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February 6, 2026

Interim Chief Jon Arnold
Sandy City Police Department
10000 Centennial Pkwy, Ste. 111
Sandy, UT 84070

RE:	SPD Officer Brian Peters's Use of Deadly Force
Incident Location:	9151 S. Monroe Plaza Way, Sandy, Utah
Incident Date:	November 9, 2023
SPD Case No.:	23-57816
UPD Case No.:	23-118786
DA Case No.:	DA-INV-2023-2352

Dear Chief Arnold:

This letter addresses the November 9, 2023, use of deadly force by Sandy City Police Department ("SPD") Officer Brian Peters against a 16-year-old male, who we refer to as "M. P."

Officer Peters's discharge of his firearm 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 SPD. After the investigation, on December 14, 2023, 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

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).

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 9, 2023, at 11:38 a.m., a 911 caller reported that a suspicious Chrysler Voyager, with US government plates and a teenage driver, had stopped and asked for gas in her neighborhood in Sandy. SPD Officers Hartvigson and Bird were dispatched to the call and advised that it was possibly related to a stolen vehicle case from earlier that morning—a case in which a stolen Chrysler Voyager van had fled from officers.

At about 12:16 p.m., officers located the stolen van and began following it, without lights and sirens. Officers observed that the van failed to yield at multiple traffic lights. At about 12:22 p.m., officers lost sight of the van as it continued westbound on 9400 South after State Street. Officers continued to the area in an effort to cut the van off.

At 12:23 p.m., SPD Officer Bird advised over the radio that he had him at the light on 90th South and Monroe Street and was challenging. As Officer Bird approached, the van backed up, made a U-turn, and began traveling back south in the wrong direction of traffic. Officer Bird advised over the radio that he was “wrong way on Monroe, back south.” The van then hit a northbound motorcyclist and continued south on Monroe. Officer Bird advised over the radio of the accident with the motorcyclist and that he was “straight on Monroe, back towards the Classic Skating.”

SPD Officer Peters arrived in the area, with lights and sirens activated. After continuing south on Monroe Street and turning onto Monroe Plaza Way, Officer Peters advised he was in the area and didn't see him, and then asked a bystander where he was at. As the bystander pointed down the road, the van emerged from the end of the road and began heading northbound towards them at a high rate of speed. Officer Peters quickly pulled his vehicle forward and got out, with his handgun drawn. As the van approached, Officer Peters yelled, “Get on the ground,” and the van veered in his direction. Officer Peters fired at the van as it drove towards him and then continued past him.²

The van continued rolling forward as Officer Peters and another officer gave commands. After another officer used his truck to block the van's path, the driver, who was later identified as M. P., stepped out and raised his hands. Officers took M. P. into custody and began rendering medical aid. M. P. was transported to a hospital by emergency medical responders; however, he did not survive his injuries.³

During the protocol investigation, Officer Peters refused to interview, as is his constitutional right.⁴ Investigators interviewed Officer Pojoy, additional officers who were not

² Officer Peters advised of “shots fired” at 12:24 p.m.

³ M. P. was declared deceased at the hospital at 1:42 p.m.

⁴ Officer Peters has a constitutional right to remain silent and to be presumed innocent of any wrongdoing.

on scene during the incident, and civilians who witnessed the incident. Investigators also documented the scene and examined physical evidence, reviewed 911 calls and the dispatch call logs and radio recordings (for the OICI and related events), reviewed body-worn camera recordings and dash camera recordings, reviewed surveillance recordings, examined Officer Peters's weapon, 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 Peters for his use of deadly force, and a 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 Peters'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 him.

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

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...

- (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 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. 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 (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).

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).

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.

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 Officer Peters's use of deadly force, and the protocol investigation's findings were presented on December 14, 2023, 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 November 9, 2023, at 11:38 a.m., a 911 caller reported that she had noticed a suspicious Chrysler Voyager minivan, with US government plates and a driver that appeared 16-17 years old, driving through her neighborhood in Sandy and that he had had stopped and asked for gas.⁹ At 11:45 a.m., SPD Officers Hartvigson and Bird were dispatched and advised that it

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 confession).

