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October 4, 2024

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Chief Greg Seversen
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RE: VFAST Task Force Officers Michael Thornton's and Tanner
Nelson's Use of Deadly Force
Incident Location: 735 E. 11000 S., Apt. 116, Sandy, Utah
Incident Date: October 5, 2023
WVCPD Case No.: 23-102455
SPD Case No.: 23-61196
DA Case No.: DA-INV-2023-2476

Dear Chief Jacobs, Chief Seversen, and Chief Deputy Holt:

This letter addresses the use of deadly force by Sandy City Police Department ("SPD") Officer Michael Thornton and U.S. Marshals Service Deputy U.S. Marshal Tanner Nelson while on assignment with the U.S. Marshals Service's Violent Fugitive Apprehension Strike Team ("VFAST") on a warrant service for Ian Rudolf Anzer on December 1, 2023.¹

Officer Thornton's and DM Nelson's 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

¹ The team is comprised of officers from various participating law enforcement agencies.

task force was called in to investigate the use of deadly force. The investigative task force was led by the West Valley City Police Department (“WVCPD”) protocol team and comprised of law enforcement officers employed by agencies other than SPD and the U.S. Marshals Service. After the investigation, on January 4, 2024, 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.²

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 December 1, 2023, at about 11:00 a.m., SPD was dispatched to the Silver Pines Senior Community apartments located at 735 East 11000 South on a report of a male on the property who was trespassing. SPD patrol officers attempted to make contact with the male, who was identified as Ian Anzer, a felony fugitive, at his mother’s apartment, but he refused to come out. As SPD held containment on the apartment, an SPD officer requested apprehension by the U.S. Marshals Service’s Violent Fugitive Apprehension Strike Team (“VFAST”).

VFAST arrived at the apartment and knocked and issued commands to Mr. Anzer, but he did not comply. At about 1:10 p.m., after forcing entry into the apartment, VFAST officers began to enter the apartment, led by DM Nelson with a shield and Officer Thornton with a rifle. After entering, the officers began yelling commands to “drop the knife” and then fired their weapons at Mr. Anzer, who was standing in the kitchen with a knife, approximately 3-5 feet from officers “with the knife held in a position to ambush [them] as [they] came around the corner.” Mr. Anzer fell to the ground and was subsequently pronounced deceased on scene.

During the protocol investigation, Officer Thornton refused to interview but DM Nelson provided a written statement about the incident and his decision to use deadly force.³ Investigators interviewed witnesses, documented the scene and examined physical evidence, reviewed dispatch recordings and logs, reviewed body-worn camera recordings,⁴ examined Officer Thornton’s and DM Nelson’s weapons, and reviewed the autopsy findings.

As we discuss in more detail below, we believe the facts of this matter, taken together with reasonable inferences derived from those facts, support a conclusion that if a criminal charge was filed against Officer Thornton and/or DM Nelson for their use of deadly force, and a

² 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).

³ Officer Thornton and DM Nelson have a constitutional right to remain silent and to be presumed innocent of any wrongdoing.

⁴ While body-worn camera recordings were available for SPD patrol officers who were on scene, no recordings were available for any of the VAST team members, including Officer Thornton and DM Nelson.

jury (or other finder of fact) was called upon to determine whether his use of deadly force constituted a criminal act, a jury would likely determine that he 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 Officer Thornton’s and DM Nelson’s use of deadly force would likely be subject to the affirmative legal defense of justification under Utah law,⁵ and we decline to file a criminal charge against either of them.

RELEVANT LEGAL STANDARDS

As relevant here,⁶ 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:
 - (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).

⁵ 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.

⁶ 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 § 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...

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 injury⁷ 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 deadly force was “justified” under Utah law, several factors may be considered, including: (i) the nature of the danger; (ii) the immediacy of the danger; and (iii) the probability that the unlawful force would result in death or serious bodily injury. *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. Connor*, 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 (internal 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 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 and emphasis added).

RELEVANT ETHICAL STANDARDS

The DA’s Office files cases that satisfy ethical standards and considerations in addition to legal standards for filing.⁸ 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.

⁷ “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).

⁸ 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 statement).

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, WVCPD led an investigative task force of law enforcement officers who conducted the investigation of Officer Thornton's and DM Nelson's use of deadly force, and the protocol investigation's findings were presented on January 4, 2024, 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.

On December 1, 2023, at about 11:00 a.m., SPD was dispatched to the Silver Pines Senior Community apartments located at 735 East 11000 South on a report of a male on the property after having been trespassed recently for trying to steal a car. SPD patrol officers responded and attempted to make contact with the male, who was identified as Ian Anzer, a felony fugitive, at his mother's apartment, but he immediately closed the door after opening it.⁹

As SPD remained on scene and held containment, SPD Officer Thornton, who is also a Task Force Officer on the U.S. Marshals Service's Violent Fugitive Apprehension Strike Team ("VFAST"), was advised of the situation and then requested to delegate primary apprehension responsibility for Mr. Anzer to the U.S. Marshals Service.¹⁰ After finishing another matter

⁹ SPD attempted to make contact at about 11:16 a.m.

¹⁰ On November 17, 2023, the Utah Third Judicial District Court issued a warrant for Mr. Anzer's arrest in the matter of *State of Utah v. Ian Rudolf Anzer*, Case No. 231906584. In that case, Mr. Anzer plead guilty on August 28, 2023, to having committed the offense of Purchase, Transfer, Possession, or Use of a Firearm by Restricted

nearby, VFAST responded to the apartment building to serve the felony arrest warrant.¹¹ During a briefing,¹² VFAST officers were provided information about Mr. Anzer and given assignments.

VFAST entered the apartment building, made contact with SPD officers in the hallway, and approached the front door. DM Nelson, who was equipped with a shield and a handgun, and Officer Thornton, who was equipped with a rifle, positioned themselves at the front. At about 1:09 p.m., as an SPD officer attempted to open the front door using a key, DM Nelson knocked on the door with his handgun and began commanding, "U.S. Marshals with a warrant. Come to the door," and then the team leader, DM Davis, commanded over a megaphone: "Ian Anzer. Police. U.S. Marshals with the warrant. Come to the front door with empty hands. Do it now." Officers received an answer from inside telling them to get a warrant. An officer yelled, "Open the fucking door," and DM Davis further commanded over the megaphone: "Open the door. Now." After trying the key, officers attempted to push open the front door and then concluded that he was on the door and decided to breach it.

