun. She also said that E.L. told her that Mr. Hughes had fired two gunshots into the wall of their room. E.L. told her that Mr. Hughes then fell over allowing E.L. to grab his shoes and backpack and run out of the room and the house. E.L. told K.B. that he called 911, before he called her. She said that E.L. told her that he was in fear for his life during the incident.

K.B. also told investigators that she has known Mr. Hughes for approximately 18 years, after they first met while doing a syringe exchange. She said Mr. Hughes was a drug addict and alcoholic who was in extremely poor health. She described Mr. Hughes as a "mean drunk" with "a lot of anger issues" who made racist statements when he was drinking alcohol.

F. BCA Interview of SPPD Officer Avery Yager

Officer Avery Yager has been a police officer with the SPPD for six years and responded to the call regarding shots fired at 905 Saint Anthony.

Officer Yager told investigators that the 911 dispatcher had told officers that multiple gunshots had been reported in the upstairs unit at that address. He said that Officers Adams and Jones were the primary responding officers. Officer Yager said he arrived, parked a few houses away, and could see lights in the upstairs windows. He walked to the porch, saw two doors from the porch into the residence, one appearing to be to the lower unit and one for the upper unit.

Officer Yager covered the back of the house at the request of Officer Jones. As Officer Yager walked toward the back of the house, he saw a shadow through a window on the stairs, which he thought was someone coming down the stairs. Officer Yager stopped and was going to return to the front of the house to tell Officers Jones and Adams that someone was coming down the stairs. But, before he could do that, Officer Yager heard Officers Jones and Adams yelling for the person to show his hands. Officer Yager then heard "drop it, drop it."

Realizing, based on what he heard being yelled, that Officers Jones and Adams were seeing a gun, Officer Yager dove for cover. Officer Yager heard several shots fired and, when the shooting stopped, informed dispatch that shots had been fired. He also let Officer Jones know he was outside, next to the porch and was crossing back to the front of the house to avoid being in the line of fire.

When Officer Yager got onto porch, he wanted to render aid to the male who had been shot, who was subsequently identified as Mr. Hughes, but the officers didn't yet know if anyone remained upstairs who could be a threat. Officer Yager said that Officer Jones yelled up the stairs, asking if anyone was up there, and got no answer. Officer Yager said that Officer Jones told him the male had a gun and that the gun had landed in the box. Officer Yager said he looked in the near-by box and saw there was a black handgun in the box. Officer Yager called for medics.

G. BCA Interview of L.M.

L.M. is the sister of Mr. Hughes. L.M. last saw her brother about five years ago. L.M. said that Mr. Hughes started using heroin many years ago. She also said that about twenty years ago he was diagnosed with a disease called "Morphea, ...a really rare form of scleroderma"

H. BCA Interview of S.L. and C.L.

C.L. and S.L. are the aunt and cousin respectively of Mr. Hughes. C.L. told investigators that Mr. Hughes had "developed quite a heroin addiction" and that he had very little contact with his family for many years. C.L. said Mr. Hughes had a lung disease that limited his lung capacity to 10% efficiency. S.L. told investigators that Mr. Hughes said his

rheumatologist had diagnosed him with scleroderma and that he had only twenty years to live. Neither S.L. or C.L. knew where Mr. Hughes was receiving his medical care, although S.L. speculated it was probably from free clinics.

In May 2018 C.L. said she received a text message from Mr. Hughes in which he told her that doctors said he had only one year to live. C.L. said that during their text message exchange, Mr. Hughes had said he was planning on killing himself.

I. BCA Interview of P.W.

P.W. is the manager of rental properties owned by D.B., including the 905 St. Anthony Ave. property. P.W. told investigators that she first met Mr. Hughes in March 2018 when she rented him the room at 905 St. Anthony Ave. P.W. said she allowed Mr. Hughes to do occasional work on the property in lieu of rent, due to his poor health and lack of steady employment.

P.W. believed that Mr. Hughes previously resided in a different rental property owned by D.B. since approximately December 2017. P.W. said that because Mr. Hughes owned a cat, that he needed the extra space afforded by the room at 905 St. Anthony Ave. property. P.W. said that Mr. Hughes was the only tenant authorized to occupy the room.

On August 6, 2018, she received a telephone call from someone with the first name of "Erik" who identified himself as Mr. Hughes' roommate. The phone number used to call P.W. is the same number of E.L.'s phone. Erik asked for permission to get into the room to retrieve his belongings and find Mr. Hughes' cat.

J. BCA Interview with J.G.

J.G. told investigators that he does carpentry work and other odd jobs on real estate owned by his brother-in-law, D.B., including the 905 St. Anthony Ave. property. According to J.G., D.B. would sometimes hire Mr. Hughes to help J.G. with maintenance projects at the 905 St. Anthony Ave. property. J.G. said that because Mr. Hughes had a lung disease, he would get winded easily and could only work for a maximum of three hours a day.

J.G. said that on August 31, 2018, he brought an air conditioner to Mr. Hughes' room and saw a man lying on a couch in the room. J.G. said Mr. Hughes told him it was someone who had been thrown out of his home by his wife and was just staying with him for a few days. J.G. suspected that explanation given by Mr. Hughes was untrue since he was not allowed to have any guests in his room.

J.G. told investigators that he observed Mr. Hughes always carrying a straight bladed knife. J.G. said that he would see Mr. Hughes use the knife to cut open packages or cut weeds. J.G. also said that Mr. Hughes told him that he kept a gun under the pillow on his bed.

K. BCA Interview of T.R.

C.M. and her 12 year-old daughter, D.A., live in the first floor rental unit at 905 St. Anthony Ave. T.R. is a long-time friend of C.M. On the night of August 5, 2018, T.R. was visiting C.M.

T.R. told investigators that he and C.M. were asleep when he heard a banging sound coming from near the window facing the screened in porch. T.R. said that he then heard a commotion sounding like the voices of two or three males arguing, coming from upstairs. T.R. said that he saw a white male, in his 30's, approximately 150 pounds and 6'0" tall, exit both the house from the staircase door leading to the second and third floors, and front yard, before turning left on the sidewalk adjacent to St. Anthony Avenue.

T.R. said that he went back to bed and approximately three minutes later he heard many gunshots come from the front porch. T.R. said that he did not see who was shooting. T.R. said approximately 15 minutes later, police escorted C.M., D.A. and him out of the house.

L. BCA Interview of D.B.

D.B. is the owner and landlord of the 905 St. Anthony Ave. house. D.B. said he rented a room on the second floor to Mr. Hughes. D.B. said that to his knowledge, Mr. Hughes was a good tenant who paid his rent on time. D.B. told investigators that he recalled that one of his tenants complained approximately three months ago, that Mr. Hughes had his handgun "out." When D.B. asked Mr. Hughes about the complaint, Mr. Hughes said that he had a conceal and carry permit.

M. BCA Interview of M.P.

M.P., together with her husband and ten-year old son, have lived in the room located on the third floor of the 905 St. Anthony Ave. house, since March 2018.

On the night of August 5, 2018, M.P. was home alone. She was asleep when she said she was wakened by a sense that someone was staring at her. She then turned on a light and went back to sleep. She later woke up again and saw police outside the house. Then she said she heard police talking and then the sound of someone knocking on her door. M.P. told investigators that because she was sleeping next to a loud fan, she did not hear any gunshots during that night.

M.P. said that she knew the man subsequently identified as Mr. Hughes, lived on the second floor, but that she and her family did not know his name or have much interaction with him. She said Mr. Hughes moved into the house sometime in April 2018. She said she would frequently see a man enter and exit the room occupied by Mr. Hughes.

M.P. described Mr. Hughes a quiet person who did occasional maintenance projects in the house. She also said that he would frequently carry a knife attached to the waist of his pants. She told investigators that a former neighbor of Mr. Hughes told her that he would occasionally observe Mr. Hughes carry a gun attached to the waist of his pants.

N. BCA Interview of A.S.S.

A.S.S. told investigators that on August 5, 2018, he was staying alone in a relative's room on the second floor of 905 Saint Anthony the night of the shooting. He said he fell asleep and woke up to the sound of something like a firework. He went back to sleep and was awakened by police.

O. Other Relevant Evidence

1. Video and Audio Taken from BWCs Worn by Officers Adams and Jones

The BWCs worn by Officers Adams and Jones recorded video beginning at 2:36 a.m., according to the time-stamp on the video. The BWC recording begins while they were on their way to the call location. Neither BWC captured the audio of the initial call. Officer Adams was in the passenger seat, operating the squad car's computer, while Officer Jones drove. The BWC recording indicates that the officers were aware that dispatch attempted to call back to the 911 caller five times without success. The video indicates that the officers arrived on-scene at 2:38 a.m., and that the front light of the house was on when they parked, a couple of houses away. The chain link fence gate was open. Officer Adams, with his handgun out, opened the unlocked door to the porch and entered and was followed by Officer Jones.

Inside the porch, the video indicates the officers looked through the windows into the dark interior of the house, then they agreed to knock on the door to the lower unit first, to see if anyone in the lower unit heard anything. Officer Jones knocked and the BWC recording captured a male voice say, "I will kill you" immediately after Jones knocked. One of the officers (it is unclear which) said, aloud, "I just heard I will kill you" and the other officer agreed. The BWC recordings indicate that the door to the upper unit opened and that a light was on behind that door. One of the two officers indicate they are the police and both officers repeatedly direct the person to put his hands up.

Officers Adams' BWC captures Mr. Hughes' head peek out just past the door frame. Mr. Hughes looked in the direction of the officers, then disappeared back inside the door. Officer Jones' BWC did not capture Mr. Hughes peek out, due to the angle of the camera.

