





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

TO: John Choi, Ramsey County Attorney

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

DATE: December 27, 2022

RE: *In the Matter of the Death of Jesse Henri Werling*
RCAO File No. 62-0542279 (Roseville Police Officer Boua Chang)
RCAO File No. 62-0542286 (Roseville Police Officer Bryan Anderson)
BCA File No. 2021-261

I. Introduction

On the evening of April 5, 2022, peace officers from the Roseville Police Department (“RPD”), along with numerous officers from other neighboring law enforcement agencies, responded to an active shooter incident in a residential neighborhood of Roseville, Minnesota.

The shooter, identified as Jesse Henri Werling, age 53, had fired an estimated 200 rounds from a .22 caliber rifle equipped with a telescope, at occupied homes, moving and parked motor vehicles, and responding peace officers, over an approximately two-hour period, with one of his bullets striking, and seriously wounding, RPD Officer Ryan Duxbury in the face.

While responding to the foregoing incident, Officer Boua Chang of the RPD fired two rounds at Mr. Werling in attempt to stop the threat posed by him, striking Mr. Werling once in the upper right thigh, resulting in his death. During the same incident, Officer Bryan Anderson of the RPD also fired a volley of gunshots at Mr. Werling, however none of those shots struck Mr. Werling.

The Minnesota Bureau of Criminal Apprehension (“BCA”) conducted the investigation of the circumstances regarding the death of Mr. Werling and presented its investigative file to the Ramsey County Attorney’s Office (“RCAO”) on July 28, 2022. The RCAO reviewed the BCA’s investigative file,

which consisted of approximately 720 GB of total data, which included 347 GB of video data from varied sources, to determine the lawfulness of the deadly force used by Officers Chang and Anderson against Mr. Werling.

This Memorandum describes the relevant evidence gathered by the BCA during its investigation of the shooting of Mr. Werling. As set forth below, the evidence gathered by the BCA includes statements given by law enforcement officers and other witnesses; physical, DNA and ballistics evidence; and audio and video recordings taken from, home security systems, squad cameras and the body worn cameras (“BWCs”) worn by the officers involved in the incident, including Officers Chang and Anderson. This Memorandum also applies the foregoing evidence to the legal standard used to determine whether use of deadly force by peace officers in this incident is authorized, as set forth in Minnesota Statutes, Section 609.066.

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 Chang and Anderson in this incident was justified by Minn. Stat. § 609.066, subd. 2(a)(1)(i-iii), (2) and (b). Accordingly, we recommend that no criminal charges be brought against Officers Chang and Anderson related to this incident.

II. Case Summary

A. Summary of Facts

On April 5, 2022, at approximately 3:15 PM, Henry Werling went to the RPD to report that his son, Jesse Werling, had stolen a scoped rifle from his mother’s home in Hudson, Wisconsin. Henry Werling met with Officer Anderson and Nicole Paradise, a social worker who was embedded with the RPD Community Action Team (“CAT”). As members of the CAT, Officer Anderson and Ms. Anderson were assigned to focus and work with mental health related calls received by the RPD.

Henry Werling told Officer Anderson and Ms. Paradise, that he had not heard from his son for about three weeks and was concerned about his well-being. He also told them that his son was dealing with mental health issues and may be suicidal. He also told Officer Anderson that he did not feel safe going to his son’s house located at 2976 West Owasso Boulevard in Roseville. Although Henry Werling was seeking help in having a well-being check done for his son, he asked that the police also refrain from going to his son’s home.

Officer Anderson, Ms. Paradise, and Henry Werling, discussed other options for following up on Henry's concerns about his son's mental health and well-being. It was decided that Officer Anderson would discreetly drive by Jesse Werling's house, multiple times if necessary, over the coming days to determine if Jesse was at home.

That evening, around 7:15 PM, Officer Anderson, along with RPD Officer Christine Marston, drove by Jesse Werling's house, in an unmarked vehicle. The officers saw lights on in the home, and noticed a vehicle registered to Mr. Werling was parked in the driveway. The officers did not see Mr. Werling, or any other person in or around the house, and they returned to the RPD at approximately 7:25 PM.

At approximately 7:40 PM, Mr. Werling, armed with a .22 caliber scoped rifle, began shooting countless rounds at neighboring homes, many of which were occupied, and at both moving and parked motor vehicles. Mr. Werling also directed his gunfire at responding peace officers. A group of RPD officers, including Officers Chang and Anderson, were taking cover behind a RPD patrol car. While behind the car, Officer Anderson identified the shooter with a set of high-powered binoculars.

Shortly thereafter, Mr. Werling's gunfire forced a group of RPD officers, that included Officers Chang, Anderson, Duxbury, Walker and Sergeant Johnson, to seek more secured shelter by running across the street from behind the squad car, to a residential driveway with an approximately 3-4 foot tall, stone retaining wall. Once the officers were behind the stone wall, Mr. Werling fired a bullet that struck Officer Duxbury in the face. The shot entered Officer Duxbury's face near his nose and lodged in the back of his neck.

Due to the ongoing gunfire coming from Mr. Werling, ambulances and medical staff were not able to safely approach the fallen Officer Duxbury to render emergency medical care. Instead, RPD officers had to furtively remove Officer Duxbury from the scene while Mr. Werling continued to fire rounds at them. After assisting a barely ambulatory Officer Duxbury to climb over a chain link fence in an adjacent backyard, Sergeant Johnson and Officer Walker, together with a Minnesota State Patrol trooper, were finally able to safely escort Officer Duxbury to an ambulance, which transported him to Regions Hospital.

For approximately 33 minutes after Officer Duxbury was wounded, Mr. Werling continued to walk throughout the neighborhood, which was well known to him, firing gunshots, and screaming threats and obscenities, at the peace officers in the vicinity. He was able to use both the cover of darkness, and the rain, to avoid detection, as he continued to fire upon the peace officers and fellow bystanders.

On two separate occasions following the shooting of Officer Duxbury, Officer Anderson returned gunshots at Mr. Werling with a RPD issued AR-15 rifle. None of these shots struck Mr. Werling, nor did it stop him from continuing to fire at the officers.

The first occasion occurred shortly after Officer Duxbury was removed from the scene. Officer Anderson remained behind the retaining wall, while RPD Sergeant Mike Holtmeier and Officer Ashley Larrive were still seeking cover behind the patrol car parked across the street. Officer Larrive shouted to Officer Anderson that Mr. Werling was crossing the street to the west and was now in a driveway.

Officer Anderson said he continued to hear gunshots fired by Mr. Werling and was concerned that his life, and the lives of his fellow officers, including Sergeant Holtmeier and Officer Larrive were in jeopardy. Aided by illumination from a nearby streetlight, Officer Anderson was able to use his rifle scope to confirm that the identity of the shooter, later identified as Mr. Werling, matched that of the shooter he observed earlier with his high-powered binoculars.

Officer Anderson said he did not give verbal commands to Mr. Werling for two reasons, his belief that the distance between him and Mr. Werling was likely too great for those commands to be heard; and his concern that announcing his presence would eliminate his tactical advantage. After identifying a safe backdrop behind Mr. Werling, Officer Anderson fired at least three rounds at Mr. Werling, none of which struck him.

The second instance occurred many minutes later. While still positioned behind the retaining wall, Officer Anderson continued to hear gunfire he believed was consistent with coming from the rifle possessed by Mr. Werling. According to Officer Anderson, the rounds sounded like bullets hitting sheet metal, which he also believed was the patrol car that Sergeant Holtmeier and Officer Larrive were taking cover behind. Officer Anderson was again able to see the shooter standing under a streetlight, and after establishing a safe backdrop, fired approximately two rounds at Mr. Werling, none of which struck him. Officer Anderson continued to hear gunshots fired over his head, while he remained behind the retaining wall for the duration of the incident.

During the incident, a Ramsey County 911 dispatcher received a call that was made from Mr. Werling's home. The caller, who was likely Mr. Werling, spoke with a distinctly male voice and was obviously agitated, shifting between profane remarks directed at the dispatcher, and angry statements about "receiving and returning gunfire." The caller, who identified his name as "Elizabeth," appears to say that he has both received gunfire from a ".308 caliber," and that he

will be returning gunfire with a “.308 caliber or larger.” The caller also stated that he was reloading his weapon. The dispatcher shared this conversation in real time with the responding officers, including Officers Chang and Anderson.

Attempting to peacefully end the incident, Sergeant Holtmeier instructed the dispatcher to ask the caller to please drop his gun and step outside with his arms and hands in the air. The caller responded that he was “not inclined” to drop his weapon before he suddenly ended the call. Sergeant Holtmeier attempted to call back Mr. Werling, in hopes of re-engaging him in conversation, but his calls were not answered.

Shortly thereafter, Mr. Werling began firing more gunshots at officers. Mr. Werling fired several gunshots at officers as they attempted to lock him down with a perimeter. Officer Chang, who had taken cover behind a rock retaining wall, said he had heard radio reports that Sergeant Holtmeier said that “someone was walking in the road” and that other officers to the south of Officer Chang were taking gunfire and that Mr. Werling was “shooting at squads.”

At about 8:30 PM, Officer Chang caught sight of Mr. Werling walking south on the street, yelling profanities as he moved closer to the officers on that perimeter. Officer Chang heard more gunfire, before Mr. Werling reversed course and began walking to the north. Officer Chang heard Mr. Werling yelling profanities and cursing at the officers as he continued north. Officer Chang briefly lost sight of Mr. Werling when he walked in front of a building located at 2950 West Owasso Blvd., but he was able to track his movements by voice because Mr. Werling continued to yell profanities.

Officer Chang had now taken a new position on the side of a house where he regained visual observation of Mr. Werling as he entered a lit portion of the backyard located at 2960 West Owasso Blvd. Officer Chang said that he saw Mr. Werling holding a “long object in his hand that was consistent with the shape of a rifle.”

According to Officer Chang, based on all of Mr. Werling’s observed and known conduct over the previous 90 minutes, he believed that if he did not take the opportunity to end the ongoing deadly threat created by Mr. Werling, he would continue shooting at peace officers. Officer Chang noted that Mr. Werling “...had already shown great disregard for the safety of the public by shooting out the complainant’s window and had already fired several rounds at officers, striking an officer.” Officer Chang further noted that Mr. Werling had “showed no concern for the lives of the citizens in the neighborhood or the officers on the perimeter by firing several volleys of gunfire in multiple directions.” Officer Chang also feared that if Mr. Werling was

successful in reaching his home, he would obtain more ammunition and weapons, to continue his assault on the officers.

Officer Chang rested his RPD-issued AR 15 rifle on the side of the house for support and waited for Mr. Werling to walk past the house behind him. Officer Chang did not announce himself to Mr. Werling out of fear that it would give away his position, and that he would draw gunfire from Mr. Werling. Seeing Mr. Werling walk past the residence, with a safe backdrop behind him, Officer Chang fired two rounds from his rifle. One of the rounds struck Mr. Werling in the upper right thigh area. Officer Chang saw Mr. Werling fall to the ground.

Officer Chang immediately informed dispatch that Mr. Werling was down and requested additional officer assistance. As he moved closer to Mr. Werling, Officer Chang issued several loud verbal commands to Mr. Werling to show his hands and to notify him that he was under arrest. As he neared him, Officer Chang was able to confirm Mr. Werling's identity and also saw the .22 caliber scoped rifle next to his right side. Several officers immediately began providing medical aid to Mr. Werling. Mr. Werling died in the ambulance on the way to Regions Hospital from his injuries.

