



Ralph Chamness

Chief Deputy
Civil Division

Bridget Romano

Chief Deputy
Civil Division

SIM GILL
DISTRICT ATTORNEY

Jeffrey William Hall

Chief Deputy
Justice Division

Anna Rossi Anderson

Chief Deputy
Justice Division

Lisa Ashman

Chief of Administrative
Operations

Chief Jason Mazuran
Unified Police Dept. of Greater Salt Lake
3365 S. 900 W.
Salt Lake City, Utah 84119

Chief Blair Barfuss
Riverton Police Department
12810 S. Redwood Road
Riverton, Utah 84065

Chief Troy Carr
Herriman City Police Department
5355 W. Main Street
Herriman, Utah 84096

Chief Jeff Carr
South Jordan Police Department
10655 S. Redwood Road
South Jordan, Utah 84095

November 17, 2023

RE:	HPD, RPD, and SJPD Officers' Use of Deadly Force
Incident Location:	13073 S. Keegan Dr., Herriman, Utah
Incident Date:	November 20, 2022
UPD Case No.:	2022-114769
HPD Case No.:	2022-21188
RPD Case No.:	2022-17073
SJPD Case No.:	2022-34058
DA Case No.:	2022-1402

Dear Chiefs Mazuran, Carr, Barfuss, and Carr:

This letter addresses the November 20, 2022, use of deadly force by Herriman Police Department ("HPD"), Riverton Police Department ("RPD"), and South Jordan Police Department ("SJPD") officers against Alma Andrew Worthington. Specifically, the officers who used deadly force were HPD Officer Jared Goulding, HPD Sgt. Marcus Beckstead, RPD Det. Troy Morgan, and SJPD Officer Brett Talbot (collectively, "Involved Officers").

The Involved Officers' discharge of their firearms constitutes the "use of a 'dangerous weapon,'" which is defined under Utah law as "a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person." Utah Code § 76-2-408(1)(a), (f). As a result, pursuant to Utah State law and an agreement among participating law enforcement agencies called the "Officer Involved Critical Incident" ("OICI") Investigative Protocol (*see* Utah Code § 76-2-408(2)-(3)), an investigative task force was called in to investigate the use of deadly force. The investigative task force was led by the Unified Police Department ("UPD") protocol team and comprised of law enforcement officers employed

by agencies other than HPD, RPD, and SJPD. After the investigation, on December 5, 2022, the investigative task force's findings were presented to the Salt Lake County District Attorney's Office ("DA's Office"), which has the constitutional and statutory mandate to screen such matters for possible criminal charges.¹

SUMMARY OF FACTS AND FINDINGS

The following summary of facts was developed from the OICI protocol investigation. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

On November 20, 2022, Alma Worthington called 911 and advised that he was suicidal, he had family coming over and wanted police to keep them from his house, and he would shoot anyone who came through the front door. HPD officers responded to Mr. Worthington's neighborhood, and while they were with family members nearby, they heard a volley of gunshots. Over the next several hours, officers attempted to negotiate with Mr. Worthington, however, he failed to cooperate, and gunshots continued to be heard from inside his residence. Meanwhile, South Valley SWAT was called to respond.

A few hours after the incident began, South Valley SWAT assumed command and positioned three armored vehicles and teams of SWAT operators around the residence—two in the front and one to the rear. In addition, pairs of SWAT snipers positioned themselves facing the front and the back of the residence. Negotiations continued but were unsuccessful.

After over five hours, while talking with negotiators, Mr. Worthington threatened to shoot the lights out of the three armored vehicles if they didn't turn them off. After the lights remained on, Mr. Worthington began firing rounds at the vehicles in quick succession—first at the armored vehicle in the rear, hitting it several times and causing its spotlight to go out (the SWAT operator positioned in the turret, Det. Morgan, got hit by what he believed to be a fragment), and then, from the front upstairs windows, at the two armored vehicles in the front, hitting them both several times and causing the spotlight pointed on the front door to go out. As Mr. Worthington fired rounds out the front, Officer Goulding, who was positioned as a sniper about 30 yards away and facing the front, fired two rifle rounds.

Officers then deployed less-lethal canisters containing chemical gas into the front of the residence. As they did so, Mr. Worthington again fired at one of the armored vehicles, striking it. Within minutes—about five and a half hours after the incident began—Mr. Worthington exited out a rear upstairs door of the residence, armed with a rifle and wearing a tactical vest, and went down the outside staircase. Det. Morgan, from his position in the turret of the rear armored vehicle, fired multiple rifle rounds at Mr. Worthington, and Sgt. Beckstead and Officer Talbot, who were positioned together as snipers facing the rear of the residence, also fired at Mr. Worthington.² Mr. Worthington fell to the ground near the base of the stairs, with his rifle on the

¹ Utah Const. Art. VIII, section 16; Utah Code §§ 17-18a-203; *see also id.* at § 77-2-2(4) (defining "screening" as the "process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted"). "Commencement of prosecution" is further defined as "the filing of an information or an indictment." *Id.* at § 77-2-2(1).

² Investigators determined that Det. Morgan likely fired a total of ten rounds, Sgt. Beckstead fired one round, and Officer Talbot fired two rounds.

ground nearby.³ Officers tactically approached and observed that Mr. Worthington was deceased.

During the protocol investigation, investigators interviewed officer witnesses, documented the scene, examined physical evidence, reviewed video recordings (including from body-worn cameras, overhead surveillance, civilian cell phones, and home security systems), reviewed dispatch calls and logs, and examined the Involved Officers' weapons.⁴ Notably, all of the Involved Officers refused to be interviewed or provide a statement regarding the incident and their decision to use deadly force, as is their constitutional right.⁵

As we discuss in more detail below, we believe the facts of this matter, taken together with reasonable inferences derived from those facts,⁶ support a conclusion that if a charge was filed against the Involved Officers for their use of deadly force, and a jury (or other finder of fact) was called upon to determine whether their use of deadly force constituted a criminal act, a jury would likely determine that they reasonably believed the "use of deadly force [wa]s necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect." Utah Code § 76-2-404(2)(c)). Consequently, we believe that the Involved Officers' use of deadly force would likely be subject to the affirmative legal defense of justification under Utah law,⁷ and we decline to file a criminal charge against them.

RELEVANT LEGAL STANDARDS

As relevant here,⁸ law enforcement officers are legally justified in using deadly force when:

- (b) effecting an arrest or preventing an escape from custody following an arrest, if:

³ Investigators later determined that Mr. Worthington's weapon, a Palmetto State Armory Tyranny-15 5.56x45mm caliber rifle, was loaded with one cartridge in the chamber and 27 cartridges in the inserted magazine. In addition, in the tactical vest he was wearing, he was carrying an additional 14 fully-loaded magazines—a total of 420 rounds.

⁴ Body-worn camera recordings were not available for any of the Involved Officers.

⁵ Each of the Involved Officers has a constitutional right to remain silent and is presumed innocent of any wrongdoing.

⁶ While each of the Involved Officers refused to be interviewed by protocol investigators regarding the incident and their apparent decision to use deadly force, we presume their testimony in a criminal case (if any) would be consistent the facts developed from the protocol investigation.

⁷ A jury is instructed that if the evidence in a case supports an affirmative defense, they must find the person charged "not guilty" of the alleged offense.

⁸ Also relevant, but less so given the officer's status as a law enforcement officer, is the articulation of "justification" in Utah State law that applies to individuals more generally, including civilians, as provided in Utah Code Section 76-2-402(2):

- (a) An individual is justified in threatening or using force against another individual when and to the extent that the individual reasonably believes that force or a threat of force is necessary to defend the individual or another individual against the imminent use of unlawful force.
- (b) An individual is justified in using force intended or likely to cause death or serious bodily injury [*i.e.*, deadly force] only if the individual reasonably believes that force is necessary to prevent death or serious bodily injury to the individual or another individual as a result of imminent use of unlawful force, or to prevent the commission of a forcible felony...

- (i) the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and
- (ii) (A) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or
(B) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to an individual other than the suspect if apprehension is delayed; or
- (c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect.

Utah Code § 76-2-404(2) (emphasis added).

Based on this statute, the legal defense of justification, then, may be available where a law enforcement officer “reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury⁹ to the officer or an individual other than the suspect.” Utah Code § 76-2-404(2)(c). That affirmative defense may also be available where a law enforcement officer “reasonably believes that deadly force is necessary” to prevent a suspect’s escape and the officer had probable cause to believe the suspect posed “a threat of death or serious bodily injury to the officer or to others if apprehension is delayed.” Utah Code § 76-2-404(2)(b). In determining whether the use of force was “justified” under Utah law, several factors may be considered, including: (i) the nature of the danger; (ii) the immediacy of the danger; (iii) the probability that the unlawful force would result in death or serious bodily injury, and (iv) the individual’s prior violent acts or violent tendencies. *See* Utah Code § 76-2-402(5).

Although Utah statutory law does not fully differentiate standards of “reasonableness” as between law enforcement officers and civilians (*compare* Utah Code § 76-2-402 (universal application), *with* Utah Code § 76-2-404 (application to law enforcement officers only)), the United States Supreme Court did in *Graham v. Conner*, 490 U.S. 386 (1989). In *Graham*, the Supreme Court instructed that “reasonableness” for law enforcement officers must be assessed in light of a “reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* at 396 (citations omitted). The Supreme Court held that this determination “requires a careful balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests . . . against the countervailing governmental interests at stake.” *Id.* Finally, the *Graham* court instructed:

Because “[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,” . . . Its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an

⁹ “Serious bodily injury” is defined, in turn, as “bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.” Utah Code § 76-1-101.5(17).

immediate threat to the safety of the officers or others, and whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.

Id. (citations omitted).