Mr. Hughes was recorded then taking one step through the door onto the porch. The BWC recordings show that Mr. Hughes had a cell phone in his left hand and a semiautomatic handgun in his right hand with both of his arms down at his sides. Upon seeing the firearm, both officers loudly and repeatedly direct Mr. Hughes to put "it" down. Instead, Mr. Hughes raised only his right hand, containing the firearm.

The video shows Mr. Hughes appear to look at his right hand and the gun as he raised it. The video shows that Mr. Hughes raised the gun in a sweeping arc that pointed the gun in the direction of officers before he raised it above his head.

As the gun came up, both officers fired their handguns repeatedly and Mr. Hughes dropped to the floor. As he went down, the gun dropped from his hand into a cardboard box located next to the door.

Officers radioed shots fired and requested medics at 2:40 a.m., according to the BWC time-stamp.

2. Evidence Collected at 905 St. Anthony Ave.

The BCA's Crime Scene Team responded to 905 St. Anthony Ave. to document and collect evidence. On the front porch, they recovered a .45 caliber HiPoint semiautomatic handgun, found in the box as described by officers. The firearm was unloaded and the magazine well was empty. The slide was closed so that the weapon appeared to be ready to fire.

The Crime Scene Team also found on the porch, twenty-one (21) spent 9mm shell casings, consistent with the ammunition having been fired by Officers Adams and Jones.

In the room occupied by Mr. Hughes, the Crime Scene Team recovered three .45 caliber live rounds on the floor, three more on the bed, and four more in a backpack on the bed, along with a firearm ammunition magazine. An additional .45 caliber live round was found in a tool box. They found one expended .45 caliber casing on the floor and a second expended .45 caliber casing on top of the door frame. Both expended .45 caliber casings were analyzed and determined to have been fired by Mr. Hughes' .45 caliber HiPoint.

The Crime Scene Team documented two bullet holes in Mr. Hughes room which appeared to be consistent with two shots having been fired inside that room. The trajectory of one of those gunshots led to the recovery of a fired bullet from the siding of the neighboring house located at 907 Saint Anthony Ave. The bullet recovered from 907 Saint Anthony Ave was too deformed for comparison.

3. DNA Test Results

The firearm that was seen on the video taken from the two BWCs as being in the hand of Mr. Hughes was swabbed and the swabs analyzed for DNA. Analysis of DNA from the blood found on the .45 caliber HiPoint confirmed that blood on the firearm belonged to Mr. Hughes. The DNA was compared to DNA from Mr. Hughes. The analysis also found that Mr. Hughes' DNA was on the trigger of the .45 caliber HiPoint, to the exclusion of the rest of the world's population.

4. Medical Intervention and Autopsy Results of Mr. Hughes

Paramedics from the Saint Paul Fire Department (“SPFD”) arrived to provide medical assistance to Mr. Hughes within approximately ten minutes after he had been shot. According to a SPFD report, there was no movement or breathing from Mr. Hughes and he was pronounced dead by a paramedic on the scene, and his body was transferred to the Ramsey County Medical Examiner’s Office.

Assistant Ramsey County Medical Examiner Dr. Butch Huston performed the autopsy on the body of Mr. Hughes. Dr. Huston determined that Mr. Hughes died as a result of multiple gunshot wounds.

Post-mortem toxicology testing showed that Mr. Hughes’ blood alcohol was .265 grams per deciliter and his urine contained codeine and morphine metabolites.

5. Training Records and Toxicology Test Results of Officer Adams and Jones

Officer Adams has been a licensed peace officer employed by SPPD since January 2013. Previously he was an Emergency Medical Technician employed by the City of Cannon Falls for eight years. Among the many training classes he has taken since he began employment with the SPPD, include classes in use of force in 2013, 2015 and 2016.

Officer Jones has been a licensed peace officer employed by the SPPD for approximately 5.5 years. He has a bachelor’s degree from the University of St. Thomas with a Major of Financial Management and a Minor in Criminal Justice. Among the many training classes he has taken since he began employment with the SPPD, include classes in use of force in 2013, 2014, 2015 and 2016.

Shortly after the shooting, both Officers Adams and Jones each voluntarily submitted to toxicology tests collected on August 5, 2018, which showed that neither officer was under the influence of alcohol or controlled substances at the time of the shooting.

6. Expert Opinions

To help us better understand whether the tactics and use of force used by Officers Adams and Jones were consistent with generally accepted police practices and thus objectively reasonable under the specific facts and circumstances presented in this matter, the Ramsey County Attorney’s Office sought the observations and perspectives of the following two independent and highly experienced retired peace officers who are experts in police training, tactics and use of force, Jeffrey Noble and Michael Quinn.

- a. Jeffrey Noble – Mr. Noble was a licensed peace officer in California for 28 years, rising to the rank of Deputy Chief of Police prior to his retirement in 2012. He is a widely published author of articles, chapters for textbooks and a textbook on police practices, tactics and use of force. A copy of his Curriculum Vitae, together with a copy of his letter dated September 12, 2018, describing his observations and perspectives of the relevant evidence related to the tactics and use of force used by

Officers Adams and Jones in this matter, are attached to this Memorandum as Attachment "A."

- b. Michael Quinn – Mr. Quinn was a licensed peace officer with the Minneapolis Police Department for 24 years before retiring as a Sergeant in 1999. Since his retirement he has done among things, worked as an instructor for the Minnesota Peace Officers Standards and Training Board, served as the Deputy Director of the Minnesota Police Corps Program and presently serves on the Inver Hills Community College Law Enforcement Advisory Board. Mr. Quinn is also a widely published author of books, articles, and articles on police training, ethics, tactics and use of force, including a written submission used in President Obama's "task Force on 21st Century Policing Final Report."

A copy of his Curriculum Vitae, together with a copy of his letter dated September 17, 2018, describing his observations and perspectives of the relevant evidence related to the tactics and use of force used by Officers Adams and Jones in this matter, are attached to this Memorandum as Attachment "B."

While both the written submissions provided to us by Mr. Noble and Mr. Quinn describe their own observations and perspectives in great detail, each deserving their own independent close reading, we note for summary purposes only, that based on their respective reviews of the evidence, both Mr. Noble and Mr. Quinn believe the tactics and use of force used by Officer Adams and Jones were consistent with generally accepted police practices.

III. Legal Analysis and Recommendation

A. Applicable Law

Minnesota Statutes, Section 609.066, subdivision 2(1)-(3) provides that the use of deadly force by a peace officer is justified only when necessary in certain situations, including the following:

- (1) To protect the peace officer or another from apparent death or great bodily harm;
- (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 if the person's apprehension is delayed."

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.¹

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. Among the factors identified by the Court include: 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 he is 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 must 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, ___ U.S. ___, 135 S.Ct. 1776-77 (2015).

When taken together, Minn. Stat. § 609.066 and the above-referenced constitutional standard, establish that if the officer's use of deadly force was objectively reasonable in the face of the danger of death or great bodily harm, no criminal charges can be brought against the officer.

B. Analysis and Recommendation – The Use of Deadly Force Against Mr. Hughes Was Justified Under Minnesota Law

After carefully considering the evidence presented 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 Officers Adams and Jones against Mr. Hughes was objectively reasonable, necessary, and therefore justified, under each of the three situations set forth in Minnesota Statutes, Section 609.066 subdivision 2(1)-(3).

¹ RCAO charging policies provide that charges should only be filed in any 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").

1. Minnesota Statutes, Section 609.066, Subdivision 2(1)

Prior to their arrival at the 905 St. Anthony Ave. house, both Officers knew that they were responding to a 911 report of two gunshots having been fired on the second floor. They also knew that the 911 caller did not identify himself and could not be reached by 911 staff and that there had been previous calls at the house for police services, almost always related to reports of disorderly conduct.

Between the time of their arrival and the time of the shooting, the evidence presented to our office shows that both officers observed the following:

- Upon their arrival, they noticed a darkened house with the exception of a single light on outside of the front porch and another small light coming from the upstairs. Consequently, when combined with the suspicious circumstances of the 911 call, both officers were concerned about a possible ambush and took appropriate steps to protect against that possibility, such as parking their marked police SUV out of view of the house, shining their flashlights in the side yard areas of the house, withdrawing their handguns from their respective holsters and not announcing themselves as police when they knocked on door #1.
- After knocking on door #1, both officers heard, confirmed by the audio from their BWCs, a male voice say "I will kill you." Both officers acknowledge to each other the verbal threat and then take up the best defensive positions they can find within the relatively confined porch without any protective barriers.
- After hearing Mr. Hughes' threat but before seeing him, the officers issue multiple loud verbal commands, again confirmed by the BWC audio, giving multiple orders to Mr. Hughes to come out with his hands up.
- When Mr. Hughes steps through door #2, the officers see that his arms are at his side and that he is holding a gun in his right hand. He is holding something not then readily identifiable in his left hand. The officers can be heard loudly ordering Mr. Hughes to "drop it" and "put it down."
- Mr. Hughes is seen raising his right arm while still holding the gun with his right hand. At no time does Mr. Hughes raise his left hand. The officers can be heard to begin firing their weapons at Mr. Hughes before he raises his gun above his head. The gun does not appear to leave Mr. Hughes' hand until he falls to the porch floor and it falls into a nearby cardboard box. The object in Mr. Hughes left hand is a cell phone.
- Both officers said that they saw Mr. Hughes raising his gun in a way that they believed posed a deadly threat to themselves and to other persons in the vicinity.

None of the foregoing observations by the officers were contradicted by any known witness or other evidence. To the contrary, statements from witnesses and physical evidence corroborate the violent and threatening behavior engaged in by Mr. Hughes in his second-floor room that resulted in the 911 call made by E.L. Audio from the officers' BWCs confirm that Mr. Hughes had said "I will kill you" in response to the officers knocking on door #1. That same audio also corroborates the multiple verbal commands given by officers ordering Mr. Hughes to first come out from behind door

#2 with his hands up in the air and when he entered the porch with a gun clearly visible in his right hand, they immediately began loudly ordering him to drop it and to put it down.