The assigned breacher, Agent Neal, moved up to the door with a ram and hit it multiple times until it partly opened, appearing barricaded, and hinging inward from the right.¹³ DM Nelson then kicked the door several times and forced it further open while Officer Thornton remained positioned to his left. As officers shined lights into the apartment from the hallway, an officer commanded, "Ian, step out with your hands up right now", the officers observed that he wasn't behind the door, and DM Davis commanded over the megaphone: "Ian, this is the police, U.S. Marshals with the arrest warrant. Come out with empty hands. Do it now. We know you're inside." One of the officers asked if they could "take" the first room, to which DM Davis responded that they could.

Person, a Third Degree Felony, on June 8, 2023. On November 13, 2023, while in custody of the Salt Lake County Jail, Mr. Anzer was sentenced to a prison term of up to five years, 86 days jail (previously served), and placed on probation for 36-months supervised by Adult Probation & Parole ("AP&P"). On November 17, 2023, Adult Probation & Parole submitted a Violation Report and requested issuance of a warrant.

Notably, Officer Thornton advised that the reason for caution as "Possible Norteño gang member, history of firearms, robbery, assault, resisting arrest, etc.", advised that a warrant had been issued in a criminal case for F3 Possession of a Firearm by Restricted Person, and advised that the basis for the warrant was that Mr. Anzer "was caught by police while burglarizing a vehicle" and "found to be in possession of a firearm when he was searched subsequent to his arrest."

¹¹ The responding team was comprised of case agent Officer Micheal Thornton (SPD); Deputy U.S. Marshal Tanner Nelson (U.S. Marshals Service); Special Agent Justin Anson (Utah State Bureau of Investigation); Det. Jose Leon (Weber County Sheriff's Office); Officer Jimmy Haas (Taylorsville City Police Department); Det. Michael Roche (Weber County Sheriff's Office); Deputy U.S. Marshal Bryan Corbitt (U.S. Marshals Service); Agent Russ Neal (Immigrations and Custom Enforcement); and team leader, Deputy U.S. Marshal Tyler Davis (U.S. Marshals Service).

¹² During the briefing, Officer Thornton advised that Mr. Anzer was inside of the apartment, that he had an active felony warrant for Possession of Firearm by a Restricted Person and had previously been involved in a burglary with a firearm, and he had a criminal history of robbery, firearms history, assault, resisting arrest, and that he was possibly a Norteño gang member. In addition, Officer Thornton advised that SPD patrol had previously knocked on the door and Mr. Anzer had refused to come out, that he had gone out onto the back patio of the apartment and held up his hand to mime shooting at the SPD officers holding containment, and that he was possibly intoxicated.

¹³ Investigators later determined that the door had been barricaded closed with a walking cane.

At 1:10 p.m., DM Nelson with the shield entered first, followed by Officer Thornton with his rifle. From inside, they began yelling, “Ian!” “Come on.” “Drop the fucking knife, right now. Drop the fucking knife!,” as additional officers—SA Anson (handgun), Det. Leon (taser), and Det. Haas (handgun)—filed into the apartment.¹⁴ DM Nelson and Officer Thornton fired their weapons, after which officers began calling out “shots fired.”¹⁵ Notably, as captured on body-worn camera, the time between when VFAST announcements first began and when shots were fired was approximately one minute and four seconds. The time between when officers first called out to Mr. Anzer after entering and when shots were fired was approximately 6 seconds.

DM Nelson later described in a written statement:

As I stepped around the corner of the entry way, I looked down the hallway and didn’t see anyone. Then out of the corner of the window port on my shield I observed a slight movement. I moved my flashlight over to the kitchen area and observed a subject, ANZER. **I saw ANZER standing in the dark kitchen hugged up close to the cabinets. ANZER was holding based on my training and experience in 9 years of law enforcement a tactical knife. The knife had a silver blade that was approximately 4-5 inches in length that could cause serious physical harm to myself or other officers. ANZER was holding the knife in his right hand with his right arm raised above his shoulder with the blade pointed in a position that a person would hold a knife to stab a person. . . Officer Thornton. . . was standing next to me on my right side. ANZER was standing approximately 3-5 feet from me with the knife held in a position to ambush us as we came around the corner. I yelled at ANZER to drop the knife. ANZER didn’t comply with the verbal command given and continued to stand with the knife raised above his shoulder. . . I fired my duty weapon. . .**

While Officer Thornton refused to provide a statement to investigators, as is his constitutional right, SA Anson and Det. Leon, who entered third and fourth, similarly described Mr. Anzer standing approximately three feet from officers, but did not see the knife until after he fell to the ground.¹⁶

¹⁴ DM Nelson later described in a written statement:

As I entered the apartment, I had to squeeze by the front door due to something behind it preventing it from completely opening. I turned on my flashlight which was attached to my handgun as my other hand was holding the ballistic shield. The use of a flashlight was needed because all the lights had been turned off and there was limited light inside the residence. Once I got through the narrow doorway entry, I could see that the hallway opened into the living room. As I entered the apartment the living room was on the left and the kitchen on the right.

¹⁵ Investigators later determined that DM Nelson likely fired his Glock 17 Gen 5 9mm handgun two times and Officer Thornton likely fired his Sons of Liberty 1776 M4 rifle one time.

¹⁶ SA Anson explained to investigators:

They’re giving him the commands, “Drop the knife, drop the knife.” Just as I get up to the corner of the short wall, Thornton’s on one side, Tanner [Nelson] has his shield, and I come up and I’m shoulder to shoulder with Tanner [Nelson] and start clearing off where they were pointing their weapons. I start clearing off that way, from left to right. As I was clearing the room with my handgun, I see the movement

After shots were fired, officers secured Mr. Anzer in handcuffs, began providing emergency medical aid, and helped remove Mr. Anzer's mother, who had been in the hallway when shots were fired, from the apartment. Shortly after, emergency medical responders arrived on scene and declared Mr. Anzer deceased.¹⁷

Witness Statements

Officer Michael Thornton (SPD)

Officer Thornton refused to be interviewed by protocol investigators or make a statement about his use of deadly force. Officer Thornton has a constitutional right to remain silent and is presumed innocent of any wrongdoing.

Deputy U.S. Marshal Tanner Nelson (U.S. Marshals Service)

DM Nelson refused to be interviewed by protocol investigators about his use of deadly force, as is his constitutional right, but provided a written statement to investigators on December 14, 2023.¹⁸ In his statement, DM Nelson wrote:

On December 1, 2023, Task Force Officers and Deputies with the United States Marshals Service, District of Utah, Violent Fugitive Apprehension Strike Team (VFAST), were working on apprehending a State Fugitive identified as, Ian ANZER. ANZER was wanted in reference to a Felony (F3) Possession of a Firearm by Restricted Person.