RELEVANT ETHICAL STANDARDS

The DA's Office files cases that satisfy ethical standards and considerations in addition to legal standards for filing.¹⁰ Honoring ethical standards ensures that everyone affected by the criminal justice system—suspects, defendants, victims, the community, and the system itself—is treated fairly, honorably, and respectfully.

Among the ethical standards considered before the DA's Office will commence a case is whether there is a reasonable likelihood of success at trial. *See* American Bar Association Criminal Justice Standards, Prosecution Function 3-4.3. It is not enough that the technical elements of crime may be met if, when presenting those facts to a jury, the prosecution strongly believes no reasonable jury would unanimously convict the defendant based on those facts. Accordingly, any screening decision by the DA's Office includes careful consideration of the various factors a jury may consider when weighing testimony, evaluating evidence, applying the law, and rendering a verdict.

In addition to the ethical standards for filing and maintaining criminal charges, the DA's Office must also consider the unique procedural hurdles of a Utah prosecution, particularly where a defense includes a claim of a justified use of force, a claim of self-defense, or defense of others. In the 2021 General Session of the Utah State Legislature, legislators enacted a new pretrial justification process available to defendants who are charged with a crime involving the use or threatened use of force. If a defendant makes a *prima facie* claim of justification, the prosecution must disprove the justification claim by clear and convincing evidence or the case will be dismissed with prejudice. *See* Utah Code § 76-2-309. If an officer who used deadly force has a colorable claim of justification, the DA's Office has an ethical obligation to evaluate whether that claim can be disproven by clear and convincing evidence to a judge at a justification hearing and then disproven again beyond a reasonable doubt to a jury at trial.

FACTS DEVELOPED DURING OICI INVESTIGATION

The following facts were developed from the protocol investigation of the matter. As noted previously, UPD led an investigative task force of law enforcement officers who conducted the investigation of the Involved Officers' use of deadly force, and the protocol investigation's findings were presented on December 5, 2022, to the DA's Office to screen for possible criminal charges. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

¹⁰ Among the legal rules a prosecutor must follow is the requirement that "probable cause" must exist to believe an offense (i) was committed and (ii) was committed by the accused. *See, e.g.,* Utah R. Crim. P. 4(c). In making that determination, the DA's Office must evaluate all evidence that will be legally admissible for or against the accused but may disregard evidence that likely will not be admissible at trial (*e.g.,* a coerced confession).

In the afternoon of November 20, 2022, Alma Worthington called 911 and advised that he was suicidal, he had family coming over and wanted police to keep them from his house, and he would shoot anyone who came through the door.¹¹ In addition, Mr. Worthington advised that he was alone in the house; he was intoxicated; he had an AR-15, armor piercing rounds, 16 magazines, and a pistol and two 9mm magazines; that there were 200,000 rounds of ammo in the house; and that he was a combat veteran and HAZMAT-trained. Mr. Worthington also advised that he didn't want anyone to get hurt but they would if they opened the door, and that there was no talking him down, he was planning on killing himself, and his family (who was on their way) could not stop him.

While Mr. Worthington was on the phone with dispatch, HPD officers responded to the area—a high-density neighborhood in Herriman—and had family members gather at a nearby parking lot.¹² Officers contacted Mr. Worthington, who continued to indicate his intention to die by suicide.¹³ While officers were in the parking lot with family—about an hour after the initial 911 call—they heard the sound of a volley of gunshots.¹⁴ Officers quickly began establishing containment around the residence (officers also remained with the family, who briefly spoke with Mr. Worthington after the gunshots were heard), and officers contacted Mr. Worthington by phone and confirmed that he had fired the shots; in addition officers from other agencies (e.g., RPD and SJPD) began arriving to assist.¹⁵ A while later, officers heard the sound of another shot fired and breaking glass at the residence.¹⁶

Mr. Worthington then called and spoke to officers for about 30 minutes; despite attempts to negotiate, he continued to indicate he would shoot anyone who entered his residence, said he had “15 magazines, armor piercing rounds, a 9mm pistol with four magazines, and 200,000 rounds in the garage,” and indicated his intention to die by suicide, either by shooting himself or the police shooting him.¹⁷ Meanwhile, officers continued responding to the area and South

¹¹ Mr. Worthington called 911 at about 3:44 p.m. and spoke with dispatch for about 11 minutes. During the call, he provided his address of 13073 S. Keegan Drive in Herriman.

¹² During the call, Mr. Worthington advised that someone was knocking on the door. A HPD officer located Mr. Worthington's brother on the front porch, advised him of Mr. Worthington's 911 call, and asked him to help contact family members to have them stay away from the residence.

¹³ Officer Cutright, who was joined by Officer Olzack, spoke with Mr. Worthington for about 13 minutes before he hung up, from 4:11 p.m. to 4:24 p.m. During the call, Mr. Worthington indicated that nobody else would get hurt as long as they didn't go through the front door; he had already been to the Behavioral Health Unit and would not go back; he wanted things to end one way; he already knew what he was doing; and that if anyone in, he had 15 magazines, armor piercing rounds, a 9mm pistol with four magazines, and 200,000 rounds in the garage. Mr. Worthington also stated that he was not quite drunk enough to pull the trigger, he was not getting talked down, that he was going to die that day, and that he was “ready to go,” had his plate carrier on, and was “ready to fucking rock and roll, so whether its suicide shoot myself or suicide by cop, I really don't fucking care, as long as it's suicide.” Mr. Worthington further stated that “the goal is, right now, just shoot myself”; and that “that decision was made well before I bought the fucking alcohol, that decision was made well before I fucking loaded the magazine.”

¹⁴ Officers first heard gunshots at about at 4:44 p.m.

¹⁵ Mr. Worthington was on the phone with family at about 4:45 p.m. At about 4:56 p.m., Officer Olzack spoke with Mr. Worthington for about two minutes, during which Mr. Worthington said he had fired at his front door, before he hung up. Mr. Worthington then spoke by phone with family (who were in the parking lot) until about 5:03 p.m.; during the call, he advised that the way out was “.223” or “9mm.” Meanwhile, officers were gathering information and resources, and they confirmed that a “reverse 911” notifying the public to shelter in place had gone out.

¹⁶ Officers heard the next gunshot at about 5:09 p.m.

¹⁷ Officer Olzack spoke with Mr. Worthington from about 5:14 p.m. to 5:44 p.m., when Mr. Worthington hung up; towards the end of the call, Mr. Worthington stated that the next gunshot would be the one that's safe to come in.

Valley SWAT was called to respond.¹⁸ After speaking with the officers, Mr. Worthington spoke by phone again with family members and officers; attempts to negotiate continued to be unsuccessful.

As officers remained in containment positions around the residence, officers continued to periodically hear gunshots from the residence; meanwhile, negotiation efforts continued, however, Mr. Worthington's intentions remain the same.¹⁹ Eventually, SWAT operators arrived and were briefed on the situation.

After assuming command, SWAT positioned two armored vehicles on the front side of the residence—a SJPD armored vehicle (northwest of the residence on Keegan Drive) and a HPD armored vehicle (southwest of the residence on Keegan Drive)—and a third armored vehicle, from RPD, to the rear (northeast of the residence).²⁰ In addition, a pair of SWAT snipers positioned themselves facing the front of the residence, approximately 30 yards away inside a third-floor apartment across the street (near SJPD's armored vehicle), and another pair of SWAT snipers positioned themselves facing the rear of the residence inside an upper-story room of a residence to the east. Trained negotiators also arrived on scene to assist with negotiations, which continued to be unsuccessful.

About four hours after the incident began, Mr. Worthington opened the front door and stepped out onto the front porch, holding a rifle and wearing what appeared to be body armor.²¹ Officer Barraza, who was the front passenger in SJPD's armored vehicle, began issuing commands from the vehicle's PA system, but Mr. Worthington ignored the commands and went back inside.²² During the next several minutes, Mr. Worthington exited and re-entered the home several times, but continued to not comply. At one point, Mr. Worthington exited the residence, stood in front of the door, and began to motion for officers to come to him; Officer Barraza spoke to Mr. Worthington over the PA system, and Mr. Worthington responded, "Shoot me," and, "It ends one of two ways—one, I shoot at you, or two, you shoot at me. Which way you fucking want?" Then, after going back inside, Mr. Worthington called and asked to speak with an officer. Mr. Worthington spoke with the officer for about 22 minutes, during which he said that he was reloading magazines, he had weapons of mass destruction, he was an "EOD" in the military (*i.e.*, an Explosive Ordnance Disposal specialist), "there are no options" and he wasn't

¹⁸ South Valley SWAT was called out at about 5:40 p.m.

¹⁹ For example, the dispatch log indicates that shots were heard at about 5:50 p.m., 6:12 p.m., and 7:27 p.m. Meanwhile, at about 5:59 p.m., an officer indicated he had gotten off the phone with Mr. Worthington and his mental demeanor and intentions were still the same. Mr. Worthington was on the phone with members of law enforcement from about 7:08 p.m. to 7:12 p.m. (about four minutes, during which he said he was going to walk out and shoot), 7:12 p.m. to 7:17 p.m. (about five minutes), 7:23 p.m. to 7:26 p.m. (about three minutes), 7:28 p.m. (about a minute), 7:30 p.m. to 7:32 p.m. (about two minutes, during which he gave a 45 second countdown before he was going to shoot everyone), and 7:41 p.m. to 7:47 p.m. (about six minutes, during which he said there was no option of him coming out without a gun).

²⁰ SWAT operators were told to switch to SWAT's radio channel at 7:04 p.m. SJPD's armored vehicle assumed its position at about 7:13 p.m., HPD's armored vehicle assumed its position at about 7:36 p.m., and RPD's armored vehicle assumed its position no later than 7:59 p.m. Meanwhile, SWAT operators relieved patrol officers from inner containment positions.