Video from both officers' BWCs shows Mr. Hughes raising his right arm while holding a gun with his right hand. The video does not show Mr. Hughes raising his left hand which after he was shot, was discovered to be holding a cell phone. Mr. Hughes did not comply with the multiple and continued verbal demands made by the officers ordering him to both raise his hands before he entered onto the porch and once he stepped onto the porch and they saw him holding a gun, to drop it.

According to police training and use of force experts, Jeffrey Noble and Michael Quinn, the officers used acceptable and reasonable tactics in their approach to the house and their commands given to Mr. Hughes. Both Noble and Quinn also found that the sweeping trajectory used by Mr. Hughes in raising his right arm caused him to briefly point it in the direction of the officers thus creating a reasonable belief in their minds, that Mr. Hughes intended to shoot at them. The first gunshots heard on the audio taken from their BWCs also confirm that the decisions made by Officers Adams and Jones to shoot was made before Mr. Hughes is seen with the gun raised above his head.

For all the foregoing reasons, it is our opinion that the beliefs expressed by Officers Adams and Jones that Mr. Hughes posed a threat to their lives and those of other persons in the immediate area, are reasonable under the facts and circumstances presented to this office. Accordingly, it is our opinion that the officers' use of deadly force in this matter was necessary and thus justified under Minn. Stat. 609.066, subd. 2(1).

2. Minnesota Statutes, Section 609.066, Subdivision 2(2) and (3)

As previously noted, E.L. told BCA investigators that Mr. Hughes had fired without provocation or explanation, two gunshots into a wall of their second-floor room, two nights after he previously discharged his gun in the room. E.L. said that Mr. Hughes then put the tip of the barrel of his gun to E.L.'s head and asked him "how many rounds do you think I have left?" E.L. described himself as fearful for his life, and only because Mr. Hughes fell backwards was E.L. able to escape while also notifying Mr. Hughes that the police would soon be coming.

The discharge of a firearm by Mr. Hughes in a dwelling place are felony crimes involving the use of deadly force. While Officers Adams and Jones were not aware of E.L.'s presence in the room with Mr. Hughes, they were aware that a report had been made by an anonymous 911 caller that two shots had been fired on the second floor shortly before they arrived at the house. Given their own later personal observations of Mr. Hughes possessing a handgun, the officers were reasonable to assume that those two shots were most likely fired by Mr. Hughes.

Based on these facts, combined with the officers own observations of Mr. Hughes' actions as they pursued him, it is our opinion that it is reasonable to consider their use of deadly force as justified to effect the arrest of a person they know or have reasonable grounds to believe has committed a felony involving the use of deadly force. For this same reason, it was also reasonable for the officers to believe that Mr. Hughes constituted a danger to the lives of persons he could have encountered as he fled from the police.

For these reasons, it is also our opinion that the use of deadly force by Officers Adams and Jones in this matter was also necessary and thus justified under Minn. Stat. 609.066, subd. 2(2) and (3).

NOBLE

Consulting and Expert Witness Services, LLC

September 12, 2018

Richard J. Düsterhöft
Criminal Division Director
Office of the Ramsey County Attorney
345 Wabash Street North, Suite 120
St. Paul, MN 55102-1432

Re: Hughes Officer-Involved Shooting

Dear Mr. Düsterhöft:

I have reviewed the statements of Officer Jones, Officer Adams and Mr. Lund and the body-worn camera videos of Officer Jones and Officer Adams regarding the officer-involved shooting on August 5, 2018 that resulted in the death of William Hughes. I have prepared this letter to outline my opinions regarding the officers' tactics and use of deadly force.

I have been conducting similar reviews for over 15 years. I was a police officer for 28 years, rising to the rank of Deputy Chief of Police prior to my retirement in 2012. I have published numerous articles, chapters for textbooks, and a textbook titled, "*Managing Accountability System for Police Conduct: Internal Affairs and External Oversight*," on police practices, tactics and use of force. I have been retained as an expert in over 200 criminal and civil cases across the country. I have testified as an expert in state and federal courts and offered opinions on the reasonableness of police actions, defending officers when I believed their actions were consistent with generally accepted police practices and criticizing them when I believed they acted inappropriately. For additional details regarding my background, please refer to my attached *curriculum vitae*.

Incident Background

Mr. Lund was interviewed by Minnesota Department of Public Safety, Bureau of Criminal Apprehension agents and although he was not present for the shooting, he did provide information on the events that led up to the shooting. Mr. Lund and Mr. Hughes had been roommates for about six weeks sharing a one-bedroom apartment on the second floor of a single-family residence that had been converted to a multi-unit apartment building.

Mr. Lund said Mr. Hughes suffered from a chemical dependency to alcohol and heroin and was a chronic drug user. Mr. Hughes would sometimes get loud and confrontational due to his substance abuse, but they had a good relationship.

ATTACHMENT A

On Thursday night, August 2nd, at about 1 AM, he and Mr. Hughes were watching TV when Mr. Hughes asked him if he wanted to hear what a .45 caliber pistol would sound like if he shot it through a pillow. Mr. Hughes then shot his gun, causing a kerosene lamp to break and glass fragments hit Mr. Lund. Mr. Lund did not leave the apartment that night and Mr. Hughes later apologized.

Mr. Lund did not spend Friday night at the apartment, but he did return on Saturday night at about 9 PM. Mr. Lund and Mr. Hughes had been watching a movie and at about 2:15 AM, Mr. Hughes fell off his bed which was raised about four-feet off the ground. Mr. Lund said Mr. Hughes was "pretty intoxicated" and believed that Mr. Hughes had used heroin that day otherwise he would have been "crazy sick." Mr. Hughes then began to make racially offensive remarks and said he was going to go on a killing spree. Mr. Hughes aimed his gun above the refrigerator and shot the wall. He then walked up to the wall and fired a second round into the wall at close range causing the firearm to malfunction.

Mr. Hughes cleared the gun to make it operable and placed the gun to the side of Mr. Lund's head and asked how many rounds Mr. Lund believed were still in the gun. Mr. Hughes took a step back and fell and Mr. Lund fled from the apartment after telling Mr. Hughes, "You better believe the cops are coming." Once outside, Mr. Lund called 911 and told the operator that gun shots had been fired in his apartment. Mr. Lund provided the operator with his address and then he hung up on the operator. The 911 operator tried to call Mr. Lund back several times, but he did not answer his phone. There were no other calls received by the 911 Center regarding the sound of shots being fired at Mr. Hughes' address.

The Police Response

Officers Adams and Jones were working uniform patrol together in a marked police vehicle and they were dispatched to the address provided by Mr. Lund. As they drove to the scene, the officers discussed the fact that no other calls had been received. Generally, when someone in a residential area fires a handgun, the 911 Center receives multiple calls. These multiple calls alert the officers that the likelihood of gunshots being fired was very high. Here, there was a single hang up call which would cause a reasonable officer to be cautious but would not cause a reasonable officer to take extraordinary steps like immediately creating a perimeter of officers around the location or requesting some type of tactical team response.

The officers parked two houses to the east of the address. While parking a marked police vehicle directly in front of a location may seem reasonable to alert individuals inside the police had arrived, officers are trained to park a distance away for officer safety. This allows the officers to exit their vehicle and survey the scene before they may be seen by a resident.

The officers approached the residence in a reasonable way, using their flashlights to illuminate to interior of the porch before proceeding inside. Once inside the porch, the officers saw there

were two entry doors. By looking through the windows next to each door, the officers learned the door to the left went to the downstairs apartment and the door to the right opened onto a stairway leading to the second floor.

A third officer can be seen in the video moving to the rear of the residence and the officers decide to try to contact the downstairs resident first to determine if they had heard or seen anything suspicious. Attempts to contact witnesses in this manner is consistent with generally accepted police practices. In this case, a neighbor may be able to provide the officers with information regarding any event they may have witnessed that night, or a prior occasion, or identifying information of their upstairs neighbor that may be helpful to the officers.

The Initial Contact with Mr. Hughes

Officer Jones began to knock on the left downstairs apartment door and Officer Adams said at that point he heard someone walking down the stairs toward the door on the right. A voice can be heard on the body-worn camera recordings stating, "I'm going to kill you." Officer Adams repeats the statement to Officer Jones asking if he heard the statement and Officer Jones said he did. Immediately after the statement, Officer Adams can be seen moving back away from the door on the right.

The officers were inside an enclosed patio area that provides access to the front doors of the apartment units. There were no objects that would allow either officer to take cover or concealment and a reasonable officer would not have tried to flee out the patio door potentially turning their back on a subject who was likely armed as they had responded to a shots fired call and were confronted with a person stating he was going to kill them. The officers responded appropriately by pointing their firearms toward the door where the threatening subject was located.

Within 8 seconds of hearing the statement, "I will kill you," the door on the right opens. Both officers begin to give Mr. Hughes commands to put his hands up. As Officer Adams moved slightly, his camera view became directed at the front door and Mr. Hughes' face can be seen looking toward the officers before retreating inside. Neither Mr. Hughes' body or the gun can be seen at this point in the body-worn camera videos.

Four seconds after the door opened and about 1 second after Mr. Hughes retreated inside, Mr. Hughes emerges from the doorway. He is clearly holding a handgun in his right hand by his side. His left hand is holding a cell phone and it is also by his side.