Members of VFAST received information that ANZER was staying at the address listed on his driver's license, which is located at 735 E. 11000 S. Apt 116 Sandy,

just off to the side. They're yelling, "Drop the knife." And then sounded like Thornton shot 'cause it was suppressed, you could tell. And then I believe Tanner [Nelson] shot because he was right next to me. It went off right by my head. So I'm looking and I can see the guy right here, just in the corner of my eye.

SA Anson further explained:

When we came around, it seemed like he was, I couldn't really tell if he was against the wall or in the corner of the kitchen, but he was probably three feet from me when I came around that corner. And I couldn't really see his whole body. I could kind of see his left hand. And then, he, when the shots came, I could see him kind of go like this, and then he just crumpled. And then I, when I looked down on him, I could see a knife right by his body. It was probably six to eight inches, the blade.

Det. Leon also told investigators:

They stopped as soon as they turned right and they start giving commands, "Drop the knife, drop the knife." So I pushed to the right side of the person with the rifle, and I was on his right side. And my thoughts were I should probably tase him now. As soon as I went around and I got a visual of him, the shots were fired. I wasn't able to deploy the taser. I saw the suspect fall to the ground.

Det. Leon further explained that as soon as he went around the person with the rifle, the suspect was standing there, looking towards them, and facing them. Det. Leon estimated that the distance between the suspect and the officers was three or four feet.

¹⁷ Mr. Anzer was declared deceased at 1:14 p.m.

¹⁸ DM Nelson has a constitutional right to remain silent and is presumed innocent of any wrongdoing.

UT. Sandy Police had been on-scene attempting to arrest ANZER for the above-mentioned warrant for an extended period of time. ANZER was not cooperative and refused to open the door for the officers.

Upon my arrival at the apartment complex a verbal briefing was given by USMS Task Force Officer (TFO)/Sandy Police Officer Mike Thornton. During the brief I was informed that ANZER was wanted reference to a F3 (Felony) Possession of a Firearm by Restricted Person. Thornton stated the active warrant was reference to a previous armed vehicle burglary. Thornton advised ANZER had been using his hand and fingers in the shape of a handgun in a shooting motion to threaten the Sandy Police Officers that were on containment. I was aware ANZER had a criminal history that consisted of robbery, firearms history, assault, resisting arrest, and was possibly a Norteno Gang Member. A photo was also shown of ANZER along with his personal identifiers. It was also said that ANZER weight was possible less due to methamphetamine use. During the arrest briefing I was assigned to carry the tactical ballistic shield and other assignments were given out to the rest of the team. As the shield operator it was my responsibility to be the first person into the residence to provide cover or protection to the officers behind me. The shield is equipped with a visual window port that is held at my eye level that is approximately 12 inches wide and 6 inches tall. The shield does not protect against an attack by a physical assailant. On the front of the shield "U.S. Marshals" is clearly marked for visual police identification.

Once at the apartment door announcements were given by use of a loudspeaker. Multiple announcements were given, which consisted of U.S. Marshals with a warrant come to the door. I verbally heard a male voice from inside the residence say, "get a warrant". A key had been provided by management, so an officer attempted to use it to open the door, but it didn't work. The breacher, an officer assigned to open the door if needed, was called up to use a door breacher also known as a door ram to forcibly open the door. Once the door was open, I pushed the door inwards, but there was something behind the door preventing it from opening all the way. Additional announcements were made, but there was no response. Inside the apartment I observed limited interior lighting and only had visual of a small section of the living room.

The decision was made to enter the residence. As I entered the apartment, I had to squeeze by the front door due to something behind it preventing it from completely opening. I turned on my flashlight which was attached to my handgun as my other hand was holding the ballistic shield. The use of a flashlight was needed because all the lights had been turned off and there was limited light inside the residence. Once I got through the narrow doorway entry, I could see that the hallway opened into the living room. As I entered the apartment the living room was on the left and the kitchen on the right. As I stepped around the corner of the entry way, I looked down the hallway and didn't see anyone. Then

out of the corner of the window port on my shield I observed a slight movement. **I moved my flashlight over to the kitchen area and observed a subject, ANZER. I saw ANZER standing in the dark kitchen hugged up close to the cabinets. ANZER was holding based on my training and experience in 9 years of law enforcement a tactical knife. The knife had a silver blade that was approximately 4-5 inches in length that could cause serious physical harm to myself or other officers. ANZER was holding the knife in his right hand with his right arm raised above his shoulder with the blade pointed in a position that a person would hold a knife to stab a person. I was afraid ANZER was preparing, based on his stance and arm position with the knife, to stab me or Officer Thornton who was standing next to me on my right side. ANZER was standing approximately 3-5 feet from me with the knife held in a position to ambush us as we came around the corner. I yelled at ANZER to drop the knife. ANZER didn't comply with the verbal command given and continued to stand with the knife raised above his shoulder. This was a rapidly evolving situation that included ANZER standing in an aggressive stance holding a knife that was in close proximity to Thorton and I, ANZER being armed with a deadly weapon, and ANZER's refusal to follow verbal commands. Due to the immediacy of the threat and in fear for my life and the life of Thorton, I fired my duty weapon to prevent ANZER from causing serious bodily injury or death.**

After the shooting I continued to clear the residence since I was the only officer in the residence equipped with a ballistic shield. Other officers made contact with ANZER who was detained and immediately medically evaluated.

Special Agent Justin Anson (Utah State Bureau of Investigation)

Protocol investigators interviewed SA Anson who said they were on another arrest, were called to assist, got there, and Officer Thornton gave them a briefing of what had happened. SA Anson said Officer Thornton explained why Sandy had made contact, what the situation was, and that the guy was not coming out, knew police were there, but had refused to come out. SA Anson said they held a briefing and assignments were made. SA Anson said that Officer Thornton led them to the apartment where the individual was, they walked in, there were Sandy patrol officers at the door, and the Team Leader talked to them and then made a game plan.

SA Anson said they lined up on the door, and initially it was DM Nelson, Officer Thornton, and he sat back a little because the hall into the door was jammed up. SA Anson said that they immediately started knocking and announcing, "Police, police," and that Team Leader Davis had a megaphone and was announcing "U.S. Marshals. Police. We have a warrant." SA Anson said he could hear a sound, it sounded like there was someone on the other side of the door, but he wasn't close enough to hear what was being said. SA Anson said that one of the Sandy officers had a key to the front door, he tried to unlock it and open it, and said, "I think he's on it," and you could see the key was turned but the Sandy officer couldn't get the door opened.

SA Anson said that they had the breacher come up with the ram, he hit it a couple of times, it didn't go, and then the breacher hit it and you could see where the door jam wasn't blown like it was locked and someone said that he had something on the door. SA Anson said the breacher continued with the ram, probably hit it four or five times, and then the door opened but it was a knob left, hinge right.