²¹ Mr. Worthington began stepping out at about 7:56 p.m. Officer Barraza observed that Mr. Worthington had probably 12 magazines on him. Officer Felsing, who was positioned as a sniper across the street, also had a clear view of Mr. Worthington as he watched him through the cross hairs of his rifle.

²² For example, Officer Barraza instructed Mr. Worthington to come out with his hands up and empty, to put the rifle down, and to come out so they could help him.

going to survive the night, he would take morphine if they would give it to him, and that “this ends one way.”²³ Towards the end of the call, officers heard multiple gunshots from inside the residence, and Mr. Worthington told the officer he fired into the ground (which was then communicated over the SWAT channel).²⁴

About five hours after the incident began, negotiators called and spoke with Mr. Worthington for another 24 minutes.²⁵ During the call, Mr. Worthington exited the residence holding a uniform, walked to the truck parked in the residence’s front driveway, hung the uniform on the side of the truck, and returned back inside, yelling at officers and ignoring commands.²⁶ After returning inside, officers observed Mr. Worthington breaking upstairs windows.²⁷ While still on the phone with negotiators, Mr. Worthington threatened to shoot the lights out of the three armored vehicles (which were pointed on his residence) if they didn’t turn them off.²⁸

After the vehicles’ lights remained on, and while still on the phone with the negotiators, Mr. Worthington began firing rounds at the armored vehicles in quick succession. First, at RPD’s armored vehicle to the rear of the residence, hitting it several times and causing its spotlight to go out (the SWAT operator positioned in the turret, Det. Morgan, got hit by what he believed to be a fragment).²⁹ Then, from the front upstairs windows, Mr. Worthington began rapidly shooting at SJPD’s armored vehicle (northwest of the residence), hitting it several times and also causing its spotlight to go out (which had been pointed at the front door), followed by HPD’s armored vehicle (southwest of the residence), hitting it several times.³⁰ As Mr. Worthington fired out the front upstairs windows of his residence, Officer Goulding, who was positioned as a sniper about 30 yards away and assigned to watch the upstairs windows, fired two rifle rounds.³¹

After Mr. Worthington stopped shooting, officers at SJPD’s armored vehicle were able to re-illuminate the front door. Officers exited the vehicle and, after repositioning it, began

²³ Mr. Worthington called at about 8:09 p.m., asking to speak with Officer Olzack; they then spoke from about 8:10 p.m. to 8:32 p.m., when Mr. Worthington hung up.

²⁴ Officers heard the gunshots at about 8:30 p.m.

²⁵ Mr. Worthington spoke with negotiators from about 8:49 p.m. to 9:13 p.m. One of the negotiators later described that Mr. Worthington sounded very agitated and that he said he could see all of the SWAT officers and was bothered by their lights shining in his house, and that he wanted to shoot out their lights. Mr. Worthington told negotiators he was going to put a uniform for his son on his truck before going outside.

²⁶ Mr. Worthington exited the residence with the uniform at about 8:55 p.m.

²⁷ Officers at SJPD’s armored vehicle saw Mr. Worthington breaking windows at about 8:56 p.m.

²⁸ One of the negotiators stated that after threatening to shoot out the lights of the three vehicles, Mr. Worthington said he was bleeding because he had cut himself while breaking all of the windows in his house, and that as they continued to speak with him, he became angry again, asking about the lights and why they weren’t turned off. The negotiator stated that Mr. Worthington said that his plan was to “Fucking die”, that he had loaded magazines and was prepared to die, and that he wanted the SWAT team to know he was carrying a full auto rifle and had M855 armor piercing rounds.

²⁹ Mr. Worthington began firing at the armored vehicles at about 9:05 p.m.

³⁰ Mr. Worthington began shooting at SJPD’s armored vehicle at about 9:06 p.m. (less than 30 seconds after beginning to shoot at RPD’s armored vehicle) and began firing at HPD’s armored vehicle at about 9:07 p.m. One of the negotiators later stated that Mr. Worthington started shooting the lights out of the armored vehicles and said that he shot one light out and was working on the other two, that he didn’t want to be seen, and that if he wanted to get shot, he would shoot himself; then, Mr. Worthington shot multiple rounds at the lights again and he yelled to turn off the lights.

³¹ Officer Goulding fired at about 9:07 p.m. Another sniper, Officer Felsing, was with him.

deploying less-lethal canisters containing chemical gas into the front of the residence.³² While officers were deploying the less lethal canisters, Mr. Worthington again fired at SJPD's armored vehicle, striking it.³³

After the less lethal canisters were deployed, the garage door began to open.³⁴ Then, Mr. Worthington exited out a rear upstairs door of the residence, still armed with a rifle and wearing a tactical vest, and went down the outside staircase.³⁵ Det. Morgan, from his position in the turret of RPD's armored vehicle, fired multiple rifle rounds at Mr. Worthington, and Sgt. Beckstead and Officer Talbot, who were positioned together as snipers facing the rear of the residence, also fired at Mr. Worthington. Mr. Worthington fell to the ground near the base of the stairs, with his rifle on the ground nearby. Officers radioed that Mr. Worthington was down and not moving. A team of officers tactically approached Mr. Worthington and observed that he was deceased.³⁶

Investigators later determined that Mr. Worthington's weapon, a Palmetto State Armory Tyranny-15 5.56x45mm caliber rifle, was loaded with one cartridge in the chamber and 27 cartridges in the magazine; in addition, in the tactical vest he was wearing, he was carrying an additional 14 fully-loaded magazines—a total of 420 rifle rounds.³⁷ Investigators also determined that Officer Goulding likely fired two .308 caliber rounds, and that Sgt. Beckstead likely fired one .308 caliber round, Officer Talbot likely fired two .223 caliber rounds, and Det. Morgan likely fired 10 .223 caliber rounds.

Witness Statements

Involved Officers

Officer Goulding, Sgt. Beckstead, Officer Talbot, and Det. Morgan each refused to be interviewed by protocol investigators or make a statement about his use of deadly force. Each

³² Officers began deploying the chemical munitions (*i.e.*, OC and CS gas) at about 9:10 p.m. and they deployed them into the front upstairs windows and the open front door.

³³ Mr. Worthington fired at SJPD's armored vehicle again at about 9:11 p.m. During this time, Mr. Worthington was still on the phone with negotiators. One of the negotiators later stated that Mr. Worthington said that there was still one truck with its lights on, they were back on, that he had 18-20 magazines and was reloading them, that the lights were still on, that they wouldn't listen, "Gotta shoot some mother fuckers," that he heard shots fired upstairs, and that it was time to play back. The negotiator continued, stating that at about 9:10 p.m., Mr. Worthington started coughing and he said he was fine, that they had fired gas rounds into his house, that he was doing great and didn't mind the gas, and that he would win by dying. The negotiator stated that at about 9:13 p.m., Mr. Alma said "Gotta let you go. Gotta shoot some dudes" and then hung up. Similarly, another negotiator later stated that Mr. Worthington said he did shoot out two of three lights, that they were turned back on, that he heard shooting upstairs, that he was coughing from gas that was shot in the house, and that he was going to put on a gas mask (but his voice never changed). The negotiator stated that at 9:13 p.m., Mr. Worthington said, "gotta let you go," "I gotta go shoot some dudes."

³⁴ The garage door opened at about 9:13 p.m.

³⁵ Mr. Worthington exited the house and was shot at about 9:14 p.m., less than 30 seconds after the garage door began opening. The time from when Mr. Worthington began shooting at the armored vehicles to when the final shots were fired was less than eight and a half minutes.

³⁶ Officers used RPD's armored vehicle as cover as they approached. Officers stated that Mr. Worthington was deceased at about 9:25 p.m.

³⁷ The cartridges were all Poongsan Defense 5.56x45mm caliber cartridges (green tips).

Involved Officer has a constitutional right to remain silent and is presumed innocent of any wrongdoing.

HPD Officer Felsing (Sniper)

Protocol investigators interviewed Officer Felsing, who said he is a designated marksman sniper observer on SWAT. Officer Felsing said he received the page, responded, and was told he would be deploying as a sniper. Officer Felsing said that he paired up with Officer Goulding, they checked in, and they were told that they were assigned to the front area of the house (another team would be sent to the back). Officer Felsing explained they'd been informed on the page, and he'd been listening to the radio and checking the CAD log, and the concern was that the suspect was armed, had military experience, and had shots fired (the notes also said he had "green tips," a semi-armor-piercing round with a steel core). Officer Felsing said they were informed that the suspect seemed like he was trained (military background), and so they were told to be extra cautious as snipers.

Officer Felsing said that he and Officer Goulding worked their way closer to the house, trying to find a good spot, and that they approached in between the buildings on the west side. Officer Felsing said they were able to get up into a stairwell on the front without being detected, they knocked on a second story apartment, and talked with the occupant. Officer Felsing said that inside, there was a big window and the lights were off. Officer Felsing said they stripped off their gear, crept up to the window, saw the house, and ranged it out at about 30 yards away. Officer Felsing said that it was a great spot (e.g., the distance, it was already blacked out, the big window pointing right in the house, etc.), they talked to the owner, and they set up. Officer Felsing explained that he set up to the left (to the north) of Officer Goulding, using the furniture (his bipod was propped up on a couch and his suppressor was right behind the mesh screen), and Officer Goulding was set up with his tripod to the right.

Officer Felsing said they posted up with their rifles. and at the beginning, most of the activity was upstairs. Officer Felsing said they saw that the front door had bullet holes (so they knew that it was in play), and that that at one point, the suspect seemed really focused on the door (he'd come out or he'd walk by the door and go back upstairs). Officer Felsing explained that he had a really good view, so he told Officer Goulding, "I'll be door, you be windows." Officer Felsing explained that the suspect wasn't going to the south window as much, and they were seeing, and hearing over the radio that the suspect kept peeking out through the blinds (they couldn't see him inside because the lights were off). Officer Felsing said that Officer Goulding was assigned to the upstairs window where the suspect kept peeking out and he was assigned to the door where the suspect kept walking by.