The Officers' Commands

After Mr. Hughes opened his front door, but before he exited his apartment, both officers were repeatedly giving Mr. Hughes consistent commands to put his hands up. The first command given was, "Police, put your hands up!" followed by four more commands to Mr. Hughes to put his hands up before he exited the door – some 4 seconds after the first command was given. The officers' commands were consistent with generally accepted police practice. The officers identified themselves as police officers and gave Mr. Hughes clear instruction to put his hands up consistent with the officers responding to a shots fired call and hearing Mr. Hughes state, "I'm going to kill you" just before he opened the front door.

The purpose of ordering a subject to put their hands up is to allow the officers to see the person's hands and requiring the person to lower their hands creating time for officers to respond to a threat. Mr. Hughes did not put his hands up, instead he exited the door armed with a handgun. Mr. Hughes immediately turned and faced the officers still holding the gun down by his side with his right hand. The officers' commands became immediately louder and faster due to the threat they were facing and there were commands from the officers to both "Put your hands up" and to "Put it down." These commands were given for 2-3 seconds before the shots were fired.

Here, the officers were suddenly confronted with an armed individual where they had responded to a shots fired call, with unknown circumstances, and where Mr. Hughes had threatened to kill them just seconds before. While in retrospect it would have been better for a single officer to give commands, there was no time for the officers to communicate to each other or make a correction after they were confronted by Mr. Hughes. Police officers are appropriately granted some deference for decision-making in tense, uncertain circumstances, where they have very little time for contemplation.

Finally, any argument that Mr. Hughes was complying with the officers' orders to put his hands up is inaccurate as Mr. Hughes did not put his hands up. Instead, he only raised his right hand and his left hand remained at his side.

The Use of Deadly Force

Mr. Hughes exited his apartment four seconds after he opened his door. During those four seconds, the officers repeatedly told Mr. Hughes to put his hands up and Mr. Hughes looked out of the door toward the officers. Instead of complying with the officers' commands, Mr. Hughes exited his apartment and turned to face the officers while holding a handgun in his right hand and a cell phone in his left hand. Three seconds after he exited his apartment, Mr. Hughes begins to lift his right hand while his left hand remained down at his side. Mr. Hughes raised his right arm, sweeping the officers with the barrel of the gun, and lifting the gun above his shoulder with his right elbow at a 90-degree angle. At that point the first muzzle flash can be observed in the

video when played in slow motion and Mr. Hughes reacts to being shot by crouching his upper body and lowering the gun.

The approximate time from the instant Mr. Hughes begins to raise the gun until the first shot is about one-half of one second. This slight delay is consistent with a reasonable lag time from the moment an officer can perceive a deadly threat – the raising of the gun, to the moment he is able to pull the trigger. Since the first round is fired almost simultaneously with the gun being pointed up in the air, it is reasonable to believe the decision to shoot was made prior to that point as it takes some amount of time to perceive and react and a reasonable officer would have perceived a deadly threat when the gun was first being raised, or when the barrel of the gun was being pointed at the officers.

Police Body-Worn Cameras

Police body-worn cameras, it is hoped, will provide us exactly what happened and eliminate the he-said/she-said ambiguity that often characterize police-citizen encounters. In short, the goal of body-worn cameras systems is that they will not only provide comprehensive evidence, by providing *more* information that currently exists, they will provide accurate and objective evidence. While body-worn cameras do offer substantial benefits in documenting incidents, there are limitations that must be recognized when using body-worn cameras to analyze a particular incident.

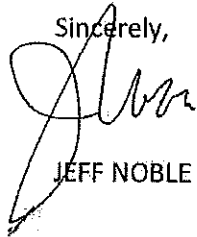
A camera's view is narrower than a human eye, thus it does not record the peripheral vision of an officer and cameras can distort the viewer's perception of distance. Body-worn cameras are typically attached to an officer's shirt or jacket at chest level rather than eye level and movement of clothing may point the camera in a direction different from the officer's focus. But most importantly, the video allows the viewer to re-play and slow down an incident in safe surroundings as opposed to the officer's real-time observations under stress. Indeed, in my review of this incident I re-played the videos of both Officer Jones and Officer Adams multiple times and I slowed the frame rate for slow motion to better view the exact motions of Mr. Hughes and the officers.

While the videos in this incident were a valuable source of information, the officers should not be held to a standard of knowing the precise details revealed in the videos when they only had a few seconds under stress to observe, assess, decide and act. Importantly, while the videos show Mr. Hughes' handgun was pointed up at the precise moment of the first shot which may lead someone to believe the shot was unjustified, assessments of use of force incidents are based on the totality of the circumstances. Here, the videos support the officers' statements, decisions and lead me to believe the shooting was justified.

Conclusion

The officers knew they were responding to a possible shots fired call on the second floor of the apartment unit; Mr. Hughes descended the stairs from the second floor and threatened the officers by stating, "I'm going to kill you;" Mr. Hughes looked out of the door in the officers' direction and he failed to obey their commands to raise his hands; instead, he moved onto the patio, armed with a handgun, confronting the officers who were in a confined space without any opportunity for cover or concealment, and began to raise the handgun toward the officers. Based on the totality of the circumstances, I am of the opinion that the officers' tactics and use of deadly force was justified.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Noble", written over the typed name.

JEFF NOBLE

I have been asked by Ramsey County Attorneys John Kelly and Richard Dusterhoft to render an opinion regarding the death of William James Hughes because of the use of deadly force by St. Paul Police Officer Vincent Adams and St Paul Police Officer Matthew Jones on August 5, 2018.

Submitted by:

MICHAEL WILLIAM QUINN

CEO International Ethics and Leadership Training Bureau, LLC

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1.0 Introduction and Opinion

1.1 I have been asked by Ramsey County Attorneys John Kelly and Richard Dusterhoft whether the death of William James Hughes because of the use of deadly force by St. Paul Police Officer Vincent Adams and St Paul Police Officer Matthew Jones on August 5, 2018 was justified.

1.2 Opinion: Yes. Based on my experience and background the use of deadly force was justified.

2.0 Expert Witness Professional Qualifications

2.1 I am a retired Minneapolis Police sergeant. From 1975 to 1999 I served in both uniform and plain clothes in various assignments including internal affairs investigator, supervising uniformed precinct officers, and supervising high profile, highly decorated undercover operations.

2.2 I supervised the Minneapolis Police Academy from 1994-1999 where I was responsible for ensuring that the training complied with all state and federal laws as well as department policy. In that role, I taught the use of deadly force and supervised the officer survival training for all recruits.

2.3 I was a Minnesota Peace Officers Standards and Training Board approved instructor in firearms, use of force and deadly force.

2.4 From September 2000 till February 2002 I was the Deputy Director of Minnesota Police Corps Program where I was responsible for the development and implementation of a 22-week residential academy for police officers and state patrol troopers. This was a federally funded police training program that focused on developing police officers that would take leadership roles in their community.

2.5 I am the former Chairman and current member of the Inver Hills Community College Law Enforcement Advisory Board. I served on the Hibbing Community College Law enforcement advisory board for almost 30 years.

2.6 I am the author and publisher of three editions of a book on police ethics titled *Walking With the Devil: The Police Code of Silence. The Promise of Peer Intervention. What bad cops don't want you to know and good cops won't tell you* © 2005, 2011, 2016. The book receives excellent reviews from peers across the United States and Canada.

2.7 *Walking with the Devil*: is read in colleges and police agencies across the United States as part of the law enforcement curriculum and continuing education for police officers. *Walking* is the foundational document of "Peer Intervention for Law Enforcement," a Minnesota POST Board certified course for law enforcement. In Minnesota, *Walking* is required reading at the University of Minnesota, Metropolitan State University, Hibbing Community and Technical College, St. Thomas University, Normandale Community and Technical College, Southwest State University, Ridgewater Community College, Alexandria Community and Technical College and Mankato State University. It is on the recommended reading list at Mitchell Hamline School of Law in St. Paul, MN and was recommended and delivered to President Obama by Texas Congresswoman Sheila Jackson Lee. An additional, but not complete list of colleges using *Walking With the Devil* include LORAS Catholic College – Dubuque, IA. and Canton State University of New York.

2.8 I am the CEO of the International Ethics and Leadership Training Bureau, LLC. (IELTB) I provide ethics training and consulting to agencies and businesses. In 2016 I completed a contract working with the New Orleans Police Department and the U.S. Department of Justice in developing, providing and evaluating a peer intervention and accountability program dubbed "EPIC – Ethical Policing is Courageous©." EPIC has been featured in the New York Times, the Police Executive Research Forum on three occasions, Sage Publications Police Quarterly – *Keeping Each Other Safe* (6/6/2017) and most recently in USA TODAY online edition (Oct 27, 2017).

2.9 "Police Peer Intervention (PPIT)—Ethics Training that Compels Officers to Practice 'Critical Loyalty' and Connect to the Communities They Serve," as designed by myself and others, was a written submission from the National Association for Civilian Oversight of Law Enforcement (NACOLE) used in President Obama's "Task Force on 21st Century Policing Final

Report.” The Task Force report is viewed by many police professionals as a blueprint for the future of professional policing. “Peer Intervention for Law Enforcement” as developed by IELTB is an International Association of Directors of Law Enforcement Standards and Training (IADLEST) certified and Minnesota Peace Officer Standards and Training (POST) Board approved course in continuing education for law enforcement.

2.10 I am the sole proprietor of Quinn and Associates, a consulting and publishing group that provides expertise on police practices. It is made up of myself and Mr. Allen Garber, a retired FBI Agent, former police chief, and former U.S. Marshal for the State of Minnesota.

2.11 I have lectured and taught on the subject of police ethics and accountability for police managers, street officers, civilian review investigators, and college classes across the United States and Canada to include Northwestern University at Evanston, Illinois and the RCMP Academy in Regina, Canada.

2.12 I have been a guest lecturer on several occasions at Hamline Law School, now Mitchell Hamline, on the subject of police search and seizure.