SA Anson said that as the door opened, there was a long wall so you couldn't see inside, and it only opened maybe a foot off the wall and they couldn't see. SA Anson said they kept trying to get the door open so they could see down the hallway. SA Anson explained that he could see through the crack but couldn't see what was blocking the door and couldn't see anybody on the other side of the door. SA Anson said they got in enough and Team Leader said, "Hey, let's take the first room."

SA Anson said:¹⁹

So, Thornton pushed in. Tanner [Nelson] came in with the shield. There was a little hesitation, I was kind of seeing if Tanner [Nelson] could get through the door with the shield 'cause he was pushing by it. As he went, he got in there just a little bit, I came in, and then there was agents started coming in behind me. . . I think it was Leon, but he had taser, he had less lethal. So just as I get, I can't remember, about where in the hallway I was, I could hear them start yelling, "Drop the knife, drop the knife, drop the knife." As I came up, there's the long wall on the right as we're approaching, and a short wall that opened up into the rest of the apartment.

They're giving him the commands, "Drop the knife, drop the knife." Just as I get up to the corner of the short wall, Thornton's on one side, Tanner [Nelson] has his shield, and I come up and I'm shoulder to shoulder with Tanner [Nelson] and start clearing off where they were pointing their weapons. I start clearing off that way, from left to right. **As I was clearing the room with my handgun, I see the movement just off to the side. They're yelling, "Drop the knife." And then sounded like Thornton shot 'cause it was suppressed, you could tell. And then I believe Tanner [Nelson] shot because he was right next to me. It went off right by my head. So I'm looking and I can see the guy right here, just in the corner of my eye.** And then they shot, and then he fell right in the kitchen, right where he was.

SA Anson said that at that point, Officer Thornton pulled off a little bit. SA Anson said that the rest of the agents were filing in, and they pushed forward to clear it. SA Anson said that one of the agents went by him and went hands-on with the guy. SA Anson explained said that the mom was screaming and coming out of the room that was straight ahead of them, and that she was in her wheelchair and was coming towards them. SA Anson said they pushed up, agents

¹⁹ Quotations have been lightly edited for concision and readability.

cleared the first bedroom, he and DM Nelson held on that bedroom while officers brought the mom by them and took her out, and then they cleared and came back.

SA Anson explained:

When we came around, it seemed like he was, I couldn't really tell if he was against the wall or in the corner of the kitchen, but he was probably three feet from me when I came around that corner. And I couldn't really see his whole body. I could kind of see his left hand. And then, he, when the shots came, I could see him kind of go like this, and then he just crumpled. And then I, **when I looked down on him, I could see a knife right by his body. It was probably six to eight inches, the blade.** And I mean, I just glanced at it and could see it. And then I didn't pay any more attention to that.

SA Anson explained that during the briefing, Officer Thornton said that they had identified the guy, SPD had gone over, they'd sent out a picture and his name, and the management of the senior living center had called and said he's back and trespassed. SA Anson said that SPD patrol had gone up to make contact and knocked on the door, the guy had opened the door and basically slammed it in their face and started saying, "I'm not coming out. You need a warrant", that patrol had set up a containment on that area and that the guy would come out on the patio and was doing finger gun gestures to each of the cops, and that at that time, they couldn't see any weapons, but he had a big bottle of alcohol in his front sweatshirt pocket. SA Anson said that Officer Thornton gave them a brief criminal history and they told them that he had an active arrest warrant for possession of firearm by restricted.

Det. Jose Leon (Weber County Sheriff's Office)

Det. Leon said that they were asked to assist in the apprehension of the involved male and they went over in a brief the name of the individual, why they wanted him, that they had information that he was inside the apartment with his mother, that he had history and was potentially armed and had made a finger point saying he should shoot at the officers prior to their arrival and that he was refusing to come out, and that they had a felony warrant for his arrest. Det. Leon said that other officers from SPD were already there containing the apartment. Det. Leon said that the brief was given to them by a Sandy police officer who is also with the task force. Det. Leon said he was tasked to be part of the entry team and was behind the shield officer and the shield cover officer who had a rifle.

Det. Leon said they arrived to where the officers were outside the front door of the apartment. Det. Leon said that they knocked and announced, and he could hear somebody on the other side, but it was unknown what he was saying. Det. Leon said that they tried to open the door and "the person standing on the other side, almost like it, there was like a pushing back and forth, like it was locked or he wasn't letting us in." Det. Leon said that they called for a breacher, and another agent came up with a ram and forced entry into the door using the ram. Det. Leon said the door was slightly pushed open, and it looked like there was a walking stick

just on the other side that was keeping the door from coming fully open. Det. Leon said they were able to push through the open door and make call outs, "U.S. Marshals. Come out with your hands up, we know you're inside," and they called him by his name. Det. Leon said he couldn't hear any response. Det. Leon said he then transitioned to less lethal and got his taser because there was a shield guy up front prior to them making entry. Det. Leon explained that there was shield, rifle, one more officer with his handgun out who he was behind, and then he was taser.

Det. Leon said:

We stopped. As, you enter and there's probably three to four feet entry till it opens to the right where there's a long hallway and a kitchen to the right. As you enter, there's just the living room. They stopped as soon as they turned right and they start giving commands, "Drop the knife, drop the knife." So I pushed to the right side of the person with the rifle, and I was on his right side. And my thoughts were "I should probably tase him now." **As soon as I went around and I got a visual of him, the shots were fired.** I wasn't able to deploy the taser. I saw the suspect fall to the ground.

Det. Leon said that as soon as shots were fired, they pushed over to him, he grabbed the suspect's left arm, put it behind his back, and assisted as somebody else grabbed the right hand and cuffed him. Det. Leon said that they then proceeded to clear the rest of the residence.

Det. Leon said that when he started to move to the right side of the officer with the rifle and decided to tase the suspect, the officer with the rifle was challenging the suspect. Det. Leon explained that he believed that the officer with a handgun who was initially in front of him swung further around, so then he was able to get to the right side of the officer with a rifle. Det. Leon said that it was shield, rifle, and then himself, and the officer with the rifle was challenging him, calling him by his name, and saying, "Drop the knife. Drop the knife." Det. Leon said the officer with the rifle said it at least twice, and then that's when the shots were fired. Det. Leon said that **as soon as he went around, the suspect was standing there, looking towards them, and facing them.** Det. Leon said he didn't see the knife, and that as soon as he went around, he saw the suspect facing them, the shots were fired, and then the suspect just folded down. Det. Leon estimated that the distance between the suspect and the officers was three or four feet and explained that when he came around the corner, he saw the suspect just folded right there.