⁹ The caller's neighborhood was in the area of 500 East and 10700 South in Sandy.

was possibly related to a stolen vehicle case that Officer Hartvigson had responded to earlier that morning. On the earlier call, at 7:31 a.m., SPD officers had been dispatched to a 911 call in which the caller reported that a government vehicle, a gray 2021 Chrysler Voyager van, had just been stolen from an army recruitment center in Sandy and that he was following him.¹⁰ The 911 caller continued to follow the van until officers located it,¹¹ and at about 7:53 a.m., South Jordan Police Department attempted to effectuate a traffic stop in on the van, but it fled; officers did not pursue.¹²

Officer Hartvigson requested additional units to help check the area, and Officers Gates and Thomas were also dispatched.¹³ At about 12:16 p.m., Officer Gates located the stolen van, and he and Officer Hartvigson began following it as additional officers—including Officer Peters—responded and attempted to get ahead of it with spikes.¹⁴ At 12:20 p.m., Officer Hartvigson advised that the van had failed to yield and turned westbound onto 9400 South from 700 East, and that Officer Gates was still behind it. At 12:21 p.m., Officer Thomas attempted to deploy spikes at 410 East; he then advised that he missed the spikes and that the van had gone through a red light at 300 East. At 12:22 p.m., Officer Gates advised that the van had continued straight on 9400 South at State Street, but that he had hit the red light.

After losing sight of the van, officers continued to the area in an effort to cut the van off, and at 12:23 p.m., Officer Bird advised that he was at 90th South and Monroe Street, getting out of his car with spikes. Officer Bird then advised that he had him at the light on 90th and Monroe and was challenging—at the time, the stolen van was in a northbound left turn lane on Monroe Street; Officers Peters and Pojoy, then activated their lights and sirens and then “drove code” Monroe. As Officer Bird approached the van on foot and yelled commands,¹⁵ the van backed up, made a U-turn, and began traveling back south in the wrong direction of traffic. Officer Bird advised over the radio, “He is wrong way on Monroe, back south.” The van then hit a northbound motorcyclist and continued southbound on Monroe Street.¹⁶ At 12:24 p.m., Officer Bird advised over the radio of the accident and that, “He is straight on Monroe, back towards the Classic Skating.”

Officer Peters arrived in the area, with lights and sirens activated, and continued south, past the wrecked motorcyclist and onto Monroe Plaza Way. Officer Peters advised that he was

¹⁰ The van was stolen from 814 East 9400 South in Sandy. SPD officers responded who responded to the call included Officer Gates, Officer Hartvigson, and Officer Olsen.

¹¹ The 911 caller followed the van through multiple jurisdictions—through Sandy, into Draper, on the I-15 northbound, and into South Jordan. At about 7:48 a.m., SPD Officer Glick located the vehicle in South Jordan.

¹² A marked South Jordan Police Department (“SJPD”) vehicle as well as SPD Officer Glick attempted to stop the vehicle at approximately 12600 South Bangerter Highway in Riverton.

¹³ After additional officers were dispatched, at about 11:51 a.m., Officer Hartvigson advised over the radio that when they tried to stop him “on the last one” he fled from them.

¹⁴ Officer Hartvigson located the vehicle at approximately 416 East 11100 South in Sandy. Officer Peters was dispatched at 12:17 p.m. At about 12:18 p.m., Officer Hartvigson said over the radio that it was the stolen vehicle from that morning.

¹⁵ As captured on his body-worn camera, Officer Bird commanded, “Car. Get out of the car now. Get out of the car now. Get out of the car now.”

¹⁶ The collision occurred at approximately 9075 South Monroe Street. The motorcyclist, a male who was later identified as J. W., sustained serious injuries from the collision.

in the area and didn't see him, and then asked a bystander where he was at. As the bystander pointed him down the road,¹⁷ the van emerged from the right side of the end of the street and began heading northbound towards them at a high rate of speed.¹⁸

Officer Peters quickly pulled his vehicle forward and got out, with his handgun drawn. As the van approached, Officer Peters began yelling, "Get on the ground," and the van veered in his direction. Officer Peters fired at the van as it drove towards him and then continued past him.¹⁹ Officer Peters then advised of "shots fired."²⁰ Officer Pojoy, who had stopped his vehicle behind Officer Peters, later told investigators that he saw the van coming back in his direction, he was going to step out of the vehicle, "**but being that the vehicle, the van, was going in my direction, thinking it was going to hit directly towards me, I closed my door and stayed, remained inside.**" Officer Pojoy explained that the van "started just accelerating back out as, like, if it was coming, trying to find an exit, in my direction," and that it was more in the middle of the road. Officer Pojoy further explained:

As the van's coming, looking for the exit, going northbound on the road in my direction, I start to try to get out of the vehicle, but as **I tried to get out of the vehicle, I see this vehicle approaching my way and I decide, "Oh, this car's gonna hit me." I get, I stay in my car and I hear the gunshots in front of me.**

Officer Pojoy further explained that as he saw the vehicle coming in their direction, he closed the door and then leaned to his right to brace for the impact but then heard the gunshots.