2.13 I have testified in Federal Court 7th District as an expert in the areas of police use of force, deadly force and police accountability. (See Richard Betker v. City of Milwaukee, Case No. 08C0760 (E.D. Wis. Aug 04, 2011))

2.14 I have testified in Hennepin County District Court regarding police use of deadly force. (See State of Minnesota v. Christopher Reiter. Court File Number 27-CR-17-6475) and (State of Minnesota v. Efrem Hamilton; Prosecutor Case #. 16A13884)

2.15 (See Attachment #1 CV for additional expert witness cases)

3.0 Materials Reviewed to Inform this opinion.

- 3.1 Transcript of Officer Mathew Jones statement to the BCA
- 3.2 Transcript of Officer Vincent Adams statement to the BCA
- 3.3 Transcript of Mr. Erik Lund to the BCA
- 3.4 Officer Jones body camera video
- 3.5 Officer Adams body camera video
- 3.6 Radio Traffic PDF of incident

4.0 Factual Background

4.1 On August 5th, 2018 in the early morning hours William James Hughes fired a .45 caliber handgun twice, while inside his residence at 905 St Anthony Avenue. He also put the handgun to the head of his room mate Erik Lund. When Hughes fell, Lund left the residence and called 911. He reported shots fired at that address.

4.2 Officers Jones and Adams responded. They approached cautiously, parking a safe distance away from the address walking up to the front of the address, using their lights intermittently to illuminate the address doorway and porch area. They entered the porch and determined that it was a multiunit dwelling. Officer Jones determined that the door to the upstairs unit was locked.

4.3 Officer Adams was able to see into the first-floor unit. He did not see any movement. He knocked on the door and no one responded from that unit. Immediately after knocking a voice can be heard on the BWC audio saying, "I will kill you." Both officers hear the statement and it is clear from the body cameras that they believe the voice came from the locked door as they back away. The Officers back away from the door while staying on the porch.

4.4 Hughes sticks his head out from doorway and looks toward the officers. Officers announce in clear voices that they are the police and give commands to Hughes to put his hands up. Hughes steps out of the doorway with a handgun in his right hand. Officers continue to give commands until Hughes starts to raise the gun. Officers fire their handguns. Hughes is hit multiple times and falls to the floor. His left hand is holding a cellphone which drops to the floor.

5.0 Analysis of Incident

5.1 The use of deadly force by police officers is guided by the Supreme Court Case *Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865, U.S.,1989 which reads in part:

*Our Fourth Amendment jurisprudence **1872 has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical*

coercion or threat thereof to effect it. See *Terry v. Ohio*, 392 U.S., at 22-27, 88 S.Ct., at 1880-1883. Because "[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," *Bell v. Wolfish*, 441 U.S. 520, 559, 99 S.Ct. 1861, 1884, 60 L.Ed.2d 447 (1979), however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. See *Tennessee v. Garner*, 471 U.S., at 8-9, 105 S.Ct., at 1699-1700 (the question is "whether the totality of the circumstances justifie[s] a particular sort of... seizure").

[4] The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. See *Terry v. Ohio*, *supra*, 392 U.S., at 20-22, 88 S.Ct., at 1879-1881. The Fourth Amendment is not violated by an arrest based on probable cause, even though the wrong person is arrested, *Hill v. California*, 401 U.S. 797, 91 S.Ct. 1106, 28 L.Ed.2d 484 (1971), nor by the mistaken execution of a valid search warrant on the wrong premises, *Maryland v. Garrison*, 480 U.S. 79, 107 S.Ct. 1013, 94 L.Ed.2d 72 (1987). With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: "Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers," *Johnson v. Glick*, 481 F.2d, at 1033, violates the Fourth Amendment. The calculus of reasonableness must embody *397 allowance for the fact that police officers are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation. [5] As in other Fourth Amendment contexts, however, the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. See *Scott v. United States*, 436 U.S. 128, 137-139, 98 S.Ct. 1717, 1723-1724, 56 L.Ed.2d 168 (1978); see also *Terry v. Ohio*, *supra*, 392 U.S., at 21, 88 S.Ct., at 1879 (in analyzing the reasonableness of a particular search or seizure, "it is imperative that the facts be judged against an objective standard"). An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional.

5.2 Most police trainers are not lawyers, but they must be able to understand and apply *Graham* in their deadly force training, firearms training and officer survival training. This document is not meant to be a legal opinion. It is an expert opinion based on over 30 year's experience in law enforcement practice, training and education at the academic and experiential level.

5.3 Based on that background and the circumstances of the call regarding shots being fired, I believe that a "*reasonable officer at the scene*" of this shooting would have made the same decision as these two officers. These officers were "*forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving*" in a situation where there was "*an immediate threat to the safety of the officers.*"

5.4 When we evaluate the level of danger on this call we can start with the statistical data that is made available to officers each year by the Federal Bureau of Investigation. *In 2017, 46 law enforcement officers died from injuries incurred in the line of duty during felonious incidents. Of the officers killed in 2017, most (42) were killed with firearms. Of these, 32 were killed with handguns. 14 officers were slain with firearms when they were 0-5 feet from the offenders. 30 officers were on assigned vehicle patrol when the felonious incidents occurred. In 2017, 34 of the officers feloniously killed were wearing body armor at the time of the incidents. 17 officers were fatally injured in assaults that happened between 12:01 a.m. and noon.* (Investigation, 2018) Based on just the statistics, these officers were in a situation that killed many officers in 2017.

5.5 In this case Hughes presented himself with a handgun in his hand. He had already made a statement heard by officers that he was going to kill them. Even so, the officers gave him the chance to drop the gun and surrender. Their commands to "put your hands up" when they saw the gun were mostly likely the result of continuing with commands that they started before they saw the weapon. Any time an officer is faced with a firearm in the hand of a suspect at such close range there is an instant rush of adrenaline that complicates the abilities of the officers. Their focus goes to the weapon and its movement. They may not hear what is being said around them. Would it have been better if they had commanded Hughes to "drop the weapon"? Yes, in terms of explaining the shooting to the public, but given the circumstances their commands were not unusual. (See paragraph 5.9 re Hughes raising the weapon toward the officers)

5.6 The decision to shoot when Hughes begins to raise his weapon was correct. In many of the officer survival drills that I taught, a suspect with a gun in his hand pointed at the ground will nearly always be able to shoot the officer confronting them before the officer could pull the trigger. This is true even when the officer's finger is on the trigger of the weapon aimed at the suspect. This action beats reaction effect can be accounted for by looking at what must happen before the officer pulls the trigger.

5.7 First of all, when giving commands an officer's attention is on the commands. It is nearly impossible to be giving commands and shooting at the same time. When Hughes starts to raise the handgun, the officers decided to shoot, but they had to stop giving commands to do that, which causes a split-second delay. Then, there is the split-second delay between deciding to

shoot and pulling the trigger that occurs in these scenarios. This explains why Hughes's hands were nearly over his head by the the officers fired their weapons.

5.8 This opinion is based in part on the body camera videos provided. It is important to note that video gives a true rendering events, but it is only a rendering of what the camera saw. The view from the camera may be narrower or more encompassing than the officer's view. It is from a fixed direction, whereas the officer may be looking in a different direction and seeing something outside the view of the camera's lens. Body camera's typically do a poor job of recording if the camera moves too quickly during the recording. Images can become blurry and shaky. The video from the officers' body worn cameras is an example of that in this case. It is important then to compare the officer's statements with what is on camera to get as complete as possible a picture of what happened.

5.9 Based on a frame by frame analysis of Officer Jones body camera video there is only a .61 second delay between the time that Hughes has the handgun pointed at the officers and the first shot is fired. It is important to note that Hughes does not bring the handgun up sideways and away from the officers. He starts to turn the handgun toward the officers just before he begins to raise it. Then he raises it toward the officers. (See attached photos.) To the inexperienced eye, the movement of Hughes's gun hand would not have been noticeable. An experienced officer, as both officers are, would have seen that subtle difference. The adaptive unconscious allows us to take measures to preserve our life when confronted with danger without being consciously aware of why we are taking a specific action. (Wikipedia, The Adaptive Unconscious) Neither of these officers would have to report specifics of Hughes' hand movements. They would not necessarily be consciously aware of why they were shooting when they did, but their adaptive unconscious would have known. Cops call it their "sixth sense". It is based on experience and training and it is very real. (Quinn, 2011, 2016) It is also important to note if the photos taken from the body camera video that Hughes is looking directly at the officers when his gun is pointed at them.

5.10 The officers shoot Hughes and they stop shooting when Hughes is down. This is the appropriate way to shoot when officers are confronted with an armed suspect. There are many case histories of suspects sustaining multiple fatal bullet wounds and still returning fire and killing officers. The most famous example is the FBI shooting in Miami where suspects sustained multiple fatal handgun wounds, but they were still able to kill FBI agents. (Wikipedia) The number of shots fired is not an indication of too many or too few shots by the officers.