Officer Felsing said that the suspect kept coming out wearing his tac[tical] vest and they were getting information from negotiators that the suspect was saying, "I've got green tips. I hope your guy's armor is good." Officer Felsing said that several times, the suspect actually stepped out on the porch, and he watched him through his cross hairs. Officer Felsing said that the suspect had an AR slung, wearing plates, and mag in the gun. Officer Felsing said that officers kept saying, "Hey, we're not here to harm you. We're here to help you. Let us help you. Let us help you." Officer Felsing said that the suspect kept screaming, "Fuck you guys. This ends one of two ways. I kill you or you kill me."

Officer Felsing recalled that several times, they heard rounds inside being popped off (but he didn't see them). Officer Felsing said that the suspect got really upset that they had lights from the MRAP (the armored vehicle). Officer Felsing said the suspect started smashing out windows and they could hear him screaming. Officer Felsing said they heard from negotiators that the suspect was telling them he was loading magazines. Officer Felsing said it seemed that the suspect was upstairs (the front door was open and they could see the stairs going up) and they could hear "click, click," which he recognized as the sound of an AR magazine being loaded (he explained they could hear great because they had pulled the window up and had only a screen). Officer Felsing described that then they'd see little ammo boxes come down the stairs (he zoomed in). Officer Felsing said he also heard "jingle jingle, jingle jingle," which sounded like he had ammo laid out and was grabbing it; and described hearing "jingle jingle, click click, jingle jingle, click click." Officer Felsing said they got intel that that's what he was doing, he saw boxes coming down the stairs (at least 10), and they kept hearing it, so he knew the suspect was loading a lot of rounds. Officer Felsing said that then they heard the suspect cussing and swearing (he couldn't tell if he was talking on the phone or was just yelling at himself) and being upset.

Officer Felsing said they would hear shots being fired, and then the suspect would come out onto the porch (he was staring at the suspect through his optic), taunting them, saying "I'm not coming out, I'm no giving up, that's not how this is going" and "nope, fuck you." Officer Felsing said that every time officers told him they were there to help, he kept saying, "this ends one of two ways—you kill me or I kill you." Officer Felsing said he kept waiting because the suspect would come out with his gun. Officer Felsing said the suspect was taunting them, saying "I'm going to kill you guys," and was freaking out about the lights. Officer Felsing said they heard the suspect shout, "Turn off the lights," and then they heard windows smashing (he heard different teams say they were seeing him smashing windows). Officer Felsing said that then the suspect was smashing the windows on the front where Officer Goulding was viewing.

Officer Felsing said that then the suspect was trying to shoot out the lights—and did. Officer Felsing said that the light that was helping him see the porch got blown out. Officer Felsing said that a couple times, they were trying to figure out where the shots were coming from because they could hear him popping off an AR. Officer Felsing said that up in the top left window, they saw muzzle flash, "pow, pow, pow, pow, pow," and could see that he was shooting at the team (he couldn't see the team but could hear the MRAP and could hear them calling from there). Officer Felsing explained the suspect was engaging them, they saw the muzzle flash, and he saw the suspect shooting out at the team; however, his job was the door. Officer Felsing said he heard Officer Goulding fire and say, "shot out." Officer Felsing said the suspect kept popping off and Officer Goulding fired a second shot. Officer Felsing explained that after the first shot he didn't hear Officer Goulding rack his bolt, he told him to, Officer Goulding said he did, and that then the suspect was shooting (there were a couple times he thought the suspect was shooting at them but Officer Goulding told him he could see sparks on the ground out by where the team was, out past the front door). Officer Felsing recalled that when the suspect was engaging (*i.e.*, when they were seeing the muzzle flash in the top left window and the suspect shooting at the team) was when Officer Goulding tried to get the two shots off. Officer Felsing said that after the second shot, Officer Goulding racked his bolt again and they didn't get any more opportunities there.

Officer Felsing recalled that every time the suspect confronted them, “Kill me or I’ll kill you,” was on the front porch. Officer Felsing said that at one point, the suspect came out and was holding a uniform, started walking towards the car, and kept saying “fuck you.” Officer Felsing said that they were giving him commands, but the suspect was being defiant, wouldn’t listen, hung the uniform on the car, went back, shouted some more “fuck yous” and “kill me”, and then went back in.

Officer Felsing said he could tell the suspect was getting more amped up because he could hear stuff slam and break inside, and it sounded like he was trashing the place. Officer Felsing explained that they were trying to introduce gas, but the suspect was threatening to come out and kill everybody and there were areas they needed to get people out first. Officer Felsing said they were trying to organize multiple ops—to contain but also to evacuate, to move people around in a way so that they wouldn’t get shot (the suspect had already engaged an MRAP and was shooting out lights), to get the suspect to give up and negotiate, and to figure out how to end it (since the suspect kept shooting rounds willy-nilly and was loading rounds, would pop out randomly, and was acting erratic).

Officer Felsing said that then they heard breaking and slamming, the suspect was breaking glass on the north side and they were saying he was poking his head out (he couldn’t see it), and he had smashed out stuff on the second story. Officer Felsing said they heard more “pop, pop, pop, pop” (he wondered if the suspect was shooting at the team again as he couldn’t see the north side of the house). Officer Felsing said he kept hearing the breaking and stuff. Officer Felsing said that at one point, they heard the team saying he was coming out the back, then they heard “pops,” then then somebody said, “man down” (he knew the other sniper team was on the back of the house and feared one of them had gotten killed), and then they heard “suspect down.” Officer Felsing said they heard on the radio that the suspect’s rifle was near him, that they were trying to safely approach him, and eventually, that he was “echo” (deceased). Officer Felsing also recalled that at one point, when the suspect was getting amped up, they thought the suspect was coming out because he opened the garage, but then, all of the sudden, the suspect went out the back (he heard about him coming out the back on the radio).

Officer Felsing said that they stayed “on gun” and continued to watch their spots as others cleared the house, checked people in the area to make sure they were okay, and logged cars and houses that had been hit. Officer Felsing said that Officer Goulding checked on the family in the back of the apartment they were at. Officer Felsing said that officers were doing checks to make sure they were good and asked them, “Sierra Two,” if they were good, and Officer Goulding responded. Officer Felsing said they were told that officers would be sent up since Officer Goulding had fired his weapon and that a couple officers showed up to take them to the station and hold security. Officer Felsing explained that he left his gun where it was (in the windowsill using the couch as stabilization) and pulled his gun’s bolt back and safety on.

Officer Felsing clarified that Officer Goulding shot two rounds, both at the double windows above the door (he recalled that they saw the suspect peek through the single window on the right-hand side two or three times). Officer Felsing estimated that the time between the two shots was between 30 seconds and three minutes (“everything felt like forever”). Officer Felsing recalled that there were two separate volleys of shots at what they thought was the team

and the MRAP, which they could not see but could hear (he explained that they saw the MRAP's light when they were asking for them to adjust it, heard the motor running, and could hear that the MRAP was down and to the left when they would call to the suspect on the PA), and that they could see the muzzle flashes going that way out the window. Officer Felsing recalled that there was one volley and then Officer Goulding fired and he heard "shot out." Officer Felsing recalled that after the second shot, he heard the volley for another second or two but then it was quiet for a second. Officer Felsing said that he heard a noise and then they heard the suspect cussing and yelling, and it went on for a while after that. Officer Felsing said they never saw the suspect come out again after the two shots (he had come out and hung the clothes earlier).

Officer Felsing recalled that at one point, officers put in gas and he heard the "pops," he saw one go through the front door, and he heard people saying they were deploying it. Officer Felsing explained that Officer Goulding had the radio by him and he had it loud enough that they could both hear it.

Officer Felsing estimated that he was called out after 6:00 p.m. and that they were in position for at least two hours (but because it was so volatile the whole time, it felt like time didn't go). Officer Felsing explained that there were no lulls (*e.g.*, they were hearing mags loading, hearing swearing, hearing from the negotiators that he wasn't backing down, and at one point, the suspect gave them a 45 second countdown that he was coming out but then he didn't come out), that "there was not a calm moment," and "there was always something happening" (*e.g.*, shots popping, some sort of drama, he would come out, etc.). Officer Felsing explained that when the suspect would leave the door open, they could see where he was going. Officer Felsing recalled that a couple times, the suspect came out and then he was slamming the door, kicking it, and kicking the wall just inside the door (they could hear him kicking it, smashing stuff, and going haywire). Officer Felsing described that when the suspect would slam the door, all he could see was the door; then Officer Goulding would say, "window," and then the door would just pop open and the suspect would come flying out. Officer Felsing said the suspect's movements were fast and there wasn't a dull moment in the whole time they were there.

Officer Felsing said that every time the suspect came out, he was wearing a plate carrier and had his rifle. Officer Felsing said that the suspect changed how he was holding the gun, but it never came up. Officer Felsing said he saw the suspect come out on the front porch at least five times while they were there (one of the times was when he swung open the door, was carrying the uniform/garment bag, walked to the car, hung it up, shouted, said "fuck you," and then went in and slammed the door again).