On April 6, 2022, the Ramsey County Medical Examiner's Office determined Mr. Werling's cause of death was due to exsanguination from a single gunshot wound to his right thigh.

III. Summary of Relevant Evidence

A. Interviews of Lay Witnesses, Law Enforcement and Written Statements of Officers Who Used Deadly Force.

Neighbor Interviews

Interview of Neighbor, D.J.

D.J., a neighbor of Mr. Werling was at his home with his family on the evening of April 5, 2022. At about 7:40 PM, D.J. heard several gunshots coming from the area of Mr. Werling's residence. D.J. described hearing about thirty gunshots in total. D.J. called 911 to report the shooting and explained one of his upstairs windows had been shattered by gunfire. After speaking with 911, he took his family to the basement to shelter in place.

Interview of Neighbor, A.N.

At about the same time, A.N. another neighbor of Mr. Werling also called 911. A.N. was putting his young daughter to bed for the night when he heard gunfire. A.N. called 911 and reported he heard gunshots for about twenty minutes. The shots started as muffled and then became louder and more apparent. A.N. looked outside and saw that the windowpane on his garage door had been shot out. He was worried for his and his daughter's safety. She was sleeping in her bedroom located on the second floor of their house. He led her out of the bedroom and the two of them hid under the stairwell.

Later A.N. returned to his daughter's bedroom and saw a bullet had traveled through her curtain and window. Crime scene investigation conducted by the BCA later revealed several more bullets had traveled into his home. There were about nine rounds that went into A.N.'s garage area. These bullets struck A.N.'s parked pickup truck and passenger vehicle. In addition to those rounds several other shots were determined to have passed through his garage.

Interview of Neighbors, T.J. and D.J.

At about 7:37 PM, T.J. and D.J. were in their home when they heard gunshots. D.J. went out onto the front porch to determine if he could see or hear anything more. While out on the front porch, D.J. reported hearing three more-gun shots in addition to the twenty or so he and his wife already heard. T.J. and D.J. stated they were home with their two children a son and a daughter. After hearing the gunshots from the porch, D.J. said he went upstairs to put on a change of clothes. When he was in his bedroom a bullet flew through the window nearly striking him in the head. The bullet was later determined to pass through a chair then striking the headboard of his bed. At about 7:47 PM, D.J. decided to call 911 to report the incident. D.J. also reported a van that was parked outside his house had the headlights shot out, with additional damage to the vehicle's hood. Between he and his wife, they stated they heard about forty-plus shots being fired.

Interview of Neighbor, M.S

At about 8:23 PM, M.S. was sitting in a chair in his home, when a bullet entered through his house breaking glass and hitting an area just above his head. He ran downstairs to the basement and called 911.

Interview of Neighbor, T.P.

At approximately 8:25 PM, T.P. was driving her car, together with her pet dog in the passenger seat, on Millwood Avenue when she noticed a large police presence. A police officer informed

T.P. to please return home. T.P. was not provided any explanation as to the reason why she was told to return to her home.

As T.P. was returning home she turned onto West Owasso Blvd. When T.P. drove about four or five houses on West Owasso she suddenly heard something hit her windshield. She also heard popping sounds "that was out in the atmosphere." She initially thought it was fireworks, but quickly realized it was gun shots. She stopped in the middle of the street, but quickly realized that was not safe, and she drove to the nearest police officers.

Because she could feel tiny pieces of glass from the windshield hit her face, T.P. realized her car was struck by a bullet. T.P. and her dog were not injured by the bullet.

Law Enforcement Interviews

Interview of RPD K9 Officer Mitchell Dickens

Sometime around 7:00 PM, RPD K9 Officer Mitchell Dickens was beginning his evening shift. He logged into his computer and immediately heard dispatch airing a shots-fired call. Officer Dickens responded to the area and met other officers who were staging south of Mr. Werling's residence. Upon arrival, Officer Dickens reported he heard multiple volleys of gunfire, with a continuous succession of gunfire that occurred every five to six seconds. Officer Dickens described the scene as chaotic, noting that it was raining, and the sun was just beginning to set while he and officers were taking gunfire. In an attempt to contain the shooter (Mr. Werling) he along with other officers moved to the north to set up a perimeter. While he and officers were moving to set up a perimeter, he heard officers airing on the radio that they were taking fire.

He and other officers took cover behind his squad car, he was joined by RPD Officer Thomas Gray. While he and Officer Gray took cover behind his squad car, he could hear multiple rounds of gunfire soaring over his head. Officer Dickens said his squad car and nearby trees were being hit by gunfire. Officer Dickens, Gray and other officers moved from behind the squad car and took cover behind a nearby residence. There they checked each other for injuries and found that none of them had been hit.

Officer Dickens reported that Mr. Werling fired at least 200 gunshots from the time officers arrived on scene to the end of the incident.

Interview of RPD Officer Thomas Gray

Earlier in the evening at around 7:00 PM, RPD Officer Thomas Gray was assigned to an unrelated call in the city, when he overheard dispatch sending officers to a "shots fired" call. Officer Gray wasn't initially concerned about the shots fired call, because he and his partners often responded to shots fired calls that turn out to be fireworks. It wasn't until his partners arrived on scene and confirmed there was active gunfire in the area that he diverted from his call and headed towards the scene.

Upon arrival to the scene, he met up with Officer Dickens. While the two of them spoke, he heard gunfire and believed that rounds were traveling right over his and Officer Dickens' heads. The gunfire continued and after a short time he heard dispatch radio that an officer had been hit and was down. He never made direct contact with the shooter, but later heard a volley of shots from different calibers of ammunition, one series of shots sounded quieter, while the other series of shots sounded louder. After hearing the succession of gunfire, he heard Officer Chang radio that the suspect (Mr. Werling) was down. Officer Gray approached the area where Mr. Werling was down and saw that officers were providing medical care to him.

Interview of RPD Officer Ashleigh Larrive

Roseville Police Officer Ashleigh Larrive stated she was dispatched to an active shooter call in the area of 2900 Owasso Boulevard. When she arrived, she met up with Officers Duxbury and Chang. She described their squad cars stacked to the south of the area from where Mr. Werling was shooting. Officer Chang's squad car was in front at first position, with Officer Duxbury's squad at second and her squad at third. She and the other officers learned Mr. Werling was armed with a scoped rifle. After a short time went by, Mr. Werling began to fire off shots at her and the other officers. After taking fire, she and the other officers decided to move their squad car back in an attempt to create more distance between them and Mr. Werling. More officers arrived on scene, and they all decided to take cover at the back of a squad car.

As they took cover, Officer Larrive noticed more shots being fired at them. A decision was made to run across the street for cover since the house across from them had a driveway stacked with large heavy boulders. As she was following the other officers across the street, she saw Officer Duxbury fall to the ground and grab at his face. She heard another officer say that a cop had been hit. She saw other officers giving medical aid to Officer Duxbury and an officer working to get Officer Duxbury out of the scene.

As Officer Larrive took cover behind Officer Chang's squad car, it was difficult for her to see Mr. Werling. A short time later, she saw him step out into the middle of the street and for a moment he was well lit standing underneath a streetlight. She could see Mr. Werling walking north towards the location of another group of officers. She could hear Mr. Werling firing rounds at these officers. Sergeant Holtmeier came to her location and the two of them stayed behind Officer Chang's squad for cover.

A short time later, Officer Larrive heard dispatch air that Mr. Werling was on the phone with them. He was talking about returning fire at officers and laying down what he called "suppression fire." After Mr. Werling ended his call with dispatch, he began to walk south towards Officer Larrive and Sergeant Holtmeier. Officer Larrive stated she could see Mr. Werling walking out on a driveway. While he stood there, Mr. Werling fired several rounds towards her and Sergeant Holtmeier.

Officer Larrive saw Mr. Werling continue to walk southbound towards them, and as he proceeded, he fired more rounds at them. Officer Larrive described the rounds as "super close," whizzing by her and hitting nearby trees. She heard Sergeant Holtmeier give Mr. Werling commands to drop the gun and that he was under arrest. Mr. Werling did not comply and continued to shoot at them. She heard Officer Bryan Anderson return fire, sending some rounds down towards Mr. Werling. After Officer Anderson returned fire, she heard Mr. Werling screaming loudly, so much that she could tell he was moving north and away from them.

Interview of RPD Sergeant Mike Holtmeier

The evening of April 5, 2022, he was at his office doing administrative tasks, when he heard dispatch air that there was an active shooter in the area of 2900 Owasso Boulevard. He recalled looking at his computer aided dispatch screen and saw that dispatch updated information alerting officers that 15 rounds had already been fired. He left his office and headed to the scene. While enroute, dispatch provided updated information, this time telling officers that the suspect had shot out windows at a neighbor's house. It didn't take long for Sergeant Holtmeier to arrive to the scene because the location was only about one and a half miles from his office.

Upon arrival at the scene, Sergeant Holtmeier saw several officers taking fire and he heard them calling out on the radio that they were drawing gunfire. He and other officers decide to move their squad cars further away so as to distance themselves from Mr. Werling's gunfire. Sergeant Holtmeier describes the scene as chaotic, with Mr. Werling firing sporadic shots at him and other officers, in bursts of two shots to upwards of ten shots per time.

Sergeant Holtmeier saw Officer Duxbury and several other officers run across the street for cover. He then saw Officer Duxbury fall to the ground, and heard an officer scream that Officer Duxbury had been struck by gunfire. Shortly thereafter, he saw Officer Duxbury crawling on the ground, while being aided by Sergeant Johnson who was attempting to get the wounded officer out of the area.

While officers were trying to remove Officer Duxbury to safety, Sergeant Holtmeier said Mr. Werling was still sporadically firing gunshots at him and other officers. As nightfall approached, the sky was darkening, and the rain was increasing. Sergeant Holtmeier said Mr. Werling was about four houses down, initially walking south, then reversing direction and walking north, before turning around and walking south again.

Sergeant Holtmeier was approached by Officer Chang who told him that his AR-15 rifle was jammed and that he could not remove his rifle from the secured locked gun holder in his squad because the gun lock was jammed. Sergeant Holtmeier loaned his AR-15 rifle to Officer Chang, who then left to establish a perimeter to the north.

At one point Sergeant Holtmeier could see Mr. Werling stepping into the middle of the street, while holding an object that looked like a rifle. He saw Mr. Werling steadily walking south towards him and other officers. Sergeant Holtmeier attempted to yell commands to Mr. Werling, telling him to drop the gun and that he was under arrest. Mr. Werling did not comply with Sergeant Holtmeier's verbal commands, and he continued to advance towards the officers.

Sergeant Holtmeier then heard Officer Anderson shoot about three to six rounds at Mr. Werling with his RPD issued AR-15 rifle. Mr. Werling then disappeared out of sight. A short while later he hears a barrage of gunfire that sound like AR-15 rounds. He then hears Officer Chang call out on the radio that the suspect was down.

Written Statement of RPD Officer Boua Chang

Officer Chang declined to be interviewed by BCA investigators and instead provided them with a written statement. The following is a summary of Officer Chang's written statement.

On the evening of April 5, 2022, Officer Chang and other officers responded to the area of 2975 West Owasso Boulevard for an active shooter call. Dispatch informed officers that 911 callers reported that their neighbor from "across the street" had fired about fifteen gunshots.

While responding to the 911 calls, Officer Chang called one of the 911 callers and learned that an upstairs window in his home had been shattered and that the caller was moving his family to the basement for safety. The caller also told him that he heard a total of about twenty-five gunshots.