Det. Leon said he believed he was fourth in the entry. Det. Leon explained that he was off to the left side, and they had all stacked up on the right side next to the doorway, and that as soon as they breached, it was shield, and then the rifle, and he was third initially right behind them, but they needed less lethal. Det. Leon said he wanted one more lethal as they were moving in, so he had somebody come in front of him and he had his taser out.

Det. Leon said that after the shooting, they went through the residence and he saw the knife that the suspect was holding on the floor in the kitchen. Det. Leon said that his mother was

also there, who was in a wheelchair, and that she was in the hallway when he entered. Det. Leon said they told her to come out, she couldn't, and they eventually moved up towards her, cleared one of the rooms, and then were able to get her out.

Officer Jimmy Haas (Taylorsville City Police Department)

Protocol investigators interviewed Det. Haas who said he received notice that there was an operation, they needed people, and he went out. Det. Haas said he was told to meet at the senior living at 110th South and 700 East, and they debriefed there. Det. Haas said that at the debrief, they were told who the target was and were shown a picture of him. Det. Haas said they were told background information, that the target's grandparent lived at the residence and he had caused some issues in the past, that management was aware that he was there that day casing vehicles and called Sandy patrol to handle it. Officer Haas said he was told that when they made contact at the residence, he answered the door, they visibly saw him, and then he closed the door on them and told them to get a warrant. Det. Haas said that the U.S. Marshals then adopted a warrant for the target and they were going to execute that apprehension. Det. Haas said that the briefing was given by the team lead, Tyler [Davis], and the case agent, SPD Officer Thornton.

Det. Haas said his assignment was just a part of the stack entry team. Det. Haas said he was either fourth or fifth in the stack, in front of him was a Weber County officer [Det. Leon], that either Officer Thornton or DM Nelson was at the front of the stack, and that FBI who was behind him (he breached and moved behind). Det. Haas later clarified that it was shield, rifle, Weber County, himself, and whoever was behind him.

Det. Haas said that as they were approaching, they relieved patrol who was holding containment on the unit and they got a quick handoff debrief on status on the residence (he wasn't close enough to hear it). Det. Haas said that once patrol moved off, they set up the "stick" and made contact at the door. Det. Haas said they announced themselves clearly as "U.S. Marshals with an arrest warrant," and said that he believed it was Officer Thornton who was one of the closest to the door who was shouting. Det. Haas said they clearly identified themselves and they received an answer from inside who he believed was the target who said something to the effect of, "Get a search warrant." Det. Haas said they kept knocking for a short moment and one of them tried to open the door and there was some resistance on the door, it wasn't opening, and the breacher got called up and breached the door.

Det. Haas said that at that point, they were in front of the door, breached, and it was, being pushed open but there was some resistance on it. Det. Haas said he didn't recall what was causing the resistance but that he knew no one was standing behind it (he explained that from where the crack in the door was, at the hinge point, he could see a mirror that was behind the door). Det. Haas explained that there was a short brief entry that went in and opened up to the right side, in front was the living room and balcony, immediately to the right where it cuts hard at a 90 degree angle there was a hallway, at the end there was a bathroom and a few rooms, and that before the hallway on the right, there was the kitchen. Det Haas said:

As we marched in, . . . the wall came out and I was stopped right there. So I could see the hall, **I could see part of the kitchen, but target was tucked in so I couldn't see him.** But I could hear everyone shouting orders. And I believe [Officer Thornton] shouted that he had a knife, as in target had a knife. Shortly after, shots rang out, target fell, and that's when I saw him is when he started falling. **I didn't see the knife or him until he started falling.**

Det. Haas said that officers pushed in and the mom in the wheelchair started screaming and coming towards them, so they were trying to contain her, Officer Thornton held lethal cover on the target, and then he and the Weber County officer in front of him moved in. Det. Haas said that as someone stayed on lethal cover, he holstered his weapon and went up and secured the target in handcuffs. Det. Haas said that the knife was under him so they moved the knife out of the way. Det. Haas said that the target was not responsive, he checked for a pulse, and they called for medical. Det. Haas said he believed that the knife was a kitchen knife, but he didn't get a good look at it.

Det. Michael Roche (Weber County Sheriff's Office)

Protocol investigators interviewed Det. Roche who said that he and Det. Leon are on the VFAST North team, they were finishing up on another case, they were told they had another incident going on, and they volunteered and were given the address. Det. Roche said that they got out and briefed it. Det. Roche said he was briefed that the suspect had a felony weapons warrant and told how he got it, that the suspect had been called in for looking through cars, that the suspect was in the unit, and that at one point, he had walked out and made a motion and shouted some sort of threat at the officers that were holding containment.

Det. Roche said that when he got there, SPD was holding containment in the parking lot, and that when they entered the building, there were some SPD officers in the hallway holding the doorway. Det. Roche said that he was originally going to be shield cover, but they changed him out with another officer who had a silencer on his rifle, so he moved back and was fourth or fifth in the "stick" when they got up to the door. Det. Roche said he believed they tried a key, it wasn't working, they ended up using a ram and hit the door a couple of times, and it able to swing it open but not all the way. Det. Roche explained that he had moved back from the doorway to make room for the ram and then was fourth or fifth in the "stick."

Det. Roche said that they got the door open, they could see partially into the room through the doorway, they asked if they should push up through the room even though they weren't able to open the door all the way, and they said to get people in there. Det. Roche said they pushed in—shield, shield cover, Det. Leon, and possibly another officer in between Det. Leon and himself—and he was just in the doorway or just before the doorway about to enter and he heard someone say, "Drop the knife. Drop the knife," and then he heard multiple gunshots.

Det. Roche clarified that before breaching the door, they knocked and made announcements. Det. Roche explained that after they weren't hearing anything and he wasn't

coming to the door, they tried to breach it. Det. Roche explained that they knew his mom was inside with him and that she was an amputee and that they didn't know if she couldn't get out or if she was being told not to get out.

Det. Roche said he ended up entering and saw the suspect on the ground. Det. Roche said that the shield had turned the hallway where the mom was sitting in her chair, they were able to push up and clear rooms, and they were able to get her out.

Deputy U.S. Marshal Bryan Corbitt (U.S. Marshals Service)

Protocol investigators interviewed DM Corbitt who said that he was out on another case that they were wrapping up when their VFAST team leader, Tyler Davis, got a call from Officer Thornton, who is also on VFAST and who wanted their assistance on a case with a male that SPD had attempted to make contact with who had answered the door and then slammed it in their face and told them that they weren't coming in. DM Corbitt said that they got on scene and went to the briefing where Officer Thornton advised that the male was wanted for felon in possession (he had been found with a gun on him) and that uniformed patrol officers had had the place surrounded and he was coming out and making finger guns and acting like he was shooting at them. DM Corbitt said they decided they were going to aggressively knock and announce.