After shots were fired, the van slowed down as it continued forward. Officers Peters and Pojoy approached with their firearms and yelled commands, and Sergeant Colton, in a Ford F-150 truck, arrived and blocked the vehicle's path. Officer Peters then opened the driver's door and a male, who was later identified as 16-year-old M. P., stepped out as he raised his hands. Officers took M. P. into custody and began rendering medical aid. M. P. was transported to a hospital by emergency medical responders; however, he did not survive his injuries.²¹

Notably, as captured by his dash camera recording, Officer Peters began firing his weapon approximately eight seconds from when the van is first seen emerging back onto Monroe Plaza Way (from 9120 South).

Witness Statements

Officer Peters

¹⁷ The bystander told Officer Peters, "straight down and then left. Right there"; however, the van had actually gone down and then right. The van turned around inside the business complex at approximately 195 West 9210 South.

¹⁸ Monroe Plaza Way turns right at 9210 South and leads into a business complex.

¹⁹ The OICI occurred at approximately 9151 South Monroe Plaza Way.

²⁰ Officer Peters advised of "shots fired" at 12:24 p.m.

²¹ At the hospital, M. P. was declared deceased at 1:42 p.m.

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

Officer Pojoy

Protocol investigators interviewed Officer Pojoy who said he is a School Resource Officer. Officer Pojoy said that the information given by dispatch was that the stolen vehicle from an earlier incident (that there was a gray-colored or dark-colored van that was stolen earlier in the morning) was spotted from a suspicious activity. Officer Pojoy said that the last thing he heard was the direction it was going, which was northbound on Monroe. Officer Pojoy said he was nearby, so he started to make his way to it. Officer Pojoy said that the information that they had was a male driver inside that van, and it was confirmed that it was the same stolen vehicle from earlier.

Officer Pojoy said he had heard the stolen vehicle call from earlier in the day and explained that the caller had called in saying that he was behind a stolen vehicle with government license plates and he was going westbound (as the call came in, he was at a school responding to another call). Officer Pojoy recalled that the stolen vehicle was going westbound until he got to State, that detectives and other units were trying to follow behind it, it got to West Jordan, and that once they got to West Jordan, a traffic stop was initiated, but the vehicle fled (from both a SPD detective and West Jordan Police Department). Officer Pojoy clarified that they let it go and nobody pursued. Officer Pojoy said that the earlier incident had started at about 7:30 a.m. and that it was terminated before about 8:00 a.m.

With respect to the second incident, Officer Pojoy said he heard that the car was located and officers were already starting to get behind it, trying to stop his movement or trying to get spikes set up. Officer Pojoy said that as they were following, they were calling out what directions they were going, and it eventually ended up going near him. Officer Pojoy said he remembered hearing it was on 94th and Monroe, so he started heading towards the freeway (the 90th South entrance for the I-15. Officer Pojoy said that as he started going there, he got to State Street and heard that it was going northbound on Monroe (so he was going to exit right where the freeway's at). Officer Pojoy said that as he started getting closer, he heard over the radio one of the other officers start challenging it, so he activated his lights since he was only a block away (he was at State Street and 90th), and he crossed State Street with his lights and sirens on. Officer Pojoy said he heard he was going back southbound on Monroe. Officer Pojoy explained:

As I went into Monroe, I see one of the other officers, Officer Peters, in his vehicle in front of me, all the way down, and a civilian, . . . on the west side of the street pointing in the direction of where the warehouses are at on Monroe. And, as I look, **I see the van coming back in my direction.** I was gonna step out of my vehicle, but being that the vehicle, the van, was going in my direction, thinking it was going to hit directly towards me, I closed my door and stayed, remained inside. When I heard gunshots. After the vehicle passed my driver's side door, opened the door. I saw the vehicle was slowly moving away from me,

so I began to challenge the driver, assisted the other officers on pulling him out of the vehicle, put him on the ground, the driver.

Officer Pojoy said he ended up putting away his handgun and then placed his handcuffs onto the suspect. Officer Pojoy said he immediately assisted rendering aid (he saw that there was blood coming from his shoulder) and he started cutting clothes away until medical took over.