Officer Felsing recalled that he was convinced the suspect was coming out the front door and that he was relieved when nobody else got hurt. Officer Felsing recalled that at one point, when commands were being given to the suspect from the MRAP to come out with his hands empty and without the rifle, the suspect said, "That's not how this is gonna happen. It's gonna happen one of two ways. . . I'm gonna shoot you or you're gonna shoot me." Officer Felsing recalled thinking "this guy's not messing around." Officer Felsing explained that they were getting information over the radio (*e.g.*, the negotiator saying that the suspect had said "fuck you" and hung up, that they were calling, that they hadn't had any contact, how long he hadn't answered the phone for, and what the suspect had just said), but then suddenly he would act. Officer Felsing recalled thinking, "This guy is 100% convinced that yeah, this is how it's going

down. . . this guy is like the most serious. Like, I-will-commit-suicide-by-cop kind of guy ever.” Officer Felsing recalled thinking when the suspect was shooting, “He’s not fucking around about the part of ‘I’ll kill you’ either. . . He’s 100% serious that he’ll kill us and he’s 100% serious that this ends with, like, either somehow all of us die or he dies.”

RPD Officer Huffaker (Driver of RPD’s Armored Vehicle)

Protocol investigators interviewed Officer Huffaker, who is on the SWAT team. Officer Huffaker said he got the call out, responded, and was instructed to get their armored vehicle. Officer Huffaker said he got their armored vehicle and arrived at the command post at about 7:15 p.m. Officer Huffaker said they then proceeded to the two-three corner of the target house, where they were approximately 50 or 60 yards off the house.

Officer Huffaker said that once in a while, they could see movement in the house from a two-side side-window on the second story floor. Officer Huffaker said there was movement there for a while, and then they could tell that the suspect came downstairs. Officer Huffaker said that then from the downstairs back door, the suspect started firing shots out the door. Officer Huffaker said that then the suspect went back inside and he could hear him break items in the house. Officer Huffaker clarified that the suspect never came outside of the back door, but that the back door opened and he could see muzzle flash from the back door (he didn’t know where the shots were directed). Officer Huffaker clarified that he was in the armored vehicle and was driving, and he never exited the vehicle.

Officer Huffaker said they lost visual of the suspect for a while, and there was at least one volley of gunfire from him (he could hear but not see it and estimated that it was about 10-20 minutes after seeing the shots out the back door). Officer Huffaker said they kept seeing movement on the two-side window on the second story. Officer Huffaker said that about 30 minutes after the volley that he couldn’t see, the suspect fired out of that window at the armored vehicle that he was driving, hitting the vehicle at least twice, which rendered their spotlight unusable (he explained that he later looked at the vehicle and saw the wire to the spot light was severed, possibly from shrapnel or a fragment, that one round hit in the middle of the top frame of the windshield, and another round hit close to the top of the turret). Officer Huffaker said that about 15-20 minutes later, he heard other gunfire from the suspect (he wasn’t sure where it was coming from).

Officer Huffaker said that after gas was deployed into the house from the one-side, the suspect came to the back door, opened the back door, and proceeded outside, out the back door, down the stairs with an AR-style rifle and wearing tactical-style body armor. Officer Huffaker said that the suspect came down the stairs, got to the bottom of the stairs, and dropped the rifle and fell to the ground. Officer Huffaker clarified that he heard gunfire prior to the suspect falling to the ground (he did not know where the shots came from).

Officer Huffaker said he got on their PA system, he tried calling out to the suspect, and there was no movement from him. Officer Huffaker said that after multiple times calling out to the suspect, it was decided that they would take the armored vehicle with a team on the right side of the vehicle and approach him through the grassy area. Officer Huffaker said that still there was no movement from the suspect, and the team on his right approached him, made sure the

weapon was away from him, made sure he didn't have any other weapons, and determined that he was deceased.

Officer Huffaker explained that when the suspect came out, Officer Thomson was in the passenger seat and Det. Morgan was in the turret. Officer Huffaker explained that they also had a team outside the vehicle (who had gone to some residences behind them after the suspect shot the vehicle) and he was not sure where they were when the suspect came outside.

SJPD Officer Thompson (Front Passenger in RPD's Armored Vehicle)

Protocol investigators interviewed Officer Thompson, who is assigned to SWAT and is a team leader. Officer Thompson said that SWAT got called out to the scene for an armed barricaded subject and were told to stage with the police department. Officer Thompson said he arrived and was told that the individual inside the house was a current or recently former National Guardsman, that he had an AR-15 style rifle and had fired a number of rounds out of the house prior to their arrival, and that he was suicidal (he believed the suspect had made threats to harm some of the family members if they were to show up at the house). Officer Thompson also recalled that there was concern that the suspect was in a CBRN unit [Chemical, Biological, Radiological & Nuclear] and possibly had access to gas masks and chemical munitions.

Officer Thompson said that once he got there, he brought their command truck, geared up, stood at command for about 30-45 minutes as they briefed up the situation, and waited while RPD's armored was brought to the scene. Officer Thompson said that during that time, they learned that the subject was firing more shots, negotiations was making attempts at talking the subject out (but he said he wouldn't go back to UNI [a mental health institute] and was too scared to kill himself so he was going to make them do it), and the subject continued to fire off some rounds (it appeared he was trying to provoke them). Officer Thompson said that after RPD's armored arrived, he took the team leader position in the passenger seat of the RPD armored and was directed to go up Tyce Drive and Summerlin Drive, in a little alleyway that faces the rear of the target address. Officer Thompson said that they went and were about 35-40 yards off the two-three side corner of the house.

Officer Thompson said that once on scene, he saw the suspect bash out three second-level windows of the number two side of the house. Officer Thompson said that the suspect shot several rounds inside the house—a couple of volleys or two or three rounds and then at some point he fired a whole magazine (he couldn't tell exactly where it was coming from, but negotiations told them that the suspect said that he'd shot it at the ground). Officer Thompson said he at some point, he could see the suspect kind of peering through the bottom corner of one of the windows that he'd broken out. Officer Thompson said that after some more time, the suspect shot a couple more rounds out towards the front.

Officer Thompson explained that they had some SWAT members making attempts to evacuate the residences adjacent to the subject's residence because the suspect was firing so discriminately. Officer Thomson said that while SWAT was working on that, they ended up lighting up the rear of the house so they could try to see a little bit better. Officer Thompson explained that the suspect had shut all the interior lights off, so it was hard to see his movement. Officer Thompson said that at that point, the suspect called negotiators and said that he was mad

that the lights were on and he wanted them to turn them off. Officer Thompson said they elected to keep the lights on (so that they could at least try to pin the suspect down and know what his movements were).

Officer Thompson said that a few minutes after the suspect made comments about the lights being a bother to him, the suspect popped out (they couldn't see exactly where he was), they could see some muzzle flash up again in one of his windows that he had broken out (from the second window in on the second story), and the suspect shot about 10 rounds at the MRAP and obviously struck it several times. Officer Thompson said that they were all yelling, "shots fired, shots fired, he's shooting at us," and Officer Morgan, who was up in the turret, popped down out of the turret and said, "oh shit, he just shot at me, he shot at me," and said, "I just got frag[ment] in my hand." Officer Thompson explained that Det. Morgan said that something hit at least the top of the MRAP or up into the turret, something had "fraggged out" and hit him. Officer Thompson said that at about that point, the suspect ended up firing rounds out towards the South Jordan MRAP and then again towards the Herriman MRAP. Officer Thompson said that negotiations kept trying to talk to him.

Officer Thompson recalled that he was not sure when it happened, but he heard on the radio that the suspect came out the front door and brought out his uniform and hung it on the mirror of his truck, and then went back inside.

Officer Thompson said that finally, the suspect ended up coming out the rear door on that three-side (he explained that there was a really small landing at the door and then it immediately went down into some stairs that went down to the ground level). Officer Thompson said he saw the suspect come out of that doorway, with an AR slung with what appeared to be chest plates armor. Officer Thompson said he was still in the MRAP and so he pushed the door open, gathered his rifle, and he could hear Det. Morgan and Officer Huffaker yelling, "he's coming out, he's coming out." Officer Thompson said he heard a couple of shots go off and was still pushing the door out and trying to get his rifle and helmet out. Officer Thompson said that by the time he got out and to where he could see what was happening, the suspect was down on the ground. Officer Thompson said he heard a bunch of rounds from Det. Morgan (up out of the turret) and then a couple from some snipers. Officer Thompson explained he saw the suspect come out and move pretty quick down the steps, and when the suspect got about two steps down is when he turned and focused on getting out of the MRAP.

Officer Thompson said that at that point, he held lethal cover on the suspect. Officer Thompson said they had a team come up beside the side of the MRAP, they moved the MRAP up to the suspect, gave call outs, and then they took him into custody (as he held lethal cover).

Officer Thompson explained that there were three MRAPs and another armored vehicle which they were using to evacuate people (the bearcat from UPD). Officer Thompson said that in the MRAP, were himself (in the passenger seat), Officer Huffaker (who was driving), and Det. Morgan (up in the turret).

Officer Thompson clarified that the suspect came out the one time he was trying to shoot the lights out, and that the other times, it was hard to tell exactly where the rounds were going.

Officer Thompson said that from his position, the suspect hadn't fired anything outside the house.

Officer Thompson said that when the suspect shot at Det. Morgan (who was up in the turret), he was thinking that the suspect almost just shot one of his guys and was scared. Officer Thompson expressed that he was concerned not only about Det. Morgan, and he expressed his concern about the people in the other townhouses.

Additional Officer Witnesses

Many additional officers were on scene throughout the incident and witnessed portions of the events; they are mentioned for the purpose of completeness. Importantly, no additional witnesses observed the events that occurred when Mr. Worthington exited the rear of the residence.

Physical Evidence

Protocol investigators inspected and photographed the OICI scenes and surrounding areas (including the sniper locations), reviewed dispatch recordings and logs, reviewed video recordings (including body-worn camera, overhead surveillance, civilian cell phone, and home security recordings), examined the officers' weapons, and reviewed the autopsy findings.