DM Corbitt explained that he was towards the back of the "stick" and explained that it was a small area. DM Corbitt said that they knocked and announced, nobody came to the door, and he heard a male voice from inside but couldn't make out what he was saying but assumed it was the target. DM Corbitt said that they tried a key the facility had given them, and the door was unlocked but would not open. DM Corbitt said he later found out that it had been barricaded with a cane. DM Corbitt said they had a breacher come up, the breach was ultimately successful, and it took several swings, and. DM Corbitt said he was towards the back of the stack and he heard someone, maybe DM Nelson who was on the shield, say, "Drop the knife, drop the knife," and he only heard one loud gunshot and then "shots fired."

DM Corbitt explained that he was in the hallway, just before the threshold of the door, and he entered after the shots fired. DM Corbitt explained that inside, he could see the living room which was right in front of the door, and that the apartment went off to the right. DM Corbitt said he saw the kitchen immediately to the right and that there was a hallway and the subject's mom who was in a wheelchair was at the end of the hall. DM Corbitt said that they were trying to clear the house, take care of mom, and tend to the individual who had ended up in the kitchen. DM Corbitt said that somebody went hands-on and cuffed him, and that he ended up with mom and helped get her out into the hallway. DM Corbitt estimated that there were about six of them in the "stick."

Agent Russ Neal (Immigrations and Custom Enforcement)

Protocol investigators interviewed Agent Neal who said that he was assigned to be breacher. Agent Neal said that as they approached, he took the back and waited for the call.

Agent Neal said that in the brief, he was told that the guy had made threatening gestures to the police outside during the course of the day, that perhaps he had been drinking, and that they didn't know if he had any weapons and so be cautious.

Agent Neal said that as he breached, it felt like there was a lot of resistance on the door. Agent Neal explained that he was in the back, they said "breacher up," he got up there and swung until the door opened, it took a couple times, and that when it did breach, it didn't even go all the way and just kind of cracked, and that they had to push it even further. Agent Neal said he then moved to the back to drop the tool and let the cover people get in.

Agent Neal said they held for a second at the door and were making callouts and telling him to come out with empty hands. Agent Neal said that he was towards the back of the "stick" and at some point, they decided they were going to move in. Agent Neal said they entered, and as he was at the doorway, he heard, "Drop the knife," and then the sounds of gunfire. Agent Neal said he was then able to move in enough to clear the first room and that it was a choke hold with the lady there in the wheelchair so he helped getting her outside.

Agent Neal explained that immediately when you come in the house, the door swings to the right, there was an open room and everything feeds to the right, with a kitchen in the first room where the encounter happened, and that there was a hallway continuing down. Agent Neal said that he only went in as far as the first entry room and had access to the back slider.

Agent Neal said that right after the encounter happened, they communicated that shots were fired and it looked like the guy was down. Agent Neal said that after they got the lady in the wheelchair out and made sure it was safe, and after they said the subject was down and secured, they called for an ambulance.

Deputy U.S. Marshal Tyler Davis (U.S. Marshals Service)

Protocol investigators interviewed DM Davis, the VFAST team leader, who said that at approximately 11:42 a.m., he was contacted by Officer Thornton who said he had a target for VFAST, a male with an active felony warrant and lengthy criminal history.²⁰ DM Davis explained that for VFAST to be involved, there are specific criteria which must be met, this form is called "560" and the male, Ian Anzer, met these criteria. Officer Thornton completed the necessary steps and VFAST agreed to come and serve the active felony arrest warrant.

DM Davis said he was briefed on scene with the other members of VFAST. DM Davis said he was told SPD patrol were called and told Mr. Anzer was on scene, and that Mr. Anzer had been trespassed and had an active felony warrant. DM Davis said that during this time SPD police officers were holding containment. DM Davis said that Officer Thornton told him that Mr. Anzer had a warrant for felon in possession of a weapon and had a lengthy criminal history. DM Davis said that prior to their arrival, he was informed Mr. Anzer had gone out onto the back

²⁰ This summary is based on the investigator's summary of the interview as the recording was not preserved.

patio area of the apartment and held up his hand to mime shooting at the officers. DM Davis said that SPD patrol had previously knocked on the door and Mr. Anzer had refused to come out.

DM Davis said they organized in a “stick” which means an order of officers to approach. DM Davis said they knocked on the door and made announcements identifying themselves as police and stating they had a warrant for Mr. Anzer’s arrest. DM Davis said that Mr. Anzer refused to come out and they made the decision to breach, and the breacher, Russ Neal, came forward and breached the door. DM Davis said it was barricaded with what appeared to be an elderly person’s walking cane.

DM Davis said they entered slowly, making announcements as they went. DM Davis said that the door opens to the living room, then there is a sharp right turn to the kitchen, and he heard loud commands to “Drop the knife” followed by gunshots. DM Davis said that Mr. Anzer was placed into handcuffs, they requested medical, and they cleared the house and removed Mr. Anzer’s mother who was in a wheelchair from the hallway.

Witness W. A.

Protocol investigators interviewed Mr. Anzer’s mother, who we refer to as “W. A.”, who explained that she had picked up Mr. Anzer and brought him over to her house, he wasn’t supposed to be there, and he’d been trespassed from the property. W. A. said that the cops knocked at the door, and Mr. Anzer didn’t want her to answer the door, so he stood in her way, and he didn’t want to open the door. W. A. explained that when she heard the cops break down her door, she came out of her room and into the hallway, and she heard the gunshots.

W. A. said she knew police were at the door because Mr. Anzer had looked out the peep hole. W. A. said that when police were first knocking at her door, she and Mr. Anzer were in her room, and they were talking. W. A. said that when the cops were knocking at the door, “I think he panicked” and explained that he hated cops. W. A. explained that when she was in her room, she just heard the knocking at the door, and Mr. Anzer said it was a cop and he didn’t want to answer the door and so he just stood in her room so that she couldn’t go answer the door.

W. A. explained that she was on her bed but then was in the hallway when they shot him, and that she got out of her chair when she heard the confrontation going on. W. A. explained that after hearing them break down her door, “Not even 10 seconds there was gunshots. Not even 10 seconds. It was so fast. It happened so fast. And I just barely got to the hallway. . .” W. A. said she just got out there and that Mr. Anzer was deep in the kitchen and she couldn’t see him but she saw the cops shoot him. W. A. further explained that Mr. Anzer was around the corner in the kitchen, and she couldn’t see him until he fell to the floor.