Officer Chang was familiar with the address of 2976 West Owasso Boulevard because a few years earlier, he had been called to that address on a complaint that the Mr. Werling was firing a pellet gun onto a neighbor's property, while the neighbor was having a graduation party.

Upon arrival to the scene, Officer Chang was met by other officers. He told those officers to move their squad cars to create more distance between them and Mr. Werling. As he tried to locate a phone number for Mr. Werling so he could engage him in conversation to peacefully end the incident, he heard the firing of ten more gunshots. He believed these shots were from a .22 caliber rifle, which he also aired over the radio to keep his partners informed. Once he did this, another officer aired that Mr. Werling owns a scoped, lever action, .22 rifle.

For the safety of the neighborhood, officers began to try to shut down the street from the north and south. As the officers tried to contain the area, Mr. Werling continued to fire shots. He heard officers to his north air over the radio that they were taking fire.

Officer Chang tried several times to unlock his department issued AR-15 rifle, but the gun lock was jammed, so he abandoned his squad. He asked Sergeant Holtmeier if he could use his AR-15 rifle. He and several other officers then took cover behind a parked squad car. As they took cover, Sergeant Johnson aired that Mr. Werling had stolen a scoped rifle from his mother's house. He and the group of officers began to take incoming fire. As that happened, several officers ran across the street to take cover in a residential driveway behind a boulder retaining wall.

Officer Chang and Officer Larrive remained behind the squad car, as shots were continuing to be fired at him and his partners. He determined from what was happening, that Mr. Werling was trying to kill him and his partners. Officer Chang looked across the street and heard Officer Duxbury call out that he was hit. He then saw Officer Duxbury fall onto the pavement. Officer Chang aired over the radio that an officer was hit and requested medics come to the scene. As he was requesting medical attention for Officer Duxbury, Mr. Werling continued to fire shots at him and his partners. Believing that officers wouldn't be able to get Officer Duxbury out of the scene safely, Officer Chang left his position of cover, with the goal of moving east towards a nearby lake, his thought was to flank Mr. Werling and to end the threat.

Officer Chang entered a wooded area of a yard at the address of 2940 West Owasso Boulevard taking cover behind some trees. He surveyed the area north of him and heard more shots being fired. It was difficult to ascertain where the shots were coming from. Officer Chang decided to remain at his location to cover the east, he was worried that Mr. Werling would try to ambush officers from that direction. As he stayed stationary, he could hear Officer Gray air over the radio that officers to the north were taking rounds. Officers aired that Mr. Werling was walking south but then they lost sight of him as more shots were being fired by Mr. Werling. Officer Chang heard gunfire he believed was returned by officers, because he knew that gunshots fired by peace officers were much louder than the shots being fired by Mr. Werling.

Officer Chang remained in his position covering the east. He heard Sergeant Holtmeier air that Mr. Werling had returned to his home. Dispatch then aired that Mr. Werling was on the phone with dispatchers and had said that he would be returning fire, possibly with a “.308” caliber rifle. Sergeant Holtmeier was requesting negotiations with Mr. Werling as he continued to fire additional shots.

Officer Chang heard Officer Larrive air that gunshots were coming south directly at officers. Sergeant Holtmeier aired those shots were being fired from the south towards the northeast. Officer Marston then aired she and others were taking shots in their direction. Dispatch then updated officers that Mr. Werling told them he was returning fire and reloading his weapon. Dispatch said Mr. Werling told them he would fire back and kill them first.

Officer Chang moved north from his location taking cover behind a retaining wall. He then heard more shots being fired by Mr. Werling.

Sergeant Holtmeier aired over the radio Mr. Werling was walking on the road. Immediately after that, officers aired that they were taking on gunfire from the north and that the rounds were hitting squad cars.

Officer Chang caught a glimpse of a human figure walking south on the roadway. He saw Mr. Werling turn direction and walk north after more shots were fired. Officer Chang could hear Mr. Werling yelling profanities and cursing at officers as he continued to walk north. Officer Chang lost visual of Mr. Werling for a brief period but was able to regain a track of Mr. Werling since he was continually screaming and yelling.

Officer Chang moved from the south side of house where he was taking cover by the retaining wall. He went to the front west side to get a better view of Mr. Werling. Officer Chang saw Mr. Werling walk past a building and then enter the backyard of 2960 Owasso Boulevard. Mr.

Werling was still yelling and screaming. He then walked northeast through the property and entered a well-lit portion of the yard. Officer Chang saw Mr. Werling carrying a long object in his hand that was consistent with the shape of a rifle.

Officer Chang feared that Mr. Werling would continue shooting and believed that he was a continued deadly threat to himself and others. At this point of the evening, Mr. Werling had already shown great disregard for the safety of the public, shooting at the occupied home of neighbors, fired several shots at officers, and struck one officer. Mr. Werling had shown no concern for the lives of citizens in the neighborhood or the officers on perimeter demonstrated by his firing several volleys of gunfire in multiple directions. Mr. Werling had called dispatch and made it clear that he was going to shoot and kill officers.

It appeared that Mr. Werling was moving in the direction towards his home. Officer Chang feared that if he allowed Mr. Werling to get back to his residence, he would be able to obtain more weapons and ammunition to continue to shoot and try to kill officers. Officer Chang rested his AR-15 rifle on the side of the house for support and waited for Mr. Werling to walk past the house behind him.

Officer Chang did not call out to Mr. Werling because he was afraid if he did so, it would give away his position, and he would be fired upon. When Mr. Werling walked past the residence and seeing that he had a clear backdrop, Officer Chang aimed and fired two rounds at Mr. Werling. After these two shots were fired, he saw Mr. Werling fall to the ground.

Officer Chang immediately aired that the suspect was down. He requested additional officers come to his location. When he approached Mr. Werling, he could see a scoped rifle laying on the ground next to him. He placed Mr. Werling in handcuffs, checked for additional weapons and immediately requested medics to the scene. Officers provided medical aid to Mr. Werling while they waited for medics to arrive on scene.

Officer Chang said he was escorted away from the scene by Sergeant Holtmeier.

Written Statement of RPD Officer Bryan Anderson

Officer Anderson declined to be interviewed by BCA investigators and instead provided them with a written statement. The following is a summary of Officer Anderson's written statement.

Earlier in the morning around 10:00 AM, RPD Officer Bryan Anderson began his shift as part of the CAT. One of his duties as a member of the CAT is to focus and work with mental health

related calls for service that are received by the RPD. Nicole Paradise, a social worker, is also assigned to the team.

At around 3:15 PM, Officer Anderson and Ms. Paradise met with Jesse Werling's father, Henry Werling. Henry Werling told them that his son lives at 2976 West Owasso Blvd. in Roseville. He told them that he owns the home but that his son has been living there for quite some time. He said that Jesse Werling had stolen a scoped rifle from his mother's home in Hudson, Wisconsin, and may now have the rifle at the house.

Henry Werling also told them that he was concerned for his son's mental health as he had not heard from him for three weeks. Henry Werling told them he was worried that his son had committed suicide but felt it was unsafe to go to check on him due to Jesse's unstable mental health. Henry Werling told Officer Anderson and Ms. Paradise that he did not want officers approaching the house to check on Jesse due to Jesse's unstable mental health condition.

Officer Bryan Anderson, Ms. Paradise and Henry Werling developed a plan to address Jesse's mental health. One part of the plan was to drive by the address to check on the status of the house. Officer Anderson along with another officer drove a minivan that didn't display any police markings or insignias on it past the residence. They observed that there were lights on inside the residence and that Jesse's Dodge Caravan was parked in the driveway. At about 7:40 PM, Officer Anderson and his partner returned to the police station to determine the best next steps.

After returning to the RPD, Officer Anderson heard dispatch sending officers to a "shots fired" call at the 2900 block of West Owasso Boulevard. Dispatch gave information there was a person outside in the neighborhood shooting a gun. Officer Anderson aired over the radio that the shooter may be Jesse Werling, who may be armed with a scoped rifle. Officer Anderson went to the scene with Officer Christine Marston, and he met with RPD Officers Chang, Duxbury, Larrive and Sergeants Holtmeier and Johnson.

B. Summary of Crime Scene, Evidence Collection and Analysis

Surveillance Front Door Footage Residence 2944 West Owasso Boulevard

The residence of 2944 West Owasso Boulevard was equipped with security cameras at the front and rear of the home. Both cameras provide visual and sound recordings. This footage was collected and analyzed. This address is adjacent to the address of 2960 West Owasso

Boulevard, which is the location of the fatal shooting to Mr. Werling. The recording reveals the below time-stamped sequence of events.

Additionally, from the evidence gathered, it is known that Mr. Werling was carrying a .22 caliber rifle. These shots could be heard by officers and on recordings. The shots are crisp and short making a whistling sound as they pass through the air. In contrast to Mr. Werling's .22 caliber rifle, the officers who responded to the scene, who fired their weapons, did so with a department issued AR-15 rifle. The rounds are significantly louder when fired than that of Mr. Werling's rifle. This sound distinction is important.

Time Stamp 08:06:10	Mr. Werling fires 4 shots.
Time Stamp 08:06:44	Mr. Werling fires 5 shots.
Time Stamp 08:07:07	Mr. Werling fires 5 shots (sirens can be heard).
Time Stamp 08:07:51	Based on the distinct sound of the gunfire, it appears that six shots were fired by an AR-15 rifle.
Time Stamp 08:12:10-08:15:01	Mr. Werling fires 8 shots.
Time Stamp 08:28:20	Mr. Werling screams "Fuck you, you fucking cunt, you fucking.." Based on the distinct sound of the gunfire, it appears that six shots were fired by an AR-15 rifle.
Time stamp 08:29:01-08:29:27	Mr. Werling: "You fucking pork pussies, filth fucking cowards, you fucking cowards you're all the same." "You're fucking cowards goddamn it." Mr. Werling fires 3 shots.
Time Stamp 08:29:36 -08:29:57	Mr. Werling: "You god damn fucking cowards, you pussies, fuck!" "Shithead fucks, fucking dicks." "fucking cunts you're just cunts."
Time Stamp 08:30:23	Officer Chang fires two shots in succession. Mr. Werling: "I'm down, I'm down, I'm down, I'm down."

Mr. Werling "I'm down, I'm down, I'm bleeding out, I'm bleeding out."

Time Stamp 08:30:58

An officer is seen running across the front yard, headed in the direction of Mr. Werling's voice.

C. Toxicology

Toxicology and analysis showed Mr. Werling had ethanol in his system, however a reproductive quantitative result could not be obtained. Nothing else was present in Mr. Werling's system.

Toxicology and analysis of blood samples taken from Officer Bryan Anderson and Officer Boua Chang showed no presence of alcohol or other substances.

D. Body-Worn Camera Evidence

1. Officer Ryan Duxbury

Officer Ryan Duxbury's body-worn camera video is about 1 hours and 20 mins long. Video date is April 5, 2022. The video begins at 7:48 PM.

At 07:49:00 Officer Duxbury tells another officer he believes that the house where the shots are coming from are from a house with a light on.

At 07:49:20 Officer Ashleigh Larrive tells him she is going to go move her squad.

At 07:49:26 Officer Duxbury tells Officer Isaiah Walker that since he's been there, he's heard about 6 shots being fired.

At 07:50:05 Officer Duxbury enters his squad car.

At 07:51:30 Officer Duxbury exits his squad car and is describing the sound of defendant's shooting to fellow coworkers. He goes on to say, "They were light pops it's definitely a .22" "They are very distinct, like light whistle." "He's shooting out the window." "They are very distinct." There is a discussion that the shooter's gun has a scope. A gunshot can be heard being fired while officers are talking.