OICI Scene

Protocol investigators inspected multiple scenes in and around Mr. Worthington's residence, which is located at 13073 S. Keegan Drive in Herriman, on the north end of a multi-unit townhouse building in a high-density residential area. The end-unit townhouse faces west (towards Keegan Drive), with both its front door and garage facing west; its rear side faces east, and to the south, the townhouse shares a wall with the neighboring unit to the south (13077 S. Keegan Drive). The residence is surrounded by several apartment style condominium buildings across the street and to the west; multi-unit townhouse buildings to the north and south (a rock alleyway is on the residence's north side); and additional townhouse buildings to the east (accessed from Tyce Lane and Haddock Lane, off Summerdale Drive), with single-family residences further east.

Three armored vehicles—from SJPD, HPD, and RPD—were positioned around the residence. SJPD's armored vehicle was located on Keegan Drive and northwest of the residence; HPD's armored vehicle was located on Keegan Drive and southwest of residence; and the RPD's armored vehicle was located near the northeast corner of the residence (near the landing at the base of the rear stairs). Multiple defects were located on each vehicle. Specifically, four defects were located on SJPD's armored vehicle, including to its front grill, a window on the driver side, and a light on top of the vehicle; three defects were located on HPD's armored vehicle, including to its front windshield and turret door; and three defects were located on RPD's armored vehicle, including to its turret (two defects) and above the front driver windshield. Under the turret of RPD's armored vehicle, investigators located one Federal .223 caliber casing; it was later determined to have been fired by Det. Morgan's weapon (a PWS MK1 .223 Wylde caliber rifle).

On a cement pad to the northeast of the residence, approximately 35 yards away (consistent with where RPD's armored vehicle was positioned during the officers' use of deadly force), investigators located nine .223 caliber casings; all nine were later determined to have been fired by Det. Morgan's weapon (the PWS).³⁸ Investigators also located a bullet fragment.³⁹

In the backyard on the east side of the residence, investigators located Mr. Worthington's body on the ground near the landing of a small exterior staircase (which led up to the second floor), and a rifle nearby. Mr. Worthington was wearing a tactical-style vest, which appeared to have been struck.⁴⁰ From inside the vest, investigators removed 14 fully loaded rifle magazines, containing a total of 420 additional cartridges. Investigators located a bullet fragment under Mr. Worthington's body and three bullet fragments under the back porch; all four were determined to have been fired by Det. Morgan's weapon (the PWS). Investigators observed several defects to the back banister of the residence, back exterior wall, and the backyard side fence (some appeared to have been caused by bullets ricocheting off the back wall). The rifle, a Palmetto State Armory Tyranny-15 5.56x45mm caliber rifle, was later determined to be loaded with one cartridge in the chamber and 27 cartridges in the magazine, for a total of 28 cartridges.⁴¹

In the roadway in front of the residence (on Keegan Drive), investigators located multiple empty chemical munition canisters (consistent with where SWAT operators were positioned when they deployed chemical gas into the residence).

Inside the residence, on the main level, investigators observed several .556 caliber live cartridges spilled on the stairs (leading from the entry to the upstairs) and the floor, as well as AR magazines; in addition, investigators located multiple unopened boxes of .556 caliber ammunition on the stairs. Investigators located a total of 21 .556 caliber casings on the stairs and 17 .556 caliber casings in the living room area; all were later determined to have been fired by Mr. Worthington's weapon (the Tyranny-15). Investigators also observed multiple bullet defects, including to the front door to the residence (the defect went from inside the front door to outside the door) and on the north wall next to the staircase (the defect went from inside the home on the stair wall to the exterior stucco wall). Throughout the residence, investigators observed broken-out windows and damaged blinds, and damage to virtually every door and wall.

On the second floor, inside a northwest bedroom, investigators observed that its two west-facing windows (over Keegan Drive) were both broken out and their blinds were damaged. Investigators located a total of 37 .556 caliber casings in the bedroom; all were later determined to have been fired by Mr. Worthington's weapon (the Tyranny-15). Inside a southwest bedroom, investigators observed that its single west-facing window (over Keegan drive) and blinds were also broken. Investigators located chemical munition canisters in the wall and on the floor of the bedroom (they did not locate any casings in the bedroom). Inside the master bedroom, investigators located a Palmetto State Armory PA-15 5.56x45mm caliber rifle on the bed, which was determined to be empty, and also a Springfield XDS 9mm pistol with a magazine containing six 9mm cartridges; investigators were unable to determine whether the rifle was used during the incident, and they did not locate any evidence that the pistol was used during the incident.

³⁸ Eight of the casings were Federal .223 REM caliber casings and one was a Speer .223 REM caliber casing.

³⁹ Testing was inconclusive; however, it was determined that the bullet was not fired from Det. Morgan's weapon (the PWS) or Officer Goulding's and Sgt. Beckstead's weapons (Tikka rifles).

⁴⁰ Investigators also located an iPhone in Mr. Worthington's pocket.

⁴¹ The cartridges were all Poongsan Defense 5.56x45mm caliber cartridges (green tip).

Investigators located numerous defects and significant bullet damage in the surrounding neighborhood. For example, the vehicle parked in the south neighbor's driveway (13077 S. Keegan Drive) had a bullet hole through the front windshield and a shattered back driver side window/damaged frame. In the apartment building across the street (13062 S. Keegan Drive, Building I), investigators located bullet holes on two east-facing balconies (bullet fragments were recovered from both), as well as three defects to a garage door and an adjacent cement post (a bullet fragment was recovered from inside the garage). In the next apartment building located further north (13032 S. Keegan Drive, Building H), investigators located several defects to the south-facing exterior garage wall and damage consistent with three bullets traveling through a window on the south-facing garage wall, then traveling through the garage, through the neighboring garage, and then into a third neighboring garage, with all three bullets hitting a vehicle parked inside the third garage. In addition, investigators located defects to a garage door, an exterior garage frame, and a garage door keypad (a bullet fragment was recovered from the keypad). In an apartment building further south on Keegan Drive (13088 S Keegan Drive, Building J), investigators located another bullet defect in a garage door. In a townhome to the rear of Mr. Worthington's residence (5111 Tyce Lane), investigators located bullet damage consistent with a round travelling through a kitchen wall and into an opposite wall in the kitchen, as well as with a round hitting a vinyl fence.

Sniper Scene and Weapons Download – 13062 S. Keegan Drive, #I304

Protocol investigators inspected the scene where Officers Felsing and Goulding were set up as a sniper team—inside the living room of a third-floor apartment located west of Mr. Worthington's residence, at 13062 S. Keegan Drive, Apt. #304. The living room was located in the northeast corner of the residence and had east-facing windows (facing the front of Mr. Worthington's residence).

In the living room, investigators located and downloaded two rifles which were directed out towards the east-facing window.⁴² The rifle to the right, determined to belong to Officer Goulding, was a Tikka T3x .308 Winchester caliber rifle and was set on a tripod. Investigators counted one Hornady .308 WIN caliber cartridge in the chamber and six Hornady .308 WIN caliber cartridges in the inserted 10-round capacity magazine, for a total of seven cartridges. Based solely on the download count, it is likely that Officer Goulding fired up to three rounds during the incident.⁴³

The rifle to the left, determined to belong to Officer Felsing, was a GRB .308 caliber rifle and was resting on a bipod. The rifle's chamber was empty, and the inserted 5-round capacity magazine contained five Hornady .308 WIN caliber cartridges. Investigators determined that it was not fired during the incident.

Investigators located two Hornady .308 WIN casings and one unfired Hornady .308 WIN cartridge on the floor near the rifles; the two casings were later determined to have been fired by Officer Goulding's weapon (the Tikka). As such, based on the download count and the forensic

⁴² Investigators also located a fully loaded 10-round capacity magazine containing Hornady .308 WIN caliber cartridges on the couch.

⁴³ We presume Officer Goulding began with a fully loaded magazine and an empty chamber.

evidence, as well as Officer Felsing's testimony that Officer Goulding fired two rounds, we believe that Officer Goulding fired a total of two .308 caliber rounds during the incident.

Sniper Scene and Weapons Download – 13047 Summerdale Lane

Protocol investigators inspected the scene where Officer Talbot and Sgt. Beckstead were set up as a sniper team—inside a second-floor bedroom of a residence located east of Mr. Worthington's residence, at 13047 Summerdale Lane. The bedroom was located in the northwest corner of the residence and had west-facing windows (facing the rear of Mr. Worthington's residence).

Investigators located and downloaded two rifles which were laying on the bed of the bedroom. Investigators determined that one of the rifles, an Armalite SPR MOD1 .223 Remington caliber rifle, belonged to Officer Talbot, and that the other, a Tikka T3x .308 Winchester caliber rifle, belonged to Sgt. Beckstead (a bipod was located with the Tikka).⁴⁴

In the Armalite, investigators counted one Federal .223 REM caliber cartridge in the chamber and 17 Federal .223 REM caliber cartridges in the inserted 20-round capacity magazine, for a total of 18 cartridges. Based on the download count, we believe it is likely that Officer Talbot fired up to two .223 caliber rounds during the incident.⁴⁵

In the Tikka, investigators counted one Hornady .308 WIN caliber cartridge in the chamber and eight Hornady .308 WIN caliber cartridges in the inserted 10-round capacity magazine, for a total of nine cartridges. Based on the download count, we believe it is likely that Sgt. Beckstead fired one .308 caliber round during the incident.⁴⁶

Investigators located a total of three casings—two Federal .223 REM caliber casings on the floor in the bedroom, which were later determined to have been fired by the Armalite (Officer Talbot), and one Hornady .308 WIN caliber casing on the bed near the rifles, which was later determined to have been fired by the Tikka (Sgt. Beckstead). As such, based on the download counts as well as the forensic evidence, we believe that Officer Talbot likely fired two .223 caliber rounds and Sgt. Beckstead fired one .308 caliber round during the incident.