Physical Evidence

Protocol investigators inspected and documented the OICI scene, reviewed the 911 call, reviewed the dispatch recordings and call log, reviewed body-worn camera recordings, downloaded Officer Thornton's and DM Nelson's weapons, and reviewed the autopsy findings.

OICI Scene

Protocol investigators inspected the OICI scene located inside 735 East 11000 South, Apt. 116, in Sandy, a ground-floor apartment in the Silver Pines Senior Community. The apartment is accessible from inside the building, with the front door facing into the building's hallway, and the apartment has an exterior patio facing the parking lot to the north.

The front door of the apartment opens in and to the right. Investigators observed damage consistent with forced entry. Inside, a wall that extends to the back wall of the apartment is on the left, with the living room straight ahead (which has access to the exterior patio). The kitchen is to the immediate right, behind the entry wall and across from the living room; it is approximately 6 feet 10 ½ inches by 6 feet two inches (interior measurement). A hallway extends down the center of the apartment and leads to a bedroom, bathroom, and laundry room.

Investigators located Mr. Anzer's body on the floor of the kitchen, in a kneeling position with his hands secured in handcuffs behind his back. Mr. Anzer was wearing a sweatshirt, blue jeans, a red bandana tied on the top of his head, and a pair of black mechanics style gloves. On his person, investigators located a large, fixed-blade knife with a taped handle in a sheath in his rear right pants' pocket, a folding pocketknife in his front right pants' pocket, and two pill containers containing suspected illicit narcotics (one containing green plant material in his front right pants' pocket and another containing and unknown brown crystal substance in his front left pants' pocket).

Investigators located one .223 REM fired shell casing on the entryway floor, behind the front door, and two 9 mm fired shell casings on the kitchen floor—one near Mr. Anzer's head and one near a wooden chair. A fixed blade knife with white cloth tape wrapped around handle was on the kitchen floor, near the wooden chair. Investigators located a bullet fragment on the kitchen floor near Mr. Anzer's right foot, three bullet fragment from inside the kitchen sink, a fired bullet in a plant near the sink, a fired bullet from inside the wall behind the sink (recovered from a penetrating defect), and, from the kitchen floor near the sink and an electric wheelchair, the metal sink faucet with a perforating defect. Investigators also documented a walking cane on the floor in the entryway.

911 Call, Dispatch Radio Recording, and Call Log

Investigators reviewed the 911 call, the dispatch radio recording, and the dispatch call log relating to this incident.²¹ On December 1, 2023, at 11:00 a.m., the Silver Pines Senior Community property manager called 911. Dispatch then advised in the call log that a male who

²¹ Importantly, because the officers were not privy to the 911 calls, we did not rely on their contents for the purpose of our screening analysis.

was trespassed recently for trying to steal a car on the property was back on property and in an apartment. Dispatch further advised that it was possibly Ian Anzer and provided case numbers from earlier that year.

At 11:10 a.m., dispatched SPD officers began arriving on scene. Notably, dispatch noted that he was “refusing to open door” at 11:18 a.m., “hearing arguing inside apt” at 12:20 p.m., and “popped out back” and then “back inside” at 12:39 p.m., followed by “positive ID on subj.”

Dispatch noted that the radio channel was restricted at 1:09 p.m. and “shots fired” at 1:10 p.m. Fire was dispatched at 1:10 p.m.

Body-Worn Camera Recordings

Investigators reviewed body-worn camera recordings from SPD patrol officers relating to this incident, and in particular, recordings from officers who were in the interior hallway outside the front door apartment when VFAST arrived and the incident occurred.²² Notably, no recordings were available for any of the VAST team members, including Officer Thornton and DM Nelson.

In relevant part, the recordings capture that at about 1:08 p.m., VFAST comes down the inside the apartment building hallway, where several SPD patrol officers are positioned near the apartment front door. SPD officers show VFAST a floorplan of the apartment, advises that the mom should be in the bedroom, and tells them they don’t know which key. VFAST then approaches the front door of the apartment, with DM Nelson (shield) and Officer Thornton (rifle) at the front, as a patrol officer begins trying to open the front door using a key.

DM Nelson knocks on the front door with his handgun, and then an officer yells, “U.S. Marshals with a warrant. Come to the door,” and DM Davis announces over a megaphone: “Ian Anzer. Police. U.S. Marshals with the warrant. Come to the front door with empty hands. Do it now.” An officer then yells, “Open the fucking door,” and DM Davis announces over the megaphone: “Open the door. Now.” After trying the key, officers try to push the door but it remains closed, they observe, “He’s on the door,” and they decide to breach the door. The breaching officer, Agent Neal, moves up to the door and hits the door multiple times door with a ram until it partly opens. DM Nelson kicks the door several times and forces it open further (hinge right), while Officer Thornton remains positioned at the threshold to his left.

As officers shine lights into the apartment from outside, an officer is heard commanding, “Ian, step out with your hands up right now”, the officers observe that he’s not behind the door, and DM Davis commands over the megaphone: “Ian, this is the police, U.S. Marshals with the arrest warrant. Come out with empty hands. Do it now. We know you’re inside.” One of the officers asks, “Can we take this first room?” and DM Davis responds, “Yes. Take it.” DM

²² Notably, the recordings captured the responding officers’ initial attempt to make contact with Mr. Anzer, the officers talking through the door with a person inside the apartment (consistent with Mr. Anzer), the officers’ containment of the apartment from both inside and outside the apartment building, VFAST’s arrival, outside containment during the incident, etc.

Nelson enters first (shield), followed by Officer Thornton (rifle). From inside, they are heard yelling: “Ian!” “Come on.” “Drop the fucking knife, right now. Drop the fucking knife!”, as additional officers—SA Anson, Det. Leon (taser), and Det. Haas—file into the apartment and more officers are still in the hallway. The sound of three shots is then heard, after which officers begin calling out “shots fired.”

Notably, the time between when VFAST began announcements and when shots were fired is approximately one minute and four seconds. The time between when officers called out to Mr. Anzer after entering and when shots were fired is approximately 6 seconds.

Weapons Downloads

Protocol investigators examined and downloaded Officer Thornton’s Sons of Liberty 1776 M4 rifle, which had an inserted loaded magazine and was equipped with a suppressor. Protocol investigators counted one .223 cartridge in the chamber and 28 .223 cartridges in the inserted 30-round capacity magazine, for a total of 29 cartridges.²³ Presuming Officer Thornton began with a fully-loaded inserted magazine and an empty chamber, that count indicates he likely fired up to one round during the incident, which is consistent with the one .223 shell casing located on scene.