At 07:52:40 Officer Duxbury talks to other officers about where the shots are coming from. Two shots can be heard in the distance.

At 07:53:31 Officer Duxbury and others talk about how to contact the neighbors in the area in order to warn them of the danger.

At 07:54:34 Officer Duxbury is asked by a sergeant to look up phone numbers of surrounding neighbors and to call them so they can be notified of the shooting.

At 07:55 Officer Duxbury returns to his squad car; he can be seen searching and looking up phone numbers to the residences to the area.

At 07:55:40 An officer on the radio can be heard saying, "He just shot I think towards us, we are moving north."

At 07:56:00 An officer can be heard on the radio saying "There are volleys of shots coming from the address."

At 07:56:05 Another officer radios that "we are taking shots."

At 07:56:23 SWAT is requested.

At 07:58:19 Officer Duxbury is heard calling a neighbor.

At 07:58:36 An officer can be heard screaming "move back move back"

At 07:58:36 Officer Duxbury exits his squad car and begins to retreat backwards in the same direction that other officers are moving.

At 07:58:47 Officer Duxbury and several others run across the street to take cover behind a set of retaining wall boulders at an address across the street from where their squad cars are parked.

At 07:58:53 Officer Duxbury makes it across the street, he is behind the retaining wall.

At 07:58:55 Officer Duxbury moves his head up to try to see the suspect. He is immediately shot in face and falls to the ground.

At 07:59:02 An officer can be heard saying "Dux are you okay are you okay?" The same officer calls out "Officer hit officer hit."

07:59:12 An officer is heard on the radio saying, "we have an officer down, we need medics to come from the south, but we are taking rounds from the south though."

07:59:52 An officer is heard saying, "Does anyone see the suspect?"

At 08:00:05 Officers come up with a plan to stay low and to crawl away from the scene.

At 08:01:10 Officers begin to help Duxbury crawl away from the scene headed southwest. There is discussion about staying low since they don't know where the shooter is.

At 08:02:05 Officer Duxbury is able to get on his feet, he and two other officers are running towards a fence headed southwest.

At 08:02:23 Dispatch is heard saying "there are continuous shots every two seconds."

At 08:02:44 Officer Duxbury says he is getting lightheaded, he is helped by two officers over a chain link fence.

At 08:03:23 Officer Duxbury is running on the street with the help of his partners, they are running towards medics.

At 08:04:20 Officer Duxbury begins to be treated by emergency medical services, he is breathing heavily and says that he thinks the round is in his neck. His words are slurred and it's clear he is having a hard time breathing.

At 08:05:22 Officer Duxbury's body-worn camera which is attached to his uniform shirt is removed in order for medics to provide medical aid. The body worn camera continues to record for nearly an hour while it lay in the back on a medical vehicle.

2. Officer Boua Chang

The following description is of the sequence of events as captured on Officer Chang's body worn camera during this incident:

Officer Boua Chang's body-worn camera video is about 1 hours and 02 minutes long. Video date is April 5, 2022. The video begins at 7:42 pm.

At 7:42:20 Officer Chang is leaving the RPD, it is still light outside, and there is no sound on his camera at this point.

At 7:42:51 Officer Chang is in his squad car. Dispatch is heard on the radio saying, "Caller says the window of his house is shot out."

At 7:43:21 Officer Chang calls a complainant; the caller identifies himself as David. David tells him, the shooter just shot probably about 25 shots. Says he went upstairs, and the window is shattered. David tells him that he has his family downstairs for safety. David tells him that the police has dealt with the shooter before."

At 7:45:05 Officer Chang tells David to stay inside and that he will call him back if he needs to talk to him.

At 7:45:50 Officer Chang calls another officer, tells the officer that the complainant says the window's been shot out, and he has his family in the basement. Officer Chang tells him that the complainant has heard about 25 shots being fired. There is discussion that the shooter has a rifle.

At 7:47:15 Officer Chang hangs up and begins to coordinate with other officers on where they should stage. Officer Chang also updates dispatch with the information he learned from David, the complainant.

At 7:48:24 An officer on the radio is heard saying there are volleys of shots being fired.

At 7:50 Officer Chang asks dispatch to tell responding officers to shut down the road, asking for squad to set up at the north and south of Owasso Boulevard.

At 7:53:49 Officer Chang exits his vehicle and walks down to talk to officer Larvie, Duxbury and Sergeant Holtmeier.

At 7:54:43 There is discussion about notifying the neighbors about the shooting.

At 7:55:11 There is discussion about what the shooter looks like, skinny, white, with an athletic build.

At 7:55:49 There is discussion that they are being shot at.

At 7:56:19 Officer Chang asks a sergeant if he can borrow his AR-15 rifle, telling the sergeant that his rifle was stuck.

At 7:57:10 Officer Chang stands by looking towards the direction where he and officers were being shot from.

At 7:58:12 Officers can be heard, saying they see a male stepping out in the street walking towards officers.

At 7:58:43 Officers are heard saying they are taking fire. Several officers run across the street while Officer Chang and Officer Larvie stay behind a squad car.

At 7:58:55 Officers are heard saying "officer is hit, officer is hit." Officer Chang radios and says they need medics. The sound of officers continuing to take fire is heard (light cracking and whistling sounds).

At 7:59:02 Officer Chang tells officer Larvie to stay put and says he's going to find the suspect. Then he runs into a wood area.

At 8:01:52 Officer Chang stays positioned in a wooded area. Sounds of shots being fired by the shooter can be distinctively heard. There are volleys of about 6 shots to 4 shots every few seconds.

At 08:06:38 Radio traffic has an officer airing that the shooter is walking southbound. Shots can be heard being fired by the shooter. An officer radios that the shots are continuous. Officer Chang's BWC camera is also recording the sounds of shots.

At 08:07:56 There are a series of law enforcement rounds fired, anywhere between 4 to 6 shots. There is radio traffic from an officer, who says the shooter is now walking northbound. Officer Chang is stationary and not moving.

At 20:13:12 More shots can be heard being fired by Mr. Werling.

At 08:24:58 More shots can be heard being fired by Mr. Werling. Officer Chang moves to a near by residence. It's dark and raining, not much can be see on his body worn camera. Officer Chang radios and tells dispatch that two more shots have been fired by Mr. Werling.

At 08:29:37 Mr. Werling can be heard screaming "You fucking cunts, you fucking."

At 08:30:24 Officer Chang moves to a corner of a residence; he takes a deep breath and fires two rounds.

At 08:30:27 Officer Chang radios that Mr. Werling is down. He says he has visual of the suspect and that he is down at the backyard of the house with a blue light.

At 08:31:10 Officer Chang runs to Mr. Werling giving him commands to keep his hands up, that he is under arrest. Officer Chang also requests additional officers to his location.

At 08:32:50 Officer Chang and other officers approach Mr. Werling, they handcuff him and begin to provide medical aid. Mr. Werling is bleeding from his right thigh area.

At 08:33:43 Officer Chang rolls Mr. Werling on his right side, telling him that it will be easier to breath. Officer Chang tells Mr. Werling that medics are on the way. Officers are telling Mr. Werling that they want to help him.

At 08:35:09 Officer Chang is lead away from the scene by another officer.

At 08:40:39 Officer Chang enters the front of a squad car and is driven back to the RPD.

At 08:44:30 Officer Chang enters the police department, walks back to a conference room and his camera is turned off at 08:44:56

End of Video.

E. Firearms and Ballistics Evidence

Mr. Werling was found with a Browning .22 caliber lever action scoped rifle. He was the only person on scene who had this type of rifle and .22 caliber rounds. Because Mr. Werling was walking and shooting rounds throughout the neighborhood for nearly 90 minutes, crime scene investigators estimated that Mr. Werling had fired more than two hundred plus rounds throughout the entirety of the event. This conclusion was made based on numerous citizen and officer reports of the number of gunshots having been fired by Mr. Werling during this lengthy incident.

An estimation of the number of shots fired by Mr. Werling, instead of an exact number of shots, was also necessitated by the following:

- the sheer scope of the crime scene, which encompassed nearly two city blocks, and involved a minimum of eleven residential homes being shot at or struck by rounds fired from Mr. Werling;

- the relatively small size of both the distorted shape of the discharged .22 caliber bullets, and the spent cartridges, made them difficult to locate in the heavily wooded and grassy area.

The following are residential properties with documented gunfire damage received from Mr. Werling's .22 caliber rifle:

Residence 2975 Owasso Boulevard West

BCA investigators determined a minimum of ten bullets were fired at the front door of the residence. Six bullets entered the side of a minivan that was parked in the driveway. Several bullets entered the garage, with rounds striking and hitting the exterior lamp posts.

Residence 2981 Owasso Boulevard West

BCA investigators determined that a minimum of ten bullets were fired toward the front of the residence. Nine rounds entered the exterior sliding windows of the house moving from the front to the back of the residence. Two bullets entered the house penetrating the siding and moved through the upstairs hallway and master bedroom. Three rounds went through the main floor exterior walls but did not enter the house. Three more rounds perforated an upstairs level bedroom. One projectile struck a passenger vehicle that was parked in the driveway.

Residence 2987 Owasso Boulevard West

One bullet was fired from towards the front side of the residence, this round perforated the front door window and impacted the ceiling inside the entry way.

Residence 3015 Owasso Boulevard West

One bullet was fired at a sports utility vehicle that was parked in the driveway.

Residence 2968 Owasso Boulevard West

BCA investigators concluded a minimum of 11 bullets were fired towards this residence. Ten of these rounds entered the garage from the outside. One round entered the residence going through the north side of the residence passing through a curtain and striking a closet door.

Residence 2982 Owasso Boulevard West

BCA investigators concluded that a minimum of 33 bullets were fired at or in the direction of this residence. At least ten rounds were fired at the house, many of these rounds perforated and entered the home. At least eight bullets were fired at a passenger car parked in the driveway. Additionally, there were at least 14 rounds fired at a pickup truck that was also parked in the same driveway. Finally, two rounds were found to have perforated a curbside mailbox belonging to the residence.

Residence 2976 Owasso Boulevard West

BCA investigators collected a minimum of 71 fired bullet cartridges in the area of this residence.

Other Owasso Boulevard West residences that also sustained bullet damage included the homes of 2931, 2960, 2944 and 2931. BCA investigators located evidence of at least 52 rounds or bullets fired at or into these residences.

F. Autopsy

Ramsey County Medical Examiner Kelly Mills, M.D. performed the autopsy on the body of Mr. Werling. Dr. Mills determined that Mr. Werling died as a result of a single gunshot wound. The shot entered his right thigh and exited his inner right thigh. The wound tract struck Mr. Werling's femoral artery and vein. This was a fatal wound.

G. Other Relevant Evidence

1. Medical Intervention and Autopsy Results of Mr. Werling

Paramedics from Allina Health Emergency Medical Services ("AHEMS") arrived at 8:04 PM to provide medical assistance to Mr. Werling. According to an AHEMS report, intensive medical treatment was provided to Mr. Werling on site before he was transported to Regions Hospital at 8:47 PM. Despite intensive medical treatment provided by Regions Hospital emergency room staff to Mr. Werling, he was pronounced dead at approximately 9:32 PM, and his body was transferred to the Ramsey County Medical Examiner's Office.

Ramsey County Medical Examiner Dr. Kelly Mills performed the autopsy on the body of Mr. Werling. Dr. Mills determined that Mr. Werling died as the result of a gunshot wound to his right thigh.