Download of Det. Morgan

Protocol investigators examined and downloaded Det. Morgan's PWS MK1 .223 Wylde caliber rifle. Investigators counted one Federal .223 REM caliber cartridge in the chamber and 19 Federal .223 REM caliber cartridges in the inserted 30-round capacity magazine, for a total of 20 cartridges.⁴⁷ Presuming Det. Morgan began with a fully loaded magazine and an empty chamber, that count indicates he likely fired up to ten .223 caliber rounds during the incident.

Notably, as set forth above, investigators located a total of 10 .223 caliber casings in the vicinity of the RPD armored vehicle which were determined to have been fired by Det. Morgan's

⁴⁴ The Armalite was located closest to the door and the Tikka was located closest to the window.

⁴⁵ We presume Officer Talbot began with a fully loaded magazine and an empty chamber.

⁴⁶ We presume Sgt. Beckstead both began with a fully loaded magazine and an empty chamber.

⁴⁷ Investigators also downloaded two spare 30-round capacity rifle magazines located on Det. Morgan's person; one contained 28 Federal .223 REM caliber cartridges and the other contained 30 Federal .223 REM caliber cartridges.

PWS.⁴⁸ This evidence is consistent with the download count and further supports a conclusion that Det. Morgan fired a total of 10 .223 caliber rounds during the incident.⁴⁹

911 Call and Dispatch Logs

Protocol investigators reviewed the initial 911 call from Mr. Worthington as well as the dispatch call logs relating to this incident.⁵⁰ The content of these materials is briefly described, in part, as follows, as well as in the factual summary above.

Mr. Worthington called 911 at 3:44 p.m. and remained on the phone with the dispatcher for about 11 minutes, as HPD officers were dispatched. “Shots fired” is first noted at 4:45 p.m. (shortly after, it was noted, “not sure where shots came from. At least 4-5 of them,” and then the notes indicate that police had Mr. Worthington on the phone, they confirmed shots fired, and not self-inflicted, and also that they confirmed he fired shots out the front door). “Shots fired” is also noted at 5:09 p.m. (“shots fired – glass broken – [unknown] where it hit”), 5:50 p.m. (“susp shot again”), 7:27 p.m. (“two more shots fired”), 8:30 p.m. (“several shots fired”), 9:05 p.m. (“4 more shots fired”), and 9:07 p.m. (“additional shots heard”). Mr. Worthington was noted deceased that at 9:25 p.m.

Body-Worn Camera Recordings

Protocol investigators reviewed voluminous body-worn camera footage relating to this incident, including from some of the SWAT operators who were present during the final sequence of events. While body-worn camera recordings were not available for any of the Involved Officers, recordings were available for both the driver and front passenger of SJPD’s armored vehicle (Officer Thorne and Officer Barraza, respectively), and for the front passenger of RPD’s armored vehicle (Officer Thompson) (in addition, recordings were available for several officers who were either inside the armored vehicles or else did not have vantage points of the rear of the residence).⁵¹ As a whole, the recordings failed to visually capture much of the events (e.g., due to cameras being covered or obscured, the vantage point, the distance, or poor lighting); however, when viewed together, they provide valuable information as to the events that transpired, including the threat posed by Mr. Worthington as the evening progressed, the information known to officers, and the police response throughout the incident. The content of the videos is briefly described, in relevant part, as follows, as well as in the factual summary above.

Relevant to the final sequence of events, the videos capture the sounds of shots fired at RPD’s armored vehicle (and also the statements of Det. Morgan, who was in the turret, including him exclaiming “He just shot at me!”); RPD’s armored vehicle’s spotlight going out; the numerous shots fired out of the upstairs windows at SJPD’s and HPD’s armored vehicles (and SJPD’s spotlight going out and the vehicle moving backwards and SJPD’s armored vehicle’s

⁴⁸ Investigators located nine .223 caliber casings on the cement pad where RPD’s armored vehicle was located during the final shots and one .223 caliber casing under the vehicle’s turret; all 10 casings were later determined to have been fired from Det. Morgan’s weapon (the PWS).

⁴⁹ We presume Det. Morgan began with a fully loaded magazine and an empty chamber.

⁵⁰ Investigators also reviewed additional related 911 calls (e.g., from civilians reporting hearing shots fired).

⁵¹ In addition, recordings were also available from patrol officers who responded, including Officers Cutright and Olzack, who both spoke with Mr. Worthington over the phone at length.

spotlight coming back on and being repositioned at the front door); the SWAT operators outside SJPD's armored vehicle deploying less-lethal canisters into the front of the residence and the vehicle being shot at again; the residence's garage door opening; the sound of officers yelling "back door," "he's coming out," etc.; the sound of multiple shots fired at Mr. Worthington; and the sound of officers announcing over the radio that Mr. Worthington was down. Notably, the time from when Mr. Worthington began shooting at the armored vehicles to when the final shots were fired was less than eight and a half minutes.

Overhead Surveillance Recordings

Protocol investigators reviewed overhead surveillance videos taken from Unmanned Aircraft Systems (*i.e.*, drones) operated by officers. Relevant to the final sequence of events, the videos capture RPD's armored vehicle getting hit and its spotlight going out; numerous shots fired out the front upstairs windows at SJPD's and HPD's armored vehicles; and SWAT operators exiting SJPD's armored vehicle and deploying chemical munitions, with SJPD's armored vehicle getting shot at again. In addition, the videos capture the garage door opening, a glimpse of Mr. Worthington falling to the ground near the northeast corner of the residence (as seen from east of the residence and overhead), and Mr. Worthington after falling to the ground with his rifle nearby.

Civilian Video Recordings

Protocol investigators reviewed several short cell phone videos taken from a civilian inside a residence across the street on the front side of Mr. Worthington's residence (from the northwest) which captured brief portions of the events, including shots being rapidly fired from the front upstairs windows (at SJPD's armored vehicle), the officers deploying chemical munitions into the front of the residence and Mr. Worthington firing at SJPD's armored vehicle again, and the garage door opening.

Home Security Footage

Protocol investigators reviewed footage from home security cameras from nearby residences which captured some of the events that occurred throughout the incident. With respect to the final sequence of events, while one of the videos captured the sound of the officers' shots (from the rear side of the residence and to the north), neither Mr. Worthington nor Det. Morgan are visible in the video (due to the vantage point, distance, and poor lighting, etc.).

Autopsy

Kacy A. Krehbiel, M. D., with the Utah Office of the Medical Examiner performed an autopsy of Mr. Worthington's body and determined that he died from multiple gunshot wounds. Dr. Krehbiel reported gunshot wounds of the head, chest, abdomen, left upper arm, and right forearm. During the autopsy, a bullet fragment was recovered from adjacent to his upper thoracic spinal column and three bullet fragments were recovered from his clothing and beneath his body; all four of the bullet fragments were later determined to have been fired by Det. Morgan's weapon (the PWS).

LEGAL ANALYSIS

The scope of this review, and the OICI protocol investigation related to it, is narrow in its scope and purpose: to determine whether the facts of this case, when applied to the law, warrant the filing of a criminal charge against a law enforcement officer who used deadly force. In considering whether to charge a criminal offense against an officer who uses deadly force, we try to ascertain whether Utah's broad affirmative legal defense of justification, particularly as applied to law enforcement officers, effectively precludes criminal prosecution based on the facts before us. In other words, we ask whether an officer could establish at trial that his or her use of deadly force was justified. To answer that question, we ask whether he reasonably believed the use of deadly force was necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect. *See* Utah Code § 76-2-404(2)(c)).

As discussed more fully below, we believe the totality of the facts in this matter, taken together with reasonable inferences arising from those facts, would likely satisfy the elements of the affirmative legal defense of justification as applied to the Involved Officers' use of deadly force. In other words, we believe that if charges were filed against them for their use of deadly force, a jury (or other finder of fact) would have a reasonable basis to conclude that they used deadly force because they reasonably believed that deadly force was necessary to prevent death or serious bodily injury to themselves and/or others. Where the facts of a case satisfy these elements of the affirmative legal defense of justification, Utah State law affords an officer a legal defense and the finder of fact is instructed to render a verdict of not guilty of the offense(s) alleged.

As noted above, each of the Involved Officers refused to be interviewed or provide a statement explaining their use of deadly force, as is their constitutional right. Without their explanations as to their use of deadly force, we don't know what their actual beliefs were or their reasons for their apparent decisions to fire their weapons. We are therefore left to infer the rationale for their decisions to use deadly force based on other evidence we received, as well as the reasonable inferences to be drawn from that evidence. In similar situations where a shooting officer has refused to answer questions or provide a statement, we have proceeded in this manner. In doing so, however, we have never strayed from the objective evidence or testimony of other witnesses, nor do we do so here. While it is the prerogative and constitutional right of an officer not to share information with investigators, an officer's refusal to explain his or her apparent decision to use deadly force does not diminish our duty to explain and account for our decisions and conclusions or absolve us of our obligations to the community to present the truth to the community about the death of a member of our community.

While we do not have any statements as to what the Involved Officers knew or why they decided to fire their weapons, we know that they were all members of South Valley SWAT and called out to the incident. We know that once SWAT members were on scene, they were briefed on the incident and were told to switch to the SWAT radio channel. Based on the statements of other SWAT members, it is reasonable to assume that each of the Involved Officers was aware that Mr. Worthington was armed (specifically, with a rifle, pistol, and an abundance of ammunition), he was military-trained, he had already fired shots (in his high-density neighborhood), and he was intent on committing suicide that day (either self-inflicted or suicide-by-cop). Further, it is reasonable to assume that, after SWAT assumed command, each of the

Involved Officers was aware of events as they transpired as the incident progressed; we know that information was transmitted over the SWAT radio channel, including information about negotiations, Mr. Worthington loading magazines, Mr. Worthington appearing on the front porch, Mr. Worthington breaking windows, shots fired from the residence, efforts to evacuate nearby residences, and the deployment of chemical munitions. As such, it is reasonable to believe that the Involved Officers were well-aware of the ongoing risk of harm presented by Mr. Worthington to both officers and citizens in the area.