6.0 Opinion

6.1 This was a justified use of deadly force.

7.0 Reservation of Right to Amend or Supplement

7.1 I reserve the right to amend or supplement this opinion if I am presented with additional materials.

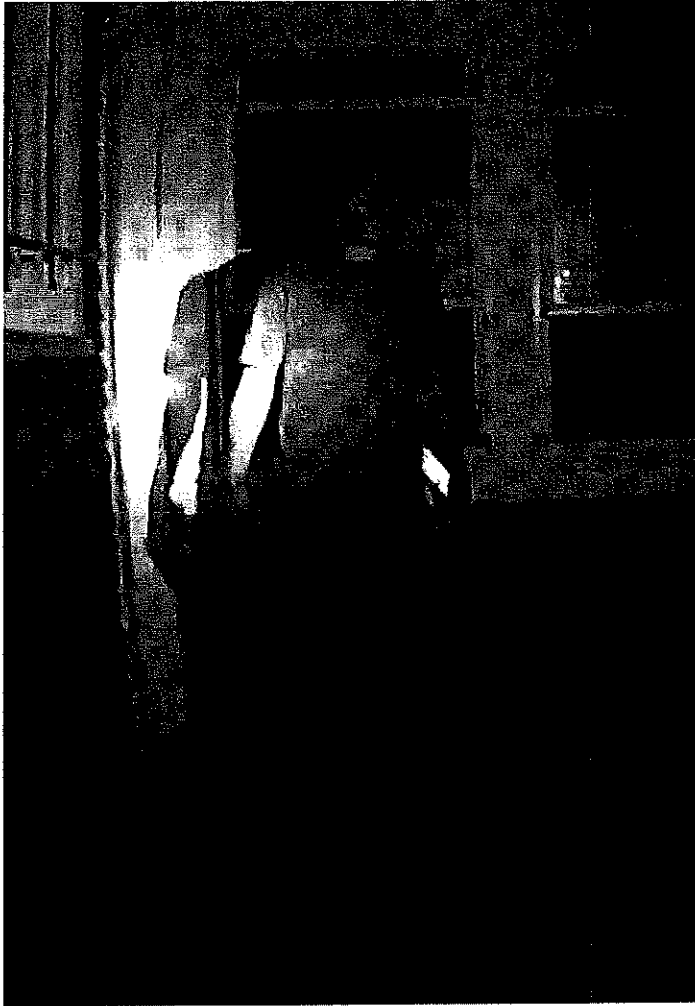
8.0 Compensation

8.1 I am being compensated at the rate of \$250.00 dollars per hour by the Ramsey County Attorney's Office for my time on this opinion.

9.0 Signature September 17, 2018

A handwritten signature in black ink that reads "Michael W Quinn". The signature is written in a cursive style with a large initial "M".

Hughes Opinion
By Michael W Quinn



gun at his side



Turning the
gun toward the officers.



Gun pointing directly at officers before they could shoot. A perfect example of action beating reaction. Note that Hughes is now looking directly at the officers.

Curriculum Vitae

MICHAEL WILLIAM QUINN

4829 Vincent Ave So #1
Minneapolis, MN 55410
Cell: (612) 402 8829
Email: mike@ethicalcop.com
<https://ethicalcop.com>

Expert Witness Professional Qualifications

I am a retired Minneapolis Police sergeant. From 1975 to 1999 I served in both uniform and plain clothes in many assignments including internal affairs investigator, supervising uniformed precinct officers, and supervising high profile, highly decorated undercover operations.

I supervised the Minneapolis Police Academy from 1994-1999 where I was responsible for ensuring that the training complied with all state and federal laws as well as department policy.

From September 2000 till February 2002 I was the Deputy Director of Minnesota Police Corps Program where I was responsible for the development and implementation of a 22-week residential academy for police officers and state patrol troopers. This was a federally funded police training program that focused on developing police officers that would take leadership roles in their community.

I am a community faculty member of Metropolitan State University where I co-teach a course in "Best Practices in Law Enforcement Ethics and Leadership" (Attachment #2) with Dr. Everett Doolittle. I am currently the Chairman of the Inver Hills Community College Law Enforcement Advisory Board.

In 2005 I authored and published the first of three editions of a book on police ethics titled *Walking With the Devil: The Police Code of Silence. The Promise of Peer Intervention. What bad cops don't want you to know and good cops won't tell you* © 2005, 2011, 2016. The book received excellent reviews from peers across the United States and Canada. *Walking with the Devil*: is read in colleges and police agencies across the United States as part of the law enforcement curriculum and continuing education for police officers. *Walking* is the foundational document of "Peer Intervention for Law Enforcement," a Minnesota POST Board certified course for law enforcement. In Minnesota, *Walking* is required reading at the University of Minnesota, Metropolitan State University, Hibbing Community and Technical College, St. Thomas University, Normandale Community and Technical College, Southwest State University, Ridgewater Community College, Alexandria Community and Technical College and Mankato State University. It is on the recommended reading list at Mitchell Hamline School of Law in St. Paul, MN and was recommended and delivered to President Obama by Texas Congresswoman Sheila Jackson Lee. An additional, but not complete list of colleges using

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“*Police Peer Intervention (PPIT)—Ethics Training that Compels Officers to Practice ‘Critical Loyalty’ and Connect to the Communities They Serve,*” as designed by myself and others, was a written submission from the National Association for Civilian Oversight of Law Enforcement (NACOLE) used in President Obama’s “Task Force on 21st Century Policing Final Report.” The Task Force report is viewed by many police professionals as a blueprint for the future of professional policing.

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I am a retired Minneapolis Police Sergeant, a U.S. Air Force veteran, and CEO of The International Ethics and Leadership Training Bureau LLC. In 2004 I wrote *Walking With the Devil: The Police Code of Silence*. An ethics text used in colleges and police academies across the United States and Canada that is now in its 3rd edition.

I am a community faculty member of Metropolitan State University and Chairman of the Inver Hills Community College Law Enforcement Advisory board.

I have lectured and taught about police ethics and accountability for police managers, street officers, civilian review investigators, and college classes across the United States and Canada to include Northwestern University at Evanston, Illinois and the RCMP Academy in Regina, Canada.

From 2011 to 2016 I worked with the New Orleans Police Department, the U.S. Department of Justice and others to include my *Peer Intervention for Law Enforcement* training in the NOPD Consent Decree. That training became the framework for the New Orleans program named “EPIC- Ethical Policing is Courageous” that was featured in the New York Times in August of 2016 and the Police Executive Research Forum in September of 2016.

I was the Deputy Director of Minnesota Police Corps Program, a Court Security Officer at the Minneapolis Federal Courthouse, and a Special Deputy U.S. Marshal contract guard.

I have testified in federal court as an expert in the areas of police use of force and police accountability.

Previous Opinions/Depositions/Testimony

- 11/2005 Gwen Price and Deborah Perez vs. Jason Sery and the City of Portland
No. 06-35159.
Written Opinion for Price
- 02/2006 Duy Dinh Ngo v. Charles Storlie, et al
U.S.D.C. Case No. 03-3376
Written Opinion and Deposition for Ngo
- 07/2009 Arnold Johnson vs. Officer Derek Peters, Officer Jeremiah Lund, Officer Louis Bunde, Officer
Rob Schrom, Sergeant Kelly Simondet, and the St. Cloud Police Department.
Written Opinion for Johnson
- 07/2010 Norris Sowada v. Kaj Meinhardt, MN State Patrol and Deputy Sheriff Jamie Luberts. Morrison
County SO.
Written Opinion for Sowada
- 03/2011 Officer Kathy Swilley vs. Houston Police Department
Written Opinion for Officer Swilley
- 05/2012 Isaac Ward v. Olsen and City of Bloomington Police Department
Written Opinion for Ward
- 11/2013 Richard Betker v. City of Milwaukee
Case No. 08C0760 (E.D. Wis. Aug 04, 2011)
United States District Court – Eastern District of Wisconsin
Written Opinion, Deposition and Testimony for Betker
- 12/2013 City of Brooklyn Center v. Freeman Nelson Kollie,
Court File 7-CR-13-9553.
Written Opinion for Kollie
- 11/2014 Lanette Rae Heitzman v. Scott Englestad and the City of Gilbert
CASE 0:12-cv-02274-MJD-LIB
Written Opinion and Testimony for Heitzman
U.S. District Court – District of Minnesota

01/2015 Summer Michelle Rollins v. City of Albert Lea et al
No. 14-cv-299 SRN/HB
Written Opinion for Rollins

07/2015 Jennifer and Jamie Heglund v. Aitkin Co. et al
No. 14-cv-00296 ADM/LIB
Written Opinion for Heglunds

08/2015 Sandra Lee Pinski and Timothy Pinski v. City of Cottage Grove et al
No. 14-cv-00325 DWF/SER
Written Opinion for Pinski

10/2015 Sheila Potocnik v. Walter Carlson et al
No. 13-cv-02093
Written Opinion for Potocnik

11/2015 Kelly Marie Engebretson v. Aitkin Co. et al
No. 14-cv-01435 ADM/FLN
Written Opinion for Engebretson

12/2015 Jared Michael Grant Taylor v. City of Amboy et al
No. 14-cv-00722 DJS/TNL
Written Opinion for Taylor

01/2016 Patricia Mae Kerr Karasov v. Caplan Law Firm et al
No. 14-cv- 1503
Written Opinion for Karasov

04/2016 Misty Kay Myers v. Aitkin Co. et al.
No. 14-cv-473 CJRT/LIB
Written Opinion for Myers

05/2016 Mallak V. Cass County et al
Case No. 13-cv-2119 (DWF-LIB)
Written Opinion and Deposition for Mallak

07/2016 Laurie Segura vs. Sheriff Louis Ackal and Iberia Parish Sheriff's Department,
Case 6:15-cv-02480
Written Opinion for Segura

12/2016 Officer Jennifer Zukley vs. Town of Schererville, David Dowling, et al.
CAUSE NO. 2:14-cv-00347-JVB-JEM
Written Opinion and Deposition for Zukley

03/2017 Brooke Nicole Bass v. Anoka Co et al
No. 13-cv-00860 DSD/LIB
Written Opinion for Bass

09/2017 Hennepin County v. Christopher Reiter
Felony Assault
Written Opinion and Testimony for Hennepin County

ACHIEVEMENTS:

- Supervised two of the highest profile units, Robbery Decoy Unit and Repeat Offender Program, in the MPD in a coordinated effort with multiple departments and jurisdictions without any complaints of racist language or excessive force.
- Worked for over two years in Internal Affairs handling police misconduct complaints.
- Supervised the Minneapolis Police Academy and in a consensus building style used citizen and police input to develop and implement new and innovative training for police officers.
- Supervised the design and development of the federally sponsored Police Corps Academy under the auspices of the Department of Public Safety to include program design, curriculum development, facilities management, professional and technical services contracts and lesson delivery.
- Served as coordinator of the Minneapolis Police Emergency Response Unit, responsible for hostage situations, barricaded suspects and special events requiring high security.
- Represented the Police Corps at the national and local level with Federal Program Directors, Police Chiefs, County Sheriffs, and educational professionals in the development and implementation of the Police Corps Academy.
- Published author of police training materials and Walking With the Devil: The Police Code of Silence (2005).
- Author of "Peer Intervention for Law Enforcement" an IADLEST Certified Course.
- Primary author of "EPIC- Ethical Policing is Courageous", a New Orleans Police Department ethics course that has been featured in the New York Times and the Police Executive Research Forum. In its quarterly national newsletter, U.S. Attorney Kenneth Polite touted EPIC as a "groundbreaking tool for repairing broken community trust" in an op-ed.