2. Training Records and Toxicology Test Results of Officers Chang and Anderson

Officer Chang has been a licensed peace officer employed by the RPD since March 2, 2011. Before joining the RPD, Officer Chang was an Emergency Medical Technician employed by the City of Cannon Falls for eight years. Among the many training classes taken by Officer Chang since he began employment with the RPD, includes classes in use of force; crisis intervention training in 2018, mental health assessment and intervention training in 2019, and de-escalation strategies in 2021; and active shooter and threat training in 2019.

Officer Chang voluntarily submitted to toxicology tests that were collected at 12:47 AM on April 6, 2022, the results of which showed that he was not under the influence of alcohol or controlled substances at the time of the shooting.

Officer Anderson has been a licensed peace officer employed by RPD since July 20, 2006. From 2002 – 2006, Officer Anderson was employed by the City of Roseville as a Community Service Officer. Among the many training classes taken by Officer Anderson since he began employment with the RPD, includes classes in use of force; mental health assessment and intervention training in 2018 and 2019; conflict management and crisis intervention in 2018; and active shooter training in 2018 and 2019.

Officer Anderson voluntarily submitted to toxicology tests that were collected at 12:32 AM on April 6, 2022, the results of which showed that he was not under the influence of alcohol or controlled substances at the time of the shooting.

3. Expert Opinion

To help us better understand whether the tactics and use of deadly force against Mr. Werling by Officer Chang was objectively reasonable under the specific facts and circumstances presented in this matter, the Ramsey County Attorney's Office sought the opinion and perspectives of the following independent and highly experienced retired peace officer who is an expert in police training, tactics, and use of force.

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 letter dated September 12, 2022, describing his observations and perspectives of the relevant evidence related to the tactics and use of force used by Officer Chang in this matter, are attached to this Memorandum as Attachment "A."

While the opinion provided to us by Mr. Noble describes his own observations and perspectives in detail, and is deserving of its own independent close reading, we note for

summary purposes only, that based on his review of the relevant evidence, Mr. Noble believes that the tactics and use of deadly force used by Officer Chang was objectively reasonable and consistent with generally accepted police practices.

IV. Legal Analysis and Recommendation

A. Applicable Law

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

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

(i) can be articulated with specificity by the law enforcement officer;²

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

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

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

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

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

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

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

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

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

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

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

(3) that the decision by a peace officer to use deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using deadly force; and

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

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

To bring charges against a peace officer for using deadly force in the line of duty, a Minnesota prosecutor must be able to prove beyond a reasonable doubt that the use of force was not justified.³

³ RCAO charging guidelines provides 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

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, 575 U.S. 600, 615, 135 S.Ct. 1775, 1776-77 (2015).

B. Analysis and Recommendation – The Use of Deadly Force by Officers Boua Chang and Bryan Anderson Against Mr. Werling Was Justified Under Minnesota Law

There were two separate instances in this case, where "deadly force" as defined in Minn. Stat. Sec. 609.066, subd. 1, was used by peace officers.

The first instance was the volley of shots fired by Officer Anderson at Mr. Werling. None of the shots fired by Officer Anderson struck Mr. Werling. The second instance was the two shots fired by Officer Chang at Mr. Werling, with one of those shots fatally striking him.

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 instances where deadly force by Officers Anderson and Chang was used against Mr. Werling was objectively reasonable, necessary, and therefore justified, under each of the situations set forth in Minnesota Statutes, Section 609.066 subdivisions 2(a)(1)(i)-(iii) and (2).

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

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

The deadly force used respectively by Officers Chang and Anderson, occurred during their response to reports of gunshots having been fired at a home located at 2975 West Owasso Boulevard.

Prior to their respective arrivals at the scene of the reported gunshots, the evidence presented to our office shows that both Officers Chang and Anderson knew the following information:

- Both officers knew that a male, while on foot, was firing gunshots in a wooded, well-populated, residential neighborhood.
- Both officers knew that the likely shooter was Mr. Werling, and that he was armed with a scoped rifle that he had stolen from his mother's home.
- Both officers knew that Mr. Werling resided in the neighborhood, had a history of mental health issues, and that his father had described him to Officer Anderson that afternoon, as possibly being suicidal. Mr. Werling also told Officer Anderson that because of his son's unstable mental health, he did not feel safe going to his house to check on his son's well-being.
- Both officers knew that the shooter had fired numerous rounds into neighboring homes, including occupied homes, causing at least, the father of one household to both arm himself with a shotgun to potentially be used in self-defense and take his children to what he hoped would be a safer location in the basement.

During the approximately 90-minute period between the respective arrivals of Officers Chang and Anderson at the incident area and the time of Mr. Werling's death, the evidence presented to our office also supports the following findings:

- All of the responding officers, including Officers Chang and Anderson, were under an almost constant barrage of gunfire from Mr. Werling.
- Mr. Werling's familiarity with the neighborhood, combined with very poor visibility caused by the rain and darkened night sky and the cover provided by the heavily wooded area, allowed Mr. Werling to stealthily move about the neighborhood and evade detection by the officers.
- Given the large presence of easily identifiable uniformed peace officers in the area, it was reasonable for the officers to conclude that the near constant gunfire they received from Mr. Werling, including the gunshot that struck and wounded Officer Duxbury, was not random, but instead was purposely targeting them simply because they were peace officers.
- Mr. Werling displayed a heightened level of tactical ability by constantly moving about the neighborhood while pinning the officers down with gunfire, thus making it very difficult for them to either safely remove the wounded Officer Duxbury to an ambulance, or for them to pursue Mr. Werling.

- The attempt by Sergeant Holtmeier, acting through the 911 dispatcher, to engage Mr. Werling in a conversation intended to peacefully end the incident failed when Mr. Werling ended the call. In fact, during the call, Mr. Werling made a comment, that was shared by dispatch to the responding officers, including Officers Chang and Anderson, that he was going to engage in “suppression fire” using a higher caliber “.308” rifle with peace officers. A subsequent attempt by Sergeant Holtmeier to call Mr. Werling back went unanswered.
- There was no indication that Mr. Werling was ready to surrender or cease firing his rifle at the officers or civilians in the area. Given the arrival of nightfall, Mr. Werling’s ability to continue to evade observation or pursuit by officers would likely only be enhanced.
- It was also a reasonable concern expressed by Officer Chang under the circumstances, that Mr. Werling appeared to be heading towards his house where he might get more ammunition or another weapon.
- The decisions by both Officers Chang and Anderson to not announce themselves to Mr. Werling before firing at him, due to their fear of drawing gunfire from him, was also reasonable under the circumstances, given their direct experience in observing Mr. Werling repeatedly directing his gunfire at officers throughout the entirety of this incident.

None of the foregoing findings and observations or statements by witnesses were contradicted by any known other evidence. To the contrary, statements from police and lay witnesses, and other physical evidence, including video and audio evidence, corroborate the violent and threatening behavior engaged in by Mr. Werling as he moved throughout the neighborhood firing rounds from his .22 caliber, scoped rifle at neighboring homes and cars, and at the peace officers who responded to the scene.

Moreover, according to independent police training and use of force expert, Jeffrey Noble, Officer Chang’s use of force that resulted in the death of Mr. Werling was objectively reasonable under Minnesota law and consistent with generally accepted police practices. Specifically, Mr. Noble opined as follows:

“Here, officers from the Roseville police department and several surrounding jurisdictions responded on a citizen report of gunshots being fired. At the moment he used deadly force, Officer Chang was aware of the following: Mr. Werling had fired rounds into the home of Mr. Jackson; Mr. Werling had fired well over 100 rounds in a residential neighborhood while uniformed police officers were present; Mr. Werling had shot Officer Duxbury; it was reported that Mr. Werling suffered from mental health issues; Mr. Werling was armed with a scoped .22 caliber rifle; Mr. Werling called 911 and spoke with a dispatcher and claimed that he was armed with a .308 or larger caliber rifle, if fired upon he would shoot back intending to kill police officers, and that he was reloading his weapon; it was reported by other officers that Mr. Werling was shooting at them (many of the shots could be heard on Officer Chang’s body worn camera video); Mr. Werling would move into the roadway and fire rounds continuously during the 33

minutes between when he shot Officer Duxbury and the time that he was shot by Officer Chang.

Mr. Werling was still actively moving in the neighborhood and firing his rifle when Officer Chang saw him moving into the backyard of residence. Fearing that Mr. Werling would shoot at him if he announced his presence, and in belief that Mr. Werling would continue to shoot at and try to kill police officers and civilians in the area, Officer Chang fired two rounds at Mr. Werling, striking him with one bullet in the thigh that resulted in Mr. Werling's death.

Based on the totality of the material that I reviewed in this matter, I am of the opinion that Mr. Werling posed a substantial and immediate threat of death or serious bodily injury to Officer Chang and others, and Officer Chang's decision to not make an announcement or provide a warning immediately prior to his use of deadly force and his use of deadly force resulting in Mr. Werling's death was objectively reasonable and consistent with generally accepted police practices."

For all the foregoing reasons, it is our opinion that the observations and beliefs specifically articulated by Officers Chang and Anderson that Mr. Werling posed a threat to their lives and those of other persons in the immediate area, are reasonable, based on the totality of circumstances in this case, as supported by the evidence presented to this office.

The deadly threat created by Mr. Werling included his wounding of Officer Duxbury, his shooting into occupied homes and automobiles, and his constant shooting at responding peace officers. Absent the use of deadly force by Officers Chang and Anderson, it is reasonably likely that others would have been injured or killed by the threat created by Mr. Werling. We are also of the opinion, that the threat posed by Mr. Werling could have only been addressed through the officers' use of deadly force without unreasonable delay.

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(a)(1)(i-iii).

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

As previously noted, in addition to shooting Officer Duxbury, Mr. Werling had fired countless rounds at clearly identifiable police officers, neighboring homes, and motor vehicles, without provocation or explanation.

The foregoing acts committed by Mr. Werling reflect an array of serious felony crimes involving the use of deadly force, including the attempted murder of a peace officer, first and second degree assaults against Officer Duxbury and other officers and civilians. Very early in the incident, Mr. Werling was identified as the shooter and the person responsible for committing the foregoing felony crimes.

Based on these facts, combined with Officers Chang's and Anderson's own observations of Mr. Werling's actions as they pursued him, it is our opinion that it was reasonable to consider their use of deadly force as justified to effect the arrest of a person they knew, or had reasonable grounds to believe, had committed a series of felony crimes involving the use of deadly force. For this same reason, it was also reasonable for both officers to believe that Mr. Werling 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 Chang and Anderson in this matter was also necessary and thus justified under Minn. Stat. Sec. 609.066, subd. 2(a)(2).

Finally, the decisions by Officers Chang and Anderson to use deadly force against Mr. Werling were not based on any "danger posed to self" by Mr. Werling. Although they both knew that Mr. Werling's father said that his son "may be suicidal," the deadly force used by Officers Chang and Anderson was solely directed to stop the threat posed by Mr. Werling against others, including themselves, as described above. Both officers were also aware of the unsuccessful attempts, led by Sergeant Holtmeier, to peaceably end the incident by convincing Mr. Werling to drop his rifle and surrender. Moreover, at no time during the incident, did Mr. Werling, either by his words or actions, express any intent to commit suicide, or to otherwise harm himself. Accordingly, it is our further opinion that Minnesota Stat. Sec. 609.066, subd. 2(b) is not implicated in this case.