Officer Pojoy clarified that he went west down 90th and then went south on Monroe, turning left. Officer Pojoy said that one thing he forgot to mention was that he heard on the radio that a motorcycle was just hit and the suspect continued fleeing, going southbound on Monroe, towards the arcades/fun plaza/Classic Skating. Officer Pojoy explained:

So I hear that and I see the motorcycle on the middle of the road, but I kept on going southbound towards the arcade where I see another cop over there, another cop car over there, towards that area, so that's where I started heading towards. As I'm heading towards that area, the suspect car is even more south than my position, but that's when I saw the pedestrian pointing in the direction of where the van came out, which was at the very end of that road. There is a dirt patch, it's used for parking and stuff like that, for warehouses and also for Real game events. That's where the van came out from. And **it started just accelerating back out as like if it was coming, trying to find an exit, in my direction.**

Officer Pojoy clarified that it was going northbound, in his direction, but from his view, it was more in the middle of the road (not just in the other lane but in the middle). Officer Pojoy further explained:

As the van's coming, looking for the exit, going northbound on the road in my direction, **I start to try to get out of the vehicle, but as I tried to get out of the vehicle, I see this vehicle approaching my way and I decide, "Oh, this car's gonna hit me." I get, I stay in my car and I hear the gunshots in front of me.** From there I look to see where the vehicle was at. I see that it passes. I immediately step out of my vehicle.

Officer Pojoy said that there was one police car, Officer Peters's, between him and the suspect vehicle, but Officer Peters was not in the vehicle. When asked if he could see where Officer Peters was, Officer Pojoy said he was somewhat in the middle of the road but that his focus was more on the pedestrian that was pointing in the direction (who he believed was informing Officer Peters of where the suspect had gone). Officer Pojoy explained: "[A]s I see the vehicle coming in our direction, **I closed the door and then leaned to my right to brace for the impact, but then I hear the gunshots.**" When asked how close the suspect vehicle was to him when he realized he was about to get hit, Officer Pojoy estimated anywhere from 30 feet. Officer Pojoy confirmed that the other officer car was in between that and said, "so roughly pretty close."

Officer Pojoy said that he had his windows closed and so he didn't really hear much outside. Officer Pojoy explained:

I could see. . . Officer Peter's car in front of me, which was around 10 feet away from me, in front. I was at an angle, slightly, towards the left, closer towards the middle of the lane. **And I could see the van, approaching in my direction, northbound technically. And I could hear, I could hear something loud like a command, but I don't recall what it was. Immediately after I hear that, I hear the gunshot fire.** And I looked to make sure that the car didn't hit me, as I see it pass right to my left.

Officer Pojoy further explained that the suspect car was coming when he braced himself, he was in his car, and Officer Peters was in front of his vehicle, towards the middle. Officer Pojoy explained: "as the car approaches here, by his vehicle, I braced for impact and I could hear the gunshots. Once it passes this direction, I started looking, and I see that he is already going past my vehicle, but swerving to the right." Officer Pojoy explained that the witness was way up, pointing in the direction of the vehicle, and explained that the vehicle was further away when he pointed, "when I could hear the vehicle going towards northbound at a higher rate of speed. Officer Pojoy explained he could hear slight engine noise (which he could hear even with his window rolled up), described it as "engine revving up," and confirmed that he could see the vehicle move, "going in my direction." Officer Pojoy recalled that Officer Peters was "in front of his vehicle, a little bit towards the middle of the road."

Officer Pojoy said he didn't see the initial shots because he was more focused on the vehicle. Officer Pojoy explained:

I see the vehicle coming towards me. I ducked, once again, to brace for it, not being able to see in front of me of what, where the vehicle was going.

Once I hear the first two shots, I end up raising my head back up to see where it was at. That's when I see the vehicle starting to swerve away from my direction. And that's when I still see another shot go into the vehicle from Officer Peters. And I waited until the vehicle cleared my way and no more shots were being fired before I opened my door.

Officer Pojoy said he couldn't recall how many shots were fired. When asked if he knew where the suspect vehicle was at when the initial shots were being fired, Officer Pojoy said he couldn't say exactly because he had ended up ducking downwards. Officer Pojoy explained that he was still in his car but he had his hand on the door to open it up to get out when he saw the car coming that way, so he slammed it back as he ducked down. When asked about the positioning of Officer Peters and the suspect vehicle, Officer Pojoy confirmed that Officer Peters was kind of in the middle of the road and so was the suspect vehicle. When asked what he thought about that, Officer Pojoy said he was more focused on the vehicle. Officer Pojoy confirmed that he saw Officer Peters directly in front of the vehicle and that the vehicle was driving towards him. Officer Pojoy explained:

So the angle, it was, because it was my vehicle, his vehicle to the right, and then Officer Peters right in front of me. So he was, like I said, I was more in the middle

of the road. So was he. **And so the vehicle coming in our direction. . . He was pretty much in the way of the vehicle as the vehicle was coming towards us.**