Protocol investigators examined and downloaded DM Nelson’s Glock 17 Gen 5 9mm handgun, which had an inserted 17-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 15 cartridges in the inserted magazine, for a total of 16 cartridges.²⁴ Presuming DM Nelson began with a fully-loaded inserted magazine and a cartridge in the chamber, that count indicates he likely fired up to three rounds during the incident. Notably, only two 9 mm shell casings were located on scene.

Cell Phone Messages

Protocol investigators reviewed text messages between a male who we refer to as “C. Z.” and W. A. from during the incident. However, because Officer Thornton and DM Nelson was not privy to the messages, we did not rely on their contents for the purpose of our screening analysis. They are mentioned here for the purpose of completeness.

Autopsy

Amanda L. Ho, M.D., with the Utah Office of the Medical Examiner performed an autopsy of Mr. Anzer’s body and determined that he died of multiple gunshot wounds. Dr. Ho identified (1) a gunshot wound of the nose, with an entrance wound at the left side of the nose, an exit wound between the eyebrows, and a trajectory of left to right and upward; (2) a graze gunshot wound of the nose; (3) a gunshot wound of the neck, with an entrance wound at the left

²³ Investigators also examined Officer Thornton’s two backup rifle magazines; one was loaded with 31 rounds (30-round capacity) and the other was loaded with 20 rounds (20-round capacity).

²⁴ Investigators also examined DM Nelson’s two backup 17-round capacity magazines, which were both fully loaded.

side of the jaw, an exit wound at the right side of the neck, and a trajectory of left to right and slightly downward, with no significant front-back deviation; and (4) a gunshot wound of the chest, with an entrance wound at the lateral left side of the chest, an exit wound at the anterior left side of the chest, and a trajectory of left to right, upward, and back to front.

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 an officer who used deadly force. In considering whether to charge a criminal offense against a law enforcement 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 or she 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 Officer Thornton's and DM Nelson's 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, DM Nelson provided a written statement, but Officer Thornton refused to be interviewed or provide a statement explaining his use of deadly force, as is his constitutional right. Without his explanation as to his use of deadly force, we don't know what his actual beliefs were or his reason(s) for his decision to fire his weapon. We are therefore left to infer the rationale for his apparent decision 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 an officer's use of deadly force on a member of our community.

In this case, VFAST was attempting to execute a felony arrest warrant for Mr. Anzer, who was inside the apartment with his mother and refusing to come out. VFAST knocked and began giving commands to Mr. Anzer to come out with empty hands, but he did not comply. After attempting to open the door with a key, VFAST forced entry and found that the door was barricaded. Upon entry into the apartment, DM Nelson and Officer Thornton discovered Mr. Anzer holding a knife and standing close to the cabinets in the dark kitchen, which was to the right of the entry, approximately 3-5 feet from officers, and they began yelling, "Ian!" "Come on." "Drop the fucking knife, right now. Drop the fucking knife!" before firing their weapons.²⁵

DM Nelson later explained in a written statement his decision to use deadly force and the threat he perceived:

Then out of the corner of the window port on my shield I observed a slight movement. **I moved my flashlight over to the kitchen area and observed a subject, ANZER. I saw ANZER standing in the dark kitchen hugged up close to the cabinets. ANZER was holding based on my training and experience in 9 years of law enforcement a tactical knife. The knife had a silver blade that was approximately 4-5 inches in length that could cause serious physical harm to myself or other officers. ANZER was holding the knife in his right hand with his right arm raised above his shoulder with the blade pointed in a position that a person would hold a knife to stab a person. I was afraid ANZER was preparing, based on his stance and arm position with the knife, to stab me or Officer Thornton who was standing next to me on my right side. ANZER was standing approximately 3-5 feet from me with the knife held in a position to ambush us as we came around the corner. I yelled at ANZER to drop the knife. ANZER didn't comply with the verbal command given and continued to stand with the knife raised above his shoulder. This was a rapidly evolving situation that included ANZER standing in an aggressive stance holding a knife that was in close proximity to Thornton and I, ANZER being armed with a deadly weapon, and ANZER's refusal to follow verbal commands. Due to the immediacy of the threat and in fear for my life and the life of Thornton, I fired my duty weapon to prevent ANZER from causing serious bodily injury or death.**

Based on his written statement, as well as the evidence before us, we believe that DM Nelson's expressed belief of the immediate and deadly nature of the threat posed by Mr. Anzer, when he encountered Mr. Anzer holding a knife and in a "position to ambush" them in the dark kitchen as they came around the corner, was reasonable. Additionally, while we do not know Officer Thornton's actual beliefs, given what we know from other sources of evidence, we believe it is reasonable for us to infer that Officer Thornton also believed he needed to use deadly force against Mr. Anzer to prevent death or serious bodily injury to himself and/or others when he and DM Nelson encountered Mr. Anzer in the kitchen and yelled commands to drop the knife, and

²⁵ SA Anson and Det. Leon, who entered third and fourth, similarly described Mr. Anzer standing approximately three feet from officers, but they did not see the knife until after he fell to the ground.

we conclude that such a belief was reasonable. We do not believe we would not be able to refute or overcome the legal affirmative defense of justification, and as such, a jury would find both DM Nelson and Officer Thornton not guilty of a criminal offense.

The totality of the facts in this case, taken together with reasonable inferences about Officer Thornton's and DM Nelson's decisions to use deadly force, would likely cause a jury to determine that their use of deadly force satisfies the elements of the affirmative legal defense of justification. Assuming their 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 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. Thus, 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 a charge against Officer Thornton and DM Nelson 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. Anzer 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 Officer Thornton and DM Nelson 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 a criminal charge.

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 Officer Thornton and DM Nelson for their use of deadly force, we would have to show evidence to prove, beyond a reasonable doubt, that either Officer Thornton and DM Nelson did not believe they needed to use deadly force prevent death or serious bodily injury (to themselves or another); or, that if they did believe they needed to use deadly force, that their beliefs were 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 Officer Thornton and DM Nelson 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 Officer Thornton and DM Nelson 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

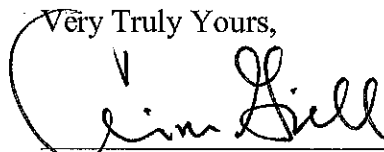
conclusion that Officer Thornton and DM Nelson could successfully argue that he reasonably believed his use of deadly force was necessary to prevent death or serious bodily injury to himself or another individual. In short, paying “careful attention to the facts and circumstances” of this case, and considering the totality of the evidence and reasonable inferences to be drawn therefrom, we conclude that Officer Thornton’s and DM Nelson’s 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 Officer Thornton’s and DM Nelson’s 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 Officer Thornton and DM Nelson for their use of deadly force in this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Sim Gill", written over a horizontal line.

Sim Gill,
Salt Lake County District Attorney