JEFFREY J. NOBLE

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EXPERIENCE

CONSULTANT/EXPERT WITNESS (2005 – Present)

Provide consulting and expert witness services on a wide range of law enforcement and personnel issues including misconduct, corruption, use of force, workplace harassment, pursuits, police administration, training, police operations, criminal and administrative investigations, interviews and interrogations, civil rights violations, police procedures, and investigations.

FEDERAL COURT APPOINTED MONITOR

Santa Clara, California, Sheriff's Department (March 2019 – present)

Review of policies, procedures and use of force applications in the Santa Clara County Jails as part of a federal court consent decree in the matter of *Chavez v. County of Santa Clara*.

DEPUTY CHIEF OF POLICE (April 2014 – January 2015)

Westminster Police Department, California
(Sworn 87; Civilian – 40; Population- 91,377; 10 sq. mi.)

Served as an interim Deputy Chief of Police to review Internal Affairs, auditing processes, department policies and procedures, risk management and to facilitate the efforts of a new external oversight agency.

DEPUTY CHIEF OF POLICE (September 1984 – July 2012)

Irvine Police Department, California
(Sworn – 205, Civilian – 100; Population: 217,000; 70 sq. mi.)

Served as a Patrol Officer, Narcotics Detective, Traffic Detective, Training Sergeant, SWAT sergeant and Commander, Internal Affairs, Sergeant, Lieutenant, Commander and Deputy Chief of Police. As the Deputy Chief of Police, I was responsible for all operations of the Irvine Police Department including Patrol, Traffic and Investigations.

JEFFREY J NOBLE

EDUCATION

Western State University, College of Law (Irvine, California)

J.D. *with honors*, 1993.

Assistant Editor, Consumer Law Journal. California State Bar, 1994, #170911.

California State University at Long Beach

B.A. Criminal Justice, 1989

Senior Management Institute for Police

Police Executive Research Forum. Boston University, Boston, Massachusetts, 2002

PUBLICATIONS

Books:

Stoughton, S., Noble, J. and G. Alpert, *Evaluating Police Uses of Force* (NYU Press, forthcoming spring 2020).

Noble, J., and G. Alpert, *Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight*. Prospect Heights, IL. Waveland Press (2008).

Book Chapters:

Alpert, G., J. Noble and J. Rojek, *Solidarity and the Code of Silence* Dunham, R. and G. Alpert (Eds.). *Critical Issues in Policing: Contemporary Readings*. Prospect Heights, IL, Waveland Press. Seventh Edition (2015).

Noble, J., and G. Alpert, *State Created Danger: Should Police Officers be Accountable for Reckless Tactical Decision Making?* (Updated) Dunham, R. and G. Alpert (Eds.). *Critical Issues in Policing: Contemporary Readings*. Prospect Heights, IL, Waveland Press. Seventh Edition (2015).

Noble, J., and G. Alpert, *State Created Danger: Should Police Officers be Accountable for Reckless Tactical Decision Making?* Dunham, R. and G. Alpert (Eds.). *Critical Issues in Policing: Contemporary Readings*. Prospect Heights, IL, Waveland Press. Sixth Edition (2009).

Articles:

Stoughton, S., Alpert, G. and Noble, J., *Why Police Need Constructive Criticism*, The Atlantic (December 23, 2015) <http://www.theatlantic.com/politics/archive/2015/12/officer-porter->

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- Stoughton, S., Noble, J. and Alpert G., *Better Information is the Key to Policing Reform*, The Atlantic, (September 24, 2015) <http://www.theatlantic.com/politics/archive/2015/09/better-information-is-the-key-to-policing-reform/406696/>
- Noble, J., *Rethinking Tactical Team Warrant Entries*, The Tactical Edge (Summer 2014).
- Noble, J. *Assessing Police Discretion*, The Journal of California Law Enforcement (Vol. 47, No. 4, 2013).
- Noble, J. and G. Alpert, *Criminal Interrogations of Police Officers After Use-of-Force Incidents*, FBI Law Enforcement Bulletin (September 2013).
- Noble, J. and G. Alpert, *What Do We Really Know About American Policing?* The Journal of California Law Enforcement (Vol. 47, No. 1, 2013).
- Noble, J., *Do I Need A SWAT Team? Threat Assessments for Warrant Services*, The Tactical Edge (Winter 2013).
- Alpert, G., J. Rojek and J. Noble, *The Cognitive Interview in Policing: Negotiating Control*. ARC Centre of Excellence in Policing and Security: Briefing Paper, Australian Government Research Council (June 2012).
- Noble, J. and G. Alpert, *Evaluating the Quality of Law Enforcement Investigations: Standards for Differentiating the Excellent, Good and Reasonable, From the Unacceptable*. The Journal of California Law Enforcement (Vol. 46, No. 1, 2012)
- Noble, J., *Police Explorers: Protecting a Valued Asset*. The Journal of California Law Enforcement (Vol. 45, No. 3, 2011).
- Noble, J., and G. Alpert, *Lies, True Lies and Conscious Deception: Police Officers and the Truth*. Police Quarterly, Volume 12, Number 2 (June 2009).
- Noble, J., *Assessing Witness Credibility*. International Association of Chiefs of Police, Training Key #597 (2006).
- Noble, J., *Albertsons Homicide: An Active "Shooter" Response*, The Tactical Edge (Fall 2004).
- Noble, J., *Police Officer Truthfulness and the Brady Decision*, Police Chief Magazine (October 2003).
- Noble, J., *The Boomerang Employee – What to do When a Fired Employee Comes Back*, The Journal of California Law Enforcement (Volume 37, No. 1, 2003).
- Noble, J., *Why Appearance Matters*, Network – California Peace Officers' Association Newsletter (August 2001).
- Noble, J., *Tactical Team Basics: Warrants*, The Tactical Edge (Summer 2000).
- Noble, J., *Encouraging Interaction*, Minnesota Cities Magazine (Volume 84, Issue 11, November 1999).
- Noble, J., *Neighborhood Watch Evolves Into Community Engagement Tool in Irvine*, Community Policing Consortium. www.communitypolicing.org/publications/artbytop/w6/w6noble.htm (October 1999).
- Noble, J., *Childhood Experiences Find a Place in Today's Public-Safety Strategies*, Community Links (Ph. VI, No.3, Issue 9 - Summer 1999).
- Noble, J., *Police Pursuits: Law Enforcement or Public Safety?* The Journal of California Law Enforcement (Volume 33, No.1, 1999).

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- Noble, J., *Alternative Work Schedules can be an Evolution of Team Policing*, Network - California Peace Officers' Association Newsletter (December 1998).
- Noble, J., *Continuing Police Training: The Interactive Multimedia Approach*, The Journal of California Law Enforcement (Volume 29, No.1, 1995).
- Noble, J., *Environmental Advertising Claims: "Ozone Friendly"* Consumer Protection, 2 W. St. U. Consumer L.J. 95 (1993).

SELECTED PROFESSIONAL ACTIVITIES

- Peer Review* – Law Enforcement Dog Encounters Training Toolkit for Law Enforcement, DOJ, Office of Community Oriented Policing Services, COPS, (December 2018)
- Presenter* – Developing or Revitalizing an Internal Affairs Unit. Public Agency Training Council: Internal Affairs Conference (December 2014)
- Presenter* – Addressing Police Misconduct: Standards to Consider. The International Association of Chiefs of Police Annual Conference (October 2014).
- Presenter* – Reducing Traffic-Related Officer Injuries and Deaths. The International Association of Chiefs of Police Annual Conference in Orlando, Florida (October 2014).
- Participant* – Reducing Violence and Improving the Rule of Law: Organized Crime, Marginalized Communities, and the Political Machine. Carnegie Endowment for International Peace. Washington, D.C. (September 2014)
- Presenter* – Preventing Corruption in Police Institutions. Police Accountability in Democracies: First International Congress on Police Internal Affairs. Los Cabos, Baja California Sur, Mexico (October 2013).
- Presenter* – Testilying: Lies, True Lies, and Conscious Deception: Police Officers' Truth and the Brady Decision. American Psychological Association Annual Conference in Honolulu, Hawaii (July 2013).
- Presenter* – Police Misconduct Issues: Police Explorers and Reasonableness of Internal Affairs Investigations, The International Association of Chiefs of Police Annual Conference in San Diego, California (October 2012).
- Peer Review* – Building and Enhancing Criminal Justice Researcher-Practitioner Partnerships, National Institute of Justice (June 2012).
- Committee Chairperson* – California Peace Officers' Association Communications Sub-Committee. Responsible for publication of the Journal of California Law Enforcement (Jan. 2012 – present)
- Presenter* – The Lying Police Officer: Is Any Deception Acceptable? With Karen Kruger. The International Association of Chiefs of Police Annual Conference in Denver, Colorado (Nov. 2009).
- Presenter* – State-Created Danger: Should Police Officers be Accountable for Reckless Tactical Decision Making? The Academy of Criminal Justice Sciences Annual Meeting in Boston, Massachusetts. (March 2009).
- Committee Chairperson* – Major Cities Chiefs of Police Task Force in Internal Affairs. Los Angeles, California (2005-2008).

JEFFREY J NOBLE

Peer Review – Boston Police Department: Enhancing Cultures of Integrity Technical Assistance Guide, Office of Community Oriented Policing Services #TDL 2008-371 (July 2008)

Peer Review – Undocumented Immigrants in U.S./Mexico Border Counties: The Cost of Law Enforcement and Criminal Justice Services, National Institute of Justice #TDL 2008- 321 (December 2007).

Presenter – Truth or Consequences: Dealing with the Deceitful Police Officer, with Jeffrey Schlanger and Michael Stone, The International Association of Chiefs of Police Annual Conference, Los Angeles, California (November 2004).

Presenter - Albertsons Homicide: An Active “Shooter” Response, The California Association of Tactical Officers Annual Conference, Palm Springs, California (September 2004).

Presenter – Boomerang Employees, COPS Conference, Washington, D.C. (2002).