EXPERIENCE

Ethics Lecturer/Guest Speaker – Lecturing on police ethics for police managers, street officers, Civilian Review investigators, and college classes in the United States and Canada.

April 06 – April 08 Police Ethics Columnist for Officer. Com. Write monthly column on police ethics.

March 2006 – March 2008

Adjunct Faculty Rasmussen College. Teaching criminal justice and Microsoft Office 2007 classes in a two-year Minnesota Police Officer Standards and Training approved program.

January 2006 – September 07

Special Deputy U.S. Marshal contract guard. Responsible for safety and security judges, prisoner transport, and processing. This was a part-time, on call position.

October 2004

"Walking with the Devil: The Police Code of Silence."

Author and Publisher. Walking with the Devil is required reading in colleges from coast to coast in the U.S. and Canada. Reviews attached.

May 2004 – August 2005

Special Deputy U.S. Marshal working for AKAL security at US Federal Courthouse. Responsible for safety and security judges, juries, other personnel housed at the courthouse, and facilities.

June 2003 to October 2003

Security Sales Specialist with Floyd Total Security selling and consulting on burglar alarms, CCTV and Digital Video recording solutions for small commercial accounts.

September 2000 to February 2002

Deputy Director Minnesota Police Corps

As Deputy Director I was responsible for administering, supervising, and developing the wide range of Police Corps Academy training components; including curriculum development, selection, orientation, and supervision of Police Corps instructors, selection and screening of cadets, staff development, and assisting with interviewing and hiring of staff. The Deputy Director is the first line supervisor on all aspects of the program as well as participating as a lead advisor on all decisions made regarding Police Corps. The Deputy Director is also responsible for community outreach and assignment of participants. In the summer of 2001 the Director was incapacitated due to an injury and I was appointed Acting Director. In that position I wrote the State Plan (application for Police Corps funding) for FY 2002 and the approved 2.4-million-dollar operations budget for FY 2002. Police Corps budget cuts at the Federal level because of 9/11 later reduced the budget to 1 million and I was responsible and successful in the reallocation of funds and resources to enable the continuation of the program through June 2002.

November 1994 to March 1999

Pre-service Training Supervisor

Creates, revises, prepares, delivers and evaluates training curriculum for the police recruit academy. Develops future pre-service training goals. Hires and trains academy staff. Supervises recruits and cadre officer. Provides for the efficient and effective delivery of pre-service training to police officer candidates. Acts as Continuing Education Coordinator and meets regularly with the Peace Officers Standards and Training Board to ensure that classes offered meet or exceed standards established by the POST board.

September 1994 to November 1994

Skills Coordinator for Range Technical College POCOP Program

Responsible for identifying sites for delivery of courses, identifying and hiring instructors for firearms, patrol practicals, defensive tactics and crime scene processing. Organizing equipment and supplies to include: Weapons, chemical agents, squads, forms, texts, ammunition, etc. Review lesson plans and instructor qualifications. Evaluate lesson plan delivery and content.

October 1991 to September 1994

Patrol Shift Supervisor

Responsible for the behavior and actions of subordinates. Responsible for the inspection, evaluation, discipline and morale of assigned subordinates to include 1) Set example in the areas of appearance, work habits, skill and attitude. 2) Ensure that department rules, regulations, and orders are followed, and that such directives are not ridiculed by any department employee 3) Investigate all citizen or department directed complaints alleging misconduct, incompetence, neglect of duty or any other department rule violation. 4) Appraisal and analysis of work accomplishments for subordinates. 5) Review all reports submitted by subordinates. 6) Day to day assignment and supervision of police officers to patrol assignments and other specialized duties as directed. 7) Supervise Field Training Officers in their duties as trainers. 8) Supervision of homicide and other critical incident scenes including officer involved shootings.

December 90 to October 91

Emergency Response Unit Coordinator.

Coordinated monthly training of Emergency Response Unit members and planned and executed five-day forty-hour yearly training operation for ERU and outside agencies. Command post/Tactical supervisor at several barricaded suspect scenes. Designed and implemented database for tracking high risk warrants. Designed Spreadsheet that located \$8,000 over-billing by radio shop after noting inconsistencies in monthly budget reports. Coordinated use of outside instructors and facilities for specialized high-risk training. Assisted with planning for special events and disaster exercises.

September 1989 to December 1990

Co-Supervisor of Repeat Offender Program

Recruited to develop a new investigative unit focused on the top 40 top career criminals in Hennepin County. Coordinated our efforts through the Criminal Justice Coordinating Committee, the Chief Judge, the Hennepin County Attorney's Office, and Hennepin County Planning and Development. That resulted in substantial prison sentences without a single complaint of racial profiling, bias or unprofessional conduct. Provided intelligence to a network of law enforcement agencies that used the shared information to improve investigations and accomplish successful prosecutions throughout the seven county metropolitan areas. Exceeded Hennepin County Planning evaluation objectives and won the Chief's Outstanding Unit Award in its first full year of operation.

August 1987 to September 1989

Supervisor Robbery Decoy Unit

Established decoy procedures that resulted in 95% of the decoy arrests being charged and convicted. Changed the image of the decoy unit in the community by instituting procedures that targeted street predators where they were working. Had **NO** complaints of profiling, racist attitude/language or excessive force in any decoy arrests. Individual Medal of Commendation received for decoy operation in loop resulting in arrest and conviction of two vicious street robbers.

May 1987 to August 1987

Investigator Homicide Division

Voluntary professional development assignment. Responsible for the investigation of felonious assaults to include crime scene investigations, interviewing of witnesses, suspects and victims; drafting and execution of search warrants, and court testimony.

September 1986 to May 1987

Supervisor 3rd Pct C Shift

Responsible for the behavior and actions of subordinates. Responsible for the inspection, evaluation, discipline and morale of assigned subordinates to include 1) Set example in the areas of appearance, work habits, skill and attitude. 2) Ensure that department rules, regulations, and orders are followed, and that such directives are not ridiculed by any department employee 3) Investigate all citizen or department directed complaints alleging misconduct, incompetency, neglect of duty or any other department rule violation. 4) Appraisal and analysis of work accomplishments for subordinates. 5) Review all reports submitted by subordinates. 6) Day to day assignment and supervision of police officers to patrol assignments and other specialized duties as directed. 7) Supervise Field Training Officers in their duties as trainers. 8) Supervision of uniform personnel at homicide and other critical incident scenes including officer involved shootings.

February 1986 to September 1986

Street Crimes Division

Gained experience in Parade Details, Dignitary Protection, and Major Protest Operations

January 1984 to February 1986

Internal Affairs Division

Investigated complaints of misconduct regarding Minneapolis Police Employees.
Completed successful investigations of police misconduct complaints to include felony assault, prostitution, excessive force, dereliction of duty, etc.

November 1975 to January 1984

Patrol Officer assigned to uniform and plain clothes operations, dignitary protection, and protests.

July 1975 to November 1975

Minneapolis Police Academy Training

EDUCATION

BA, Human Services—Minor in Corrections, Metropolitan State University,

MILITARY EXPERIENCE

United States Air Force 1968 - 1975. Medical Technician E-5.

PROFESSIONAL BOARDS and ORGANIZATIONS

International Association of Ethics Trainers – (current)
ATOM – Association of Training Officers of Minnesota (former board member)
Community Faculty – Metropolitan State University (Current)
Inver Hills Community College – Chairman of Law Enforcement Advisory Board (current)
The Journal of Law Enforcement – Author/Reviewer (Current)

Current Teaching Positions

Metropolitan State University – Community Faculty. Co-Teaching with Dr. Everett Doolittle: “Best practices in law enforcement ethics and leadership.”

CONTINUING EDUCATION

Yearly In-service Training, 40 hours/yr., 1975 – 1999.
Quarterly Firearms Training 1975- 1999
Monthly SWAT training with FBI 1984 – 1991, 16 hrs./month
Quarter Emergency Response Unit Training (ERU) 1978 - 1991
40-hour E.R.U. Tactical training 1978-1991, 50 hrs./yr.
Basic Chemical Munitions School, 1979
Police Instructor Development and Certification 1981
Chemical Agent Instructor 1981
Firearms Instructor 1983
Police Civil Liability AELE, 1984
Rappel Master Instructor 1985
YMCA Advanced Fitness Leaders Workshop YMCA, 1986
Line Supervision 1987
Essential Elements of Effective Instruction 1987

Firearms Training System, (F.A.T.S.) 1987
Combating Street Crimes, 1987
Defensive Tactics Instructor 1988
Pressure Point Control Tactics Instructor 1988
Tactical Operations Course 1990
Deadly Force and the Police Officer 1991
Special Events and Disaster Planning 1991
Critical Incident Management, IACP 1993
Lew Hicks 40 hr. Arrest and Control Class 2000
Alpine Tower Leadership Training 2001

Weapons Qualifications

I am currently qualified under the Federal Law Enforcement Officers Safety Act of 2004 to carry the Beretta model 92F 9mm semi-automatic handgun and Smith and Wesson .357 revolver.