Officer Goulding (Sniper)

With respect to Officer Goulding, we know that he fired his weapon from his position as a sniper, from about 30 yards away and facing the front of the residence, out an open window (screen only) inside a third-story apartment across the street. Based on the statements of Officer Felsing, who was teamed up with him as a sniper, we know that Officer Goulding was assigned to watch the front upstairs windows of Mr. Worthington's residence (while Officer Felsing watched the front door). Further, we know from Officer Felsing that while they were positioned, they were listening to the SWAT radio channel, they heard Mr. Worthington upset about the lights from the armored vehicles, they heard him reloading magazines, and they saw him smashing the windows that Officer Goulding was watching.

We know that Mr. Worthington first fired shots at RPD's armored vehicle, which was called out on the radio, before he began firing from the upstairs windows at SJPD's and then HPD's armored vehicles. Officer Felsing stated that he saw muzzle flash from the top left window, saw SJPD's armored vehicle's light go out (that was lighting up the front porch), and saw the shots fired in the team's direction team. Officer Felsing recalled that while shots were being fired, he heard Officer Goulding fire his weapon and then say, "shot out," the suspect continued to engage (Officer Felsing continued to see muzzle flash), and Officer Goulding fired a second shot.

Based upon the facts known to us, as outlined here, we believe it is reasonable to infer that Officer Goulding believed he needed to use deadly force against Mr. Worthington to prevent death or serious bodily injury to himself, other officers, and citizens in the area. We further conclude that such a belief was reasonable. Mr. Worthington unlawfully presented an immediate threat of death or serious bodily injury when, after firing at RPD's armored vehicle, he fired repeated shots out his front upstairs window at the armored vehicles positioned in front of the residence on Keegan Drive and into the high-density neighborhood around him. Our conclusion that Mr. Worthington posed a serious danger to the officers and individuals in the neighborhood is further evidenced by the significant bullet damage which was later documented by the protocol team—to all three armored vehicles and throughout the neighborhood, including to vehicles, to multiple garages, balconies, etc.

Det. Morgan (Turret of RPD's Armored Vehicle)

Turning to Det. Morgan, we know that he was positioned in the turret of RPD's armored vehicle, which was facing the rear corner of the residence, when Mr. Worthington first began firing at RPD's armored vehicles. As Mr. Worthington fired, Det. Morgan exclaimed, "He just shot at me!" and commented to the effect that he got hit by shrapnel or a fragment, and also that

he couldn't get a shot at the suspect. The officers who were driving (Officer Huffaker) and in the front passenger seat (Officer Thompson) also recalled that the suspect fired out of a window at their vehicle and described that they could see some muzzle flash in a second-story window the suspect had broken out. As Mr. Worthington fired, he struck the armored vehicle at least three times—twice to the turret (once just below the top of the turret where Det. Morgan was), successfully causing the spotlight to go out, and also above the front driver windshield. After shooting out RPD's armored vehicle's spotlight, Mr. Worthington then continued to fire—numerous shots—at the armored vehicles in front of his residence in his high-density neighborhood.

While the investigation produced no video of Mr. Worthington coming out the back of the house, we know that within eight and a half minutes of beginning to fire at RPD's armored vehicle, Mr. Worthington appeared at the upstairs back door with an AR-style rifle and wearing what appeared to be tactical-style body armor. Det. Morgan (still positioned in the turret) and Officer Huffaker (driver seat) began yelling that he was coming out the back door. Officer Huffaker later stated that the suspect came down the stairs, got to the bottom of the stairs, and dropped the rifle and fell to the ground; he also recalled hearing gunfire prior to the suspect falling to the ground (but he did not know where the shots came from). Similarly, Officer Thompson later recalled seeing the suspect come out the rear door doorway and move pretty quick down the steps, however, when the suspect got about two steps down, he turned to focus on getting out of the armored vehicle. Officer Thompson said that he heard shots go off as he was trying to get out, and he stated that that he heard a bunch of rounds from Det. Morgan (up out of the turret) and a couple from some snipers (when he got out and could see, the suspect was on the ground).

Again, based on the facts known to us, as outlined here, and above, we believe it is reasonable to infer that Det. Morgan believed he needed to use deadly force against Mr. Worthington to prevent death or serious bodily injury to himself, other officers, and citizens in the area. Again, we conclude that such a belief was reasonable. Mr. Worthington unlawfully presented an immediate threat of death or serious bodily injury when he fired at RPD's armored vehicle—and hit with Det. Morgan with shrapnel or a fragment. The threat continued as Mr. Worthington then proceeded to keep firing at all three armored vehicles and into the high-density neighborhood around them. Then, less than eight and a half minutes after first firing at RPD's armored vehicle (and hitting Det. Morgan), Mr. Worthington exited the rear of the residence, still armed with a rifle and a chest plate carrier, and proceeded quickly down the stairs.

Officer Talbot and Sgt. Beckstead (Snipers)

While they did not have body-worn cameras and we do not know the exact moments they fired, we know that Officer Talbot and Sgt. Beckstead were positioned as snipers facing the rear of the residence when they fired their weapons (two and one rounds, respectively). For the same reasons discussed further above, we also believe it is reasonable to infer that Officer Talbot and Sgt. Beckstead believed they needed to use deadly force against Mr. Worthington to prevent death or serious bodily injury to themselves, other officers, and/or citizens in the neighborhood, and that such a belief was reasonable. In this case, Mr. Worthington continued to present a serious threat of death or serious bodily injury when, after over five hours of threatening suicide and failing to surrender, he fired numerous rounds out of his house, at the armored vehicles and

into the high-density neighborhood; then, shortly after, he exited his residence and quickly proceeded down the stairs, armed with a rifle and a chest plate carrier.

The totality of the facts of this case this matter, together with reasonable inferences based upon those facts, supports our conclusion that, to the extent that the Involved Officers believed deadly force against Mr. Worthington was necessary to prevent death or serious bodily injury to themselves and/or others, a jury would likely find such a belief reasonable under the circumstances. Assuming the Involved Officers' testimony in a criminal case (if any) would be consistent the facts as we believe them to be based upon the evidence produced by the protocol investigation, we believe a jury would likely thus conclude that they used deadly force because they reasonably believed deadly force was necessary to prevent death or serious bodily to themselves and/or others. Such a use of deadly force, by an officer who reasonably believes the deadly force is necessary to prevent death or serious bodily injury to himself or another person, satisfies the elements of the affirmative legal defense of justification and affords the officer a legal defense to a criminal charge. In this case, we believe a jury would likely find that the facts satisfy the elements of a justified use of deadly force.

If, for the sake of discussion, we elected to file charges against the Involved Officers for their use of deadly force, and they asserted the legal defense of justification, we would have to prove at trial, beyond a reasonable doubt and to the unanimous satisfaction of all jurors, that they did not reasonably believe that using deadly force against Mr. Worthington was necessary to prevent death or serious bodily injury. We do not believe the facts of this matter would support an effort to disprove the justification defense. We believe the Involved Officers would likely claim successfully at trial that they reasonably believed deadly force was necessary; therefore, their use of deadly force would be found justified and they would be afforded a legal defense to criminal charges.

Because the statutory defense of justification is an affirmative legal defense, we, as the prosecution, bear the burden of showing evidence to prove that the affirmative defense does not apply. In other words, to achieve a conviction against the Involved Officers for their use of deadly force, we would have to show evidence to prove, beyond a reasonable doubt, that either they did not believe they needed to use deadly force to prevent death or serious bodily injury (to themselves or another); or, that if they did believe they needed to use deadly force, that their belief was unreasonable. We do not believe we have sufficient evidence to do so. Based on the evidence before us, we conclude that no reasonable jury would unanimously determine that the Involved Officers did not reasonably believe deadly force was necessary in this situation. We conclude that we could not refute or overcome the affirmative legal defense of justification and therefore, we believe a jury would afford the Involved Officers the legal defense.

As the United States Supreme Court instructed in *Graham*, assessing "reasonableness" in the Fourth Amendment context "requires careful attention to the facts and circumstances of each particular case, including . . . whether the suspect poses an immediate threat to the safety of the officers or others." 490 U.S. at 496 (emphasis added). The facts of this matter support a conclusion that the Involved Officers could successfully argue that they reasonably believed their use of deadly force was necessary to prevent death or serious bodily injury to themselves or another individual (in this case, to themselves, other officers, and citizens in the area). In short, paying "careful attention to the facts and circumstances" of this case, and considering the totality

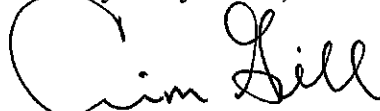
of the evidence and reasonable inferences to be drawn therefrom, we conclude that the Involved Officers' use of deadly force would likely satisfy the elements of a justified use of deadly force as set forth in Utah State law.

CONCLUSION

As noted previously, the facts and conclusions set forth in this letter are based on the evidence of which we are currently aware. Should additional facts become available, these conclusions may change.

As outlined in more detail above, we conclude that the facts in this case, together with the reasonable inferences about the Involved Officers' decisions to use deadly force, would likely support a finding that they reasonably believed deadly force was necessary to prevent death or serious bodily injury to themselves and/or others. As such, we believe that a jury would likely find that the facts and reasonable inferences satisfy the elements of the affirmative legal defense of justification and therefore afford them a legal defense to a criminal charge. Accordingly, we decline to file a criminal charge against them for their use of deadly force in this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Sim Gill". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Sim Gill,
Salt Lake County District Attorney