PROFESSIONAL AFFILIATIONS

California Peace Officers’ Association – Chair, Communications Sub-Committee (2012 – 2018)

Police Executive Research Forum

International Association of Chiefs of Police

National Tactical Officers’ Association

Special Olympics Torch Run Southern California Region, Assistant Director (1997 – 2012)

CONSULTING/EXPERT WITNESS

- 2020 Scott v. Charlotte (Defense) (Deposition)
Officer Involved Shooting
Mark Newbold, Deputy City Attorney, Charlotte-Mecklenburg, 601 E. Trade Street
Charlotte, NC 28202
- 2020 Dudley v. City of Kinston (Plaintiff) (Expert Report)
Allegation of Wrongful Conviction
David Rudolf, Rudolf-Widenhouse, 225 East Worthington Ave., Suite 100, Charlotte, NC 28203
- 2020 Taylor v. Los Angeles County Sheriff’s Department (Plaintiff) (Expert Report)
Internal Investigation, Failure to Render Medical Aid
Arnoldo Casillas, Casillas & Associates, 3777 Long Beach Blvd, Long Beach, CA 90807
- 2020 McBean v. Peraza (Plaintiff)
Officer Involved Shooting
David I. Schoen, 2800 Zelda Road, Suite 100-6, Montgomery, Alabama 36106
- 2020 Hayes v. City of Portland (Defense) (Expert Report)
Officer Involved Shooting
Bill Manlove, Portland Office of the City Attorney, 1221 SW Fourth Avenue, Room 430,
Portland, OR 97204
- 2020 Eatherton v. County of Riverside (Plaintiff) (Expert Report)
-

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- Use of force
Jerry Steering, 4063 Birch St., Suite 100, Newport Beach, CA 92660
- 2020 Godifay v. King County, WA (Defense) (Expert Report)
Alleged police pursuit
Daniel L. Kinerk, King County Senior Deputy Prosecuting Attorney, 900 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104-2316
- 2020 Doxator v. O'Brien, Green Bay Police Department (Plaintiff) (Expert Report)
Use of Force
Forrest K. Tahdooahnippah, Dorsey & Whitney, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402
- 2020 Krechmery v. City of Ontario (Plaintiff) (Expert Report)
Use of Force
Jerry Steering, 4063 Birch St., Suite 100, Newport Beach, CA 92660
- 2019 Taylor v. Seattle, (Defense) (Expert Report)
Officer Involved Shooting
Ghazal Sharifi, Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104
- 2019 Thomas v. County of Sacramento (Plaintiff) (Expert Report)
Officer Involved Shooting
Stewart Katz, 555 University Avenue, Suite 270, Sacramento, CA 95825
- 2019 Elifritz v. City of Portland, (Defense) (Expert Report)
Monell allegation
Naomi Sheffield, Deputy City Attorney, Portland Officer of the City Attorney, 1221 SW Fourth Avenue, Room 430, Portland, OR 97204
- 2019 People v. Krichovich and LaCerra (Broward County, FLA) (State) (Deposition)
Use of Force
Christopher Killoran, Assistant State Attorney, Seventeenth Judicial Circuit of Florida Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, FL 33301-3360
- 2019 Wilson v. City of Mission, TX (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Victor Rodriguez, 121 North 10th Street, McAllen, TX 78501
- 2019 Davis v. Waller (Georgia Bureau of Investigations) (Defense) (Expert Report)
Officer Involved Shooting
Ron Stay, Assistant Attorney General, Georgia Department of Law, 40 Capitol Square SW, Atlanta, Georgia
- 2019 Yatsko v. Graziolli (Cleveland Police Department) (Plaintiff) (Expert Report)
Officer Involved-Shooting
Jeremy Tor, Spangenberg, Shibley & Liber, 1001 Lakeside Ave. East, Suite 1700, Cleveland, OH 44114
- 2019 Contreras v. City of Granger, WA (Plaintiff) (Expert Report)
Employment
Aaron V. Rocke, Rocke Law Group, PLLC, 101 Yesler Way, Suite 603, Seattle, WA 98104

JEFFREY J NOBLE

- 2019 Doolittle v. Hickory, N.C. (Plaintiff) (Expert Report) (Deposition)
Use of Force
Paul Tharpe, Arnold & Smith, 200 North McDowell Street, Charlotte, NC 28204
- 2019 Slater v State of Arizona Department of Game and Fish (Defense) (Expert Report)
Use of Force
Timothy Watson, Assistant Attorney General, Liability Management Section, 2005 N. Central Ave., Ste. 100, Phoenix, AZ 85004
- 2019 Howard v. City of Durham, NC (Defense) (Expert Report) (Deposition)
Allegation of Wrongful Conviction
J. Nicholas Ellis, Poyner Spruill, 130 S. Franklin, Rocky Mount, NC 27804
- 2019 Tate v. City of Seattle (Defense) (Expert Report)
Detention and Use of Force
Ghazal Sharifi, Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104
- 2019 McNally v. San Diego (Plaintiff) (Expert Report) (Deposition)
Use of Force
Mike Marrinan, 501 W. Broadway, Suite 1510, San Diego, CA 92101
- 2019 Godinez v. Chicago (Defense) (Expert Report)
Monell allegation
Avi Kamionski, Nathan and Kamionski, LLP, 140 S. Dearborn, Suite 1510, Chicago, IL 60603
- 2019 Shortridge v. City of Arvada, CO (Defense) (Expert Report)
Use of Force
Julie Richards, Senior Assistant City Attorney, City Attorney's Office, 8101 Ralston Road Arvada, CO 80002
- 2019 Dunn v. City of Seattle (Defense) (Expert Report)
Violent Persons File – NCIC
Brian Esler, Miller, Nash, Graham & Dunn, LLP, 2801 Alaskan Way, Suite 300, Seattle, WA 98121
- 2019 Heard v. City and County of Denver (Defense) (Expert Report)
Use of Force
Michele Horn, City and County of Denver, City Attorney's Office, 201 W. Colfax Ave., Dept 1108, Denver, CO 80202
- 2019 Windle v. State of Indiana (Plaintiff) (Expert Report)
Use of Force
Zaki Ali, 522 West 8th Street, Anderson, Indiana 46016
- 2019 Wisdom v. County of Nassau (Plaintiff) (Expert Report)
Allegation of False Arrest
Gabriel Harvis, Elefterakis, Elefterakis & Panek, 80 Pine Street, 38th Floor, New York, New York 10005
- 2019 Castaway v. City of Denver (Defense) (Expert Report)
Officer Involved-Shooting
Wendy Shea, City and County of Denver, City Attorney's Office, 201 W. Colfax Ave., Dept

JEFFREY J NOBLE

- 1108, Denver, CO 80202
- 2019 Mosquera v. City of San Gabriel (Plaintiff) (Expert Report)
Identification Procedures
John Burton, The Law Offices of John Burton, The Marine Building, 128 North Fair Oaks Avenue, Pasadena, California 91103
- 2019 Harper v. Zoelling (Snohomish County Sheriff's Department), (Plaintiff) (Expert Report) (Deposition)
Police Practices
Jeff Kallis, Kallis Law, 321 High School Rd., Suite D3, Bainbridge Island, WA 98110
- 2019 Elmansoury v. Garden Grove (Plaintiff) (Expert Report) (Deposition)
Use of Force
Jeremy Jass, Jass Law, 4510 E. Pacific Coast Hwy., Suite 400, Long Beach, CA 90804
- 2019 Lee v. San Diego (Plaintiff) (Expert Report) (Deposition)
Use of Force
Mike Marrinan, 501 W. Broadway, Suite 1510, San Diego, CA 92101
- 2019 Kubiak v. City of Chicago (Defense) (Expert Report) (Deposition)
Allegation of code of silence
David Seery, Deputy Corporation Counsel, Administration, City of Chicago, Department of Law 121 N. LaSalle Street, Room 600, Chicago, Illinois 60602
- 2019 People v Krook (Prosecutor) (Grand Jury Testimony) (Trial)
Officer Involved Shooting
Richard Dusterhoft, Office of the Ramsey County Attorney, Criminal Division Director
- 2019 Roque v. Austin (Plaintiff) (Expert Report)
Officer Involved Shooting
Jeff Edwards, The Edwards Law Firm, 1101 East 11th Street, Austin, TX 78702
- 2019 Green v Lara (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Victor Rodriguez, 121 North 10th Street, McAllen, TX 78501
- 2018 Delacruz v. City of Port Arthur, TX (Plaintiff) (Expert Report)
Use of Force
Mo Aziz, Abraham, Watkins, Nichols, Sorrels, Agosto & Aziz, 800 Commerce, Houston, TX 77002
- 2018 Westfall v. Luna (Southlake PD, TX) (Plaintiff) (Expert Report) (Deposition)
Use of Force
Grant Schmidt, Winston & Strawn, 2121 N. Pearl, Suite 900, Dallas, TX 75201
- 2018 Lyles v. Seattle (Defense) (Expert Report)
Officer Involved Shooting
Ghazal Sharifi, Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104
- 2018 Le v. King County (WA) (Defense) (Expert Report)
Officer Involved Shooting
Dan Kinerk, King County Prosecuting Attorney's Office, 500 Fourth Avenue, Seattle, WA

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- 2018 Sweet v. City of Mesa, AZ (Defense) (Expert Report) (Deposition)
Reasonableness of tactics
Christina Retts, Wienenke Law Group, 1095 W. Rio Salado, #209, Tempe, AZ 85281
- 2018 Collins v. San Diego County (Plaintiff) (Expert Report) (Trial)
Reasonableness of Detention and arrest
Elizabeth Teixeira, Law Offices of Robert Vaage, 110 West "A" Street, Suite 1075, San Diego, CA 9201
- 2018 Ballew v. City of Pasadena (Plaintiff) (Expert Report)
Use of Force
John Burton, The Law Offices of John Burton, The Marine Building, 128 North Fair Oaks Avenue, Pasadena, California 91103
- 2018 Valverde v. City of Denver (Defense) (Expert Report)
Officer Involved Shooting
Michele Horn, Assistant City Attorney, Civil Litigation Section, City and County of Denver
- 2018 Port Authority Police Benevolent Association v. The Port Authority of New York and New Jersey (Defense) (Expert Report) (Arbitration Testimony)
Contract Dispute
Jason Stanevich, Littler, 265 Church Street, Suite 300, New Haven, CT 06510
- 2018 Smith v. Chicago (Defense) (Expert Report)
Policies and practices
Dan Nolan, Reiter-Burns, 311 S. Wacker, 5200, Chicago, IL 60606
- 2018 Carpenter v. Cleveland County Sheriff, N.C. (Plaintiff) (Expert Report) (Trial)
Officer Involved Shooting
Paul Tharp, Arnold & Smith, PLLC, 200 N. McDowell Street, Charlotte, NC 28204
- 2018 Courts v. Lee (Defense) (Deposition)
Traffic Collision
Jennifer Russel, Ford, Walker, Haggerty & Behar, One World Trade Center, 27th Floor, Long Beach, CA 90831
- 2018 Studdard v. Shelby County (TN) (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Daniel Seward, 4510 Chickasaw Road, Memphis, TN 38117
- 2018 Farmer/Milliner v. City of Chicago (Defense) (Expert Report)
Monell allegations
Raoul Mowatt, Chicago Law Department, 30 North LaSalle, 900, Chicago, IL 60602
- 2018 Milke v City of Phoenix (Defense) (Expert Report) (Deposition)
Allegation of wrongful conviction
Christina Retts, Wienenke Law Group, 1095 W. Rio Salado, #209, Tempe, AZ 85281
- 2018 Kager v. Virginia Beach (Plaintiff) (Expert Report) (Deposition) (Trial)
Officer Involved shooting
Ed Brady, Brady, Fischel & Daily, LLC, 721 Melvin Ave., Annapolis, MD 21401
- 2018 Davis v. Chicago (Defense) (Expert Report) (Trial)