AWARDS

Certificate of Merit 1983
Medal of Commendation 1989
FBI Outstanding Service Award 1991
Outstanding Unit Award 1993
Chiefs Award of Merit 1994 and 1995
Minneapolis Police Nominee for US Department of Justice "Lifetime Accomplishments in Training Award" 1994
United States Marine Corps Meritorious Mast 1996 for Leadership and 1997 for Community Service
Toys for Tots USMC Volunteer Commendation 1995, 1996, 1997, 1998.
Association of Training Officers of Minnesota Lifetime Achievement in Law Enforcement Training Award 1999
Minneapolis Urban League award for leadership and support of the Police/Community Training Partnership 1999
Minneapolis Park Police Captain's Award of Merit 1999,
BCA Certificate of Appreciation for Outstanding Contributions to Law Enforcement 1999

TRAINING EXPERIENCE

Chemical Agents, 1500 hours + to Law Enforcement Officers in Minn., ND, SD., and Canada.
SWAT Tactics, 1500 hours + to Law Enforcement Officers: Rappelling,
Defensive Tactics, Chemical Agents and Weapon Retention
Entry and Hostage Rescue Techniques
Firearms Instruction, and High-Risk Warrant Service
F.A.T.S./Use of Deadly Force: Teaching for Hibbing Vocational Technical Institute since 1987 - 1990
Officer Survival for Minneapolis Police Recruits since 1984 - 1999
Range Technical College, 1994, Skills Facilitator for Police Officer Career Opportunity Program, Mpls. MN.
Minneapolis Community College Center for Criminal Justice and Law Enforcement – Various police training courses 1987 -1997
Police Ethics In-service training for Mpls. PD
" How to Train and Teach to Cops", as part of BCA Use of Force Instructors Course.
How to spot and intercept "Pickpockets" in public facilities.

PUBLICATIONS (Partial listing of Monthly columns for Officer.com and others)

Remsberg, C. (1986). *The Tactical Edge, Surviving High Risk Patrol*. Quinn, M. (Acknowledged Contributor). P. 200-210. Northbrook, IL: Calibre Press.

Schwartz, P. (Producer). Quinn, M. (Technical Advisor). (1991). *Deadly Force: Reasonable and Justified*. [Video]. (Available from Illinois Law Enforcement Media Resource Center at Western Illinois University: Macomb, IL.)

Andress, M. (Producer). 2005. Harrington, J., Quinn, M., Rowley, C. (participants) *Behind the Badge: Ethics in Policing*. Interviews with current and former law enforcement officials, this program examines ethical issues in law enforcement. It also addresses ethical considerations common to all professions. ETS Productions, St. Paul, MN.

Willet, M. & Quinn, M. (1991). *Deadly Force: Reasonable and Justified*. Training guide to accompany video *Deadly Force: Reasonable and Justified*. . (Available from Illinois Law Enforcement Media Resource Center at Western Illinois University: Macomb, IL.)

Quinn, M. (2005, 2011). *Walking With the Devil: The Police Code of Silence*. Minneapolis: Quinn and Associates. Second Edition.

Quinn, M. (2006). We Are Cops. We Are Not Soldiers At War With The Community. *Law Enforcement Executive Forum: Integrity*. 6(4). 31-38.

ONLINE Publications

Quinn, M. (2015, October). Documentary Project. <http://www.ieltb.com/new-blog-1-1/moral-body-armor/>

Quinn, M. (2015, August). It Could Have Been Bad. <http://www.ieltb.com/new-blog-1-1/moral-body-armor/>

Quinn, M. (2015, March). Freeland's Error – Et Tu Ferguson? <http://www.ieltb.com/new-blog-1-1/moral-body-armor/>

Quinn, M. (2006, February). WHO KILLS THE MOST COPS? [Http://officer.com](http://officer.com).

Quinn, M. (2006, February). SELF-PUBLISHING HERE I COME. <http://www.independentpublisher.com>

Quinn, M. (2006, April). TEACHING POLICE ETHICS: [Http://officer.com](http://officer.com)

Quinn, M. (2006, May). MORAL BODY ARMOR. [Http://officer.com](http://officer.com)

Quinn, M. (2006, June). WE DON'T NEED NO CAREER PLAN. [Http://officer.com](http://officer.com)

- Quinn, M. (2006, July). HOW NOT TO SUPERVISE. [Http://officer.com](http://officer.com)
- Quinn, M. (2006, August). WHEN YOU MAKE TOO MANY MISTAKES. [Http://officer.com](http://officer.com)
- Quinn, M. (2006, October). IT'S OK HE'S A FRIEND OF MINE. [Http://officer.com](http://officer.com)
- Quinn, M. (2006, November). THE COST OF BREAKING THE CODE OF SILENCE. [Http://officer.com](http://officer.com)
- Quinn, M. (2006, December). WILL YOU SLEEP WITH ME FOR A MILLION DOLLARS? [Http://officer.com](http://officer.com)
- Quinn, M. (2007, January). A LETTER TO A NEW CHIEF. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, February). DUTY, HONOR, COUNTRY. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, March). WHAT DO YOU CALL AN OFFICER WHO BEATS A BRUTALITY COMPLAINT?
[Http://officer.com](http://officer.com)
- Quinn, M. (2007, April). WORDS OF ANGER OR FRUSTRATION. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, May). IT ISN'T ALWAYS EASY. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, June). THE COST OF TRAINING, A FEW DOLLARS. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, July). THE WORST ADVICE A SUPERVISOR CAN GIVE: I DON'T CARE HOW YOU GET IT DONE, JUST DO IT.
[Http://officer.com](http://officer.com)
- Quinn, M. (2007, August). THEY'RE NEVER AROUND WHEN YOU NEED THEM. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, September). DEAR CHILDREN. <http://officer.com>
- Quinn, M. (2007, October). IT'S GETTING BETTER ALL THE TIME. [Http://officer.com](http://officer.com)
- Quinn, M. (2007, December). WHAT REALLY MATTERS. [Http://officer.com](http://officer.com)
- Quinn, M. (2008, January). MY NEW YEAR'S RESOLUTION. [Http://officer.com](http://officer.com)
- Quinn, M. (2008, February). WHAT WE DO TO PEOPLE IS NECESSARY; WHAT WE DO FOR PEOPLE IS IMPORTANT.
[Http://officer.com](http://officer.com)

Lectures and Presentations

1985 – 1997 Hamline Law School - Police search and seizure,

1994 – 2015 Normandale Community College - police ethics

2005 - Part of a three-person panel with St. Paul Police Chief John Harrington and retired FBI Agent Coleen Rowley that presented at St. Thomas University - Moral Courage and Community Policing.

2005 - Minnesota State University at St. Cloud - The Police Code of Silence.

2005 - Western and Pacific Association of Criminal Justice Educators conference in Vancouver, B.C., Canada, - presenter and panelist on the code of silence

2005 - National Association for Civilian Oversight of Law Enforcement (NACOLE) National Conference in - The Police Code of Silence and Police Community Relations.

2007 - National Association of Canadian Police Boards Conference, Edmonton, AB. – Criminal Justice Ethics

2007 – 2008 - Loras College, - Dubuque, IA. Criminal Justice Ethics and Police Accountability

2008 - Darlington, WI - Criminal Justice Ethics and Police Accountability

2008 – Gulfport, MS, Police Department - Criminal Justice Ethics and Police Accountability

2008 - RCMP Police College, Regina, SA. Criminal Justice Ethics and Police Accountability

2009 - National Police Accountability Conference, Calgary, AB – Criminal Justice Ethics and Police Accountability

2010 – Northwestern University’s Center for Public Safety – Criminal Justice Ethics and Police Accountability.

2012 National Association of Civilian Law Enforcement Oversight national conference. San Diego – Teaching Peer Intervention.

New Orleans Police Department. EPIC – Ethical Policing is Courageous Instructor Class for NOPD Trainers.

2017 – Minnesota Bureau of Criminal Apprehension: Officer Survival Ethics

2017 – Mitchell Hamline Law School: Policy, Practice and the Law.

Journal Articles Referencing my works.

Aronie, J & Lopez, C. (June 6, 2017) *Keeping Each Other Safe: An Assessment of The Use of Peer Intervention Programs to Prevent Police Officer Mistakes and Misconduct, Using New Orleans' EPIC Program as A Potential National Model.* Police Quarterly, vol. 20, 3: pp. 295-321. SAGE Publications.

Police Executive Research Forum: A Look at NOPD’s Innovative and Career-Saving Peer Intervention Program. A NEWSLETTER OF THE POLICE EXECUTIVE RESEARCH FORUM. Vol. 30, No. 2 | July–September 2016

EPIC – Ethical Policing is Courageous. Program Guide. <http://epic.nola.gov/home/>

Hughes Opinion
By Michael W Quinn

Lundy, J. (2017) *EPIC training is about officers helping officers. We cannot create "police-robots." We are here to train humans to better navigate a challenging job.* PoliceOne.com
<https://www.policeone.com/chiefs-sheriffs/articles/428272006-EPIC-training-is-about-officers-helping-officers/>

Radio, Journal, and Press Quotations

Interviews regarding the Police Code of Silence for Minnesota Public Radio – All Things Considered, KFAI Radio and Access Minnesota. Press interviews in the local area with the Minneapolis Star Tribune, The St. Paul Pioneer Press, The Pulse, and City Page

Interviews about the police code of silence and police use of force for the Miami Herald, Florida, the Houston Chronicle, Texas, and the Edmonton Sun, Canada.