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- Employment
Howard Levine, Chicago Law Department, 30 North LaSalle, 1020, Chicago, IL 60602
- 2018 Williams v. King County, WA (Defense) (Expert Report)
Officer Involved Shooting
Dan Kinerk, King County Prosecuting Attorney's Office, 500 Fourth Avenue, Seattle, WA
- 2018 Faria v. McCarrick (Plaintiff) (Expert Report) (Deposition)
Wrongful Conviction
Bevis Schock, 7777 Bonhomme Ave., 1300, St. Louis, MO 63105.
- 2018 Zuniga v. CHP (Plaintiff) (Deposition) (Trial)
Arrest and Use of Force
Dicks and Workman, 750 B Street, 2720 Symphony Towers, San Diego, CA 92101
- 2018 Walker (Sanders) v. City of Independence, LA (Plaintiff) (Expert Report)
Pursuit
Neile deGravelles, deGravelles & Palmintier, 618 Main Street, Baton Rouge, LA 70801
- 2018 Espinoza v. City of Tracy (Defense) (Expert Report)
Reasonableness of Internal Affairs Procedures and Investigation
Jesse Maddox, Liebert Cassidy Whitmore, 5250 N. Palm Avenue, Suite 310, Fresno, CA 93704
- 2018 Luque-Villanueva v. County of San Diego (Plaintiff) (Expert Report)
Reasonableness of arrest
Jerry Steering, 4063 Birch St., Suite 100, Newport Beach, CA 92660
- 2018 Flores v. San Bernardino (Plaintiff) (Expert Report) (Deposition)
Officer Involved- Shooting
Arnoldo Casillas, Casillas & Associates, 3777 Long Beach Blvd, Long Beach, CA 90807
- 2017 Swindell v County of Sonoma (Plaintiff) (Expert Report)
Use of Force
Arnoldo Casillas, Casillas & Associates, 3777 Long Beach Blvd, Long Beach, CA 90807
- 2017 Smith v City of Lorain (Plaintiff) (Expert Report)
Use of Force
Mark Petroff, Petroff Law, 1288 Abbe Road, Elyria, Ohio 44035
- 2017 Saenz v El Paso (Plaintiff) (Expert Report) (Deposition) (Trial)
Use of Force Officer Involved Shooting
Bradley Gage, Law Offices of Goldberg and Gage, 23002 Victory Blvd., Woodland Hills, CA
- 2017 Griffin v Suffolk County (Plaintiff) (Expert Report)
Use of Force
Stephen Civardi, Civardi & Obiol, P.C., 23 South Main Street, Suite 30, Freeport, N.Y. 11520
- 2017 Lopez v. San Francisco (Plaintiff) (Expert Report)
Officer involved shooting
Arnoldo Casillas, Casillas & Associates, 3777 Long Beach Blvd., Third Floor
Long Beach, CA 90807
- 2017 Levine v. City of Seattle (Defense) (Expert Report)
Use of Force

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- Tom Miller, Christie Law Group, PLLC, 2100 Westlake Ave. N., Ste. 206, Seattle, WA 98109
- 2017 Thompson v. Sanders, Inola, OK (Plaintiff) (Expert Report)
Reasonableness of Investigation
Steven Harris, Doyle Harris Davis & Haughty, 1350 South Boulder Ave., Suite 700, Tulsa, OK 74119
- 2017 Browder v. Greenville County, S.C. (Plaintiff) (Expert Report) (Deposition)
Officer-involved Shooting
Joshua Snow Kendrick, Kendrick & Leonard, 1522 Lady Street, Columbia, SC 29201
- 2017 Bridges v. City of Charlotte (Defense) (Expert Report) (Deposition)
Alleged Wrongful Conviction
Mark H. Newbold, Deputy City Attorney, Charlotte-Mecklenburg Police Department, 601 E. Trade Street, Charlotte, N.C. 28202
- 2017 Furlow v. St. Louis County Police (Plaintiff) (Expert Report)
Use of "Wanted"
Darius Charney, Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, N.Y. 10012
- 2017 Williamson v City of Chicago (Defense) (Expert Report)
Monell allegation officer-involved shootings
Shneur Nathan, Nathan and Kamionski, LLP, 140 S. Dearborn, Suite 1510, Chicago, IL 60603
- 2017 Curtin v County of Orange (Plaintiff) (Expert Report) (Deposition) (Trial)
Monell allegation -sexual misconduct
Jeremy Jass
4510 E. Pacific Coast Highway, Suite 400, Long Beach, CA 90804
- 2017 Hernandez v City of Chicago (Defense) (Expert Report) (Deposition) (Trial)
Officer Involved Shooting
Tiffany Harris, Senior Corporation Counsel, City of Chicago Law Department, 30 North LaSalle, Suite 900, Chicago, IL 60602
- 2017 Estate of Horton v. Tift County, et. al., (Plaintiff) (Deposition)
Pursuit
Brent Savage, Savage, Turner & Pinckney, 102 E. Liberty, 8th Floor, Savannah, GA 31401
- 2017 Spradling v. Hastings, City of Little Rock (Plaintiff) (Expert Report)
Use of deadly force
Michael Laux, Laux Law Group
- 2017 State of Minnesota v. Yanez (Prosecution) (Expert Report) (Trial)
Use of deadly force
Richard Dusterhoft, Office of the Ramsey County Attorney, Criminal Division Director
- 2017 Cansler v. Fairfax County (Plaintiff) (Expert Report) (Deposition)
Use of Force – Taser
Victor M. Glasberg & Associates, 121 S. Columbus Street, Alexandria, VA 22314
- 2017 Coleman v. City of Peoria (Defense) (Expert Report)
Alleged Wrongful Conviction

JEFFREY J NOBLE

- 2017 Laura M. Ranum, The Sotos Law Firm, 550 East Devon Avenue, Suite 150, Itasca, IL 60143
Yancy v. CHP (Plaintiff) (Expert Report) (Deposition) (Trial)
Use of Force Resulting in Death
- 2017 Dave Fox, Fox Law, 225 West Plaza, Suite 102, Solana Beach, CA 92075
Rivera v. City of Chicago (Defense) (Expert Report) (Deposition) (Trial)
Monell allegations
Eileen E. Rosen, Rock Fusco & Connelly, LLC
321 N. Clark, Suite 2200, Chicago, Ill.
- 2017 Jones-Walton v. Lake Eve Resorts (Plaintiff) (Expert Report)
Eviction of Hotel Guests
Jeremy Tor, Spangenberg, Shibley & Liber, LLP, 1001 Lakeside Ave. East, Suite 1700,
Cleveland, Ohio 44114
- 2017 Gassman v. Spokane County (Defense) (Expert Report) (Deposition)
Allegation of wrongful conviction
Michael Kitson, Patterson, Buchanan, Forbes & Leitch, 2112 Third Avenue, #500, Seattle, WA
98121
- 2017 Torres v. State of New Mexico Police (Plaintiff) (Expert Report) (Deposition)
Officer Involve Shooting
Eric D. Dixon, 301 S. Avenue A, Portales, NM 88130
- 2017 McGee v Madison County (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Jeffrey Rosenblum, Rosenblum & Reisman, PC, 6070 Poplar Avenue, Suite 550, Memphis, TN
38119
- 2017 LaPorta v. City of Chicago (Defense) (Expert Report) (Deposition) (Trial)
Monell allegations
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321 N. Clark, Suite 2200, Chicago, Ill.
- 2017 Dixon v Georgia Department of Public Safety (Plaintiff) (Expert Report)
Officer Involved Shooting
Carl R. Varnedoe, Jones, Osteen & Jones, 608 E. Oglethorpe Hwy., Hinesville GA 31313
- 2017 Joseph v. City of Austin (Plaintiff) (Expert Report)
Officer Involved Shooting
Jeff Edwards, The Edwards Law Firm, 1101 East 11th Street, Austin, TX 78702
- 2017 Alma M v. County of Tulare (Plaintiff) (Expert Report) (Deposition)
Sexual Assault
Douglas Rochin, Kabateck, Brown, Kellner, 644 South Figueroa, Los Angeles, CA 90017
- 2016 Theney v. City of Los Angeles (Plaintiff) (Expert Report) (Deposition)
High-risk car stop
John Burton, The Law Offices of John Burton, The Marine Building, 128 North Fair Oaks
Avenue, Pasadena, California 91103
- 2016 Hoefgen v. City of Tacoma (Defense) (Expert Report) (Deposition) (Trial)

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- Pursuit
Jean P Homan, Deputy City Attorney, Tacoma City Attorney's Office, 747 Market Street, Suite 1120, Tacoma, WA 98402
- 2016 Hooks v. Brewer (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Brian Spears, G. Brian Spears, P.C., 1126 Ponce de Leon Avenue, Atlanta, Georgia 30306
- 2016 Reyes v. City of Fresno (Plaintiff) (Expert Report)
Officer Involved Shooting
Michael Haddad, Haddad & Sherman, 505 Seventeenth Street, Oakland, CA 94612
- 2016 Koka v. MTS (Plaintiff) (Expert Report) (Deposition)
Detention, arrest, use of force
Dale Dixon, 402 W. Broadway, #1500, San Diego, CA 92101
- 2016 Casillas v. City of Calexico (Defense) (Arbitration testimony)
Officer involved shooting
Stefanie Vaudreuil, Liebert, Cassidy, Whitmore, 550 West "C" Street, San Diego, CA 92101
- 2016 Fields v. City of Chicago (Defense) (Expert Report) (Deposition) (Trial)
Police Practices
Dan Nolan, Dykema, 10 South Wacker Street, Suite 2300, Chicago, IL 60606
- 2016 Mendoza v. USA (Plaintiff) (Expert Report) (Trial)
Police Procedure Traffic Collision
Linda G. Workman, Dicks and Workman, 2720 Symphony Towers, 750 B Street, San Diego, CA 92101
- 2016 Myles v. County of San Diego (Plaintiff) (Expert Report) (Deposition)
Use of Force – K9 bite
Linda G. Workman, Dicks and Workman, 2720 Symphony Towers, 750 B Street, San Diego, CA 92101
- 2016 Ramos v. City of Fullerton (Defense) (Arbitration testimony)
Use of force
Scott Tiedemann, Liebert, Cassidy, Whitmore, 6033 W. Century Blvd., Los Angeles, CA 90045
- 2016 Stewart v. City of Memphis (Plaintiff) (Expert Report) (Deposition)
Officer Involved Shooting
Murray Wells, Horne & Wells, PLLC, 81 Monroe Ave., Suite 400, Memphis, TN 38103
- 2016 People v Sandy and Perez (Prosecution) (Interview) (Trial)
Officer Involved Shooting Criminal Prosecution
Randi McGinn, McGinn Carpenter Montoya and Love, 201 Broadway Blvd. SE, Albuquerque, NM 87102
- 2016 Crump v. City of St. Louis (Plaintiff) (Expert Report)
Use of Force
Linda Powers, Groves Powers, LLC, 1310 Papin Street, Suite 108, St. Louis, MI
- 2016 Manzera v. City of Chicago (Defense) (Expert Report)
Monell Allegation – Reasonableness of Administrative Investigations and Disciplinary Actions

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- Harry Arger, Dykema, 10 South Wacker, Suite 2300, Chicago, IL 60606
- 2016 Landaverde v. City of Fontana (Defense) (Deposition)
Reasonableness of Code 3 Response
Shannon Gustafson, Lynberg & Watkins, 1100 Town & Country Rd, Suite 1450, Orange, CA
92868
- 2016 Hammond V City of Seneca, South Carolina (Plaintiff) (Expert Report)
Officer Involved Shooting
Eric Bland, Bland Richter, 1500 Calhoun, Columbia, SC 29202
- 2016 Stanfill v. City of Indio (Defense) (Arbitration testimony)
Reasonableness of disciplinary action
James Oldendorph, Liebert, Cassidy, Whitmore, 6033 West Century Blvd., Los Angeles, CA
90045
- 2016 Kletter v. City of San Mateo (Defense) (Expert Report)
Use of Force
David King, Carr-McClellan, 216 Park Road, Burlingame, CA 94010
- 2016 Klupperberg v. City of Chicago (Defense) (Expert Report) (Deposition)
Monell allegation
Chaka Patterson, Jones-Day, 77 W. Wacker Drive, Chicago, IL 60601
- 2016 Jurkowski v. City of Seattle (Defense) (Expert Report) (Deposition)
Monell and use of force allegation
Andrew Myerberg, Seattle City Attorney's Office, 600 Fourth Ave., 4th Floor, Seattle, WA
94124
- 2016 Ruiz-Cortez v. City of Chicago (Defense) (Expert Report) (Deposition)
Allegation of wrongful conviction
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