When asked how he knew that officers were challenging him, Officer Pojoy explained that the radio, he believed it was Officer Bird, called out saying, "Challenging one." Officer Pojoy explained that Officer Bird was stationed already at Monroe and 90th because the vehicle was going to go northbound and so he was setting up spikes. Officer Pojoy explained that once Officer Bird announced that he was challenging, Officer Bird said that the vehicle was going southbound, and that's when he initiated his lights and went towards Monroe. Officer Pojoy said that as he made his left turn, he could see Officer Bird on the sidewalk running southbound, calling out that a motorcyclist got struck. When asked if there was any more radio traffic as he was driving down Monroe, Officer Pojoy said he did not recall any. Officer Pojoy said that he did not put out any radio traffic (he was trying to look for the suspect). Officer Pojoy said that as he was driving down Monroe, he witnessed the motorcycle on the ground (in the #1 lane, but he didn't see the driver), that there was a vehicle south of the motorcycle and it looked like someone was running up so he continued.

Officer Pojoy further explained that after the van tolled past him, he exited his vehicle, drew his handgun and went straight to the driver "'cause it was still creeping northbound, but it was starting to slow down.'" Officer Pojoy said that as he approached the vehicle, he challenged the driver as well, giving commands to stop the vehicle (it was still rolling) until he saw a police truck get in front of the vehicle and stop, and so he waited for the vehicle to stop going any further northbound. Officer Pojoy said that once the vehicle was completely stopped, Officer Peters opened the door in front of him and he proceeded to grab the suspect and pull him out onto the ground, holstered his handgun, and put his handcuffs on him. Officer Pojoy said he immediately started cutting clothes so they could render aid (he saw an entrance wound at his upper left shoulder blade area but no exit wounds). Officer Pojoy said he left medical once they arrived to start taking over. Officer Pojoy said that medical was luckily really close by.

When asked if the suspect said anything to him, Officer Pojoy said that the suspect was silent, and he explained that he was breathing and conscious, just not responding to any questions. When asked about verbals given to the suspect, Officer Pojoy explained that he gave verbals when he stepped out of his vehicle and challenged the driver, giving commands to stop the vehicle multiple times; that once the driver's side door was opened, he gave commands saying "step out" but immediately grabbed on and pulled out the suspect; and that once the suspect was on the ground, he gave a command of "give me your hands" to put his handcuffs on.

Officer Gates

Protocol investigators interviewed Officer Gates who explained that the week prior, they got a call for an active burglary, he responded to the call, and he found that M. P. had gone into a garage, the wife saw him getting into a truck, asked what he was doing, and he took off running. Officer Gates said that the husband followed M. P. to a library where he gave up and they took him into custody and took him over to detention. Officer Gates said that the DA declined the case because he'd had an assessment.

Officer Gates said that that morning, he and his partner got a call of a vehicle hit against a pole and left there, they went out there, a F-350 was backed into a pole and no one was there. Officer Gates said he reviewed camera footage and **recognized M. P. exiting the vehicle, walking away.**

Officer Gates said that about an hour later, they got a call from the Army Reserve that one of their vans had been stolen. Officer Gates said they caught up to that, started following it all the way over in South Jordan, Bangerter Highway, etc. Officer Gates said they tried to light it up and stop him, but he didn't stop. Officer Gates said they terminated the pursuit, and they all went back.

Officer Gates said that to this call, a lady called in and reported a suspicious vehicle with a guy out there asking for gas money, looked kind of young, driving a government van, and she asked him what he was doing driving it and he said it was his dad's and he was learning to drive. Officer Gates said that with the government plates and the same make and model van, it was probably their guy. Officer Gates said they went to the area, started looking around, didn't find it, and so he headed over to a foster care in Sandy where he was supposed to be. Officer Gates said that as he was driving, he was checking the streets he was going by and he saw a vehicle with government plates sitting parked on the curb line. Officer Gates said he flipped around and that as he flipped around, the vehicle pulled out in front of him.

Officer Gates said that they got behind him, followed him all the way down to 700 [East], took a left there, 700 [East] going northbound, 94[00 South], he's doing 35-40, nothing, he was in the other lane and he didn't know he was there, just cruising along. Officer Gates said they got to 94[00 South], the stolen van got in the left turn pocket to go down from 700 East to go back west on 94[00 South], waited for a light to turn red, and then took off. Officer Gates said he made the light with him but believed that the suspect then knew he was there. Officer Gates said that speeds picked up, tried to spike him but he went around that, tried to spike him again but the spikes didn't deploy properly and he went around those too. Officer Gates said that the suspect went all the way down to State, that State was on a red from 94[00 South], and the van just blasted right through it. Officer Gates said he stopped (there were a lot of cars), the van didn't hit anything and no one hit him. Officer Gates said the suspect went down 94[00 South] continuing westbound, and that it kind of went down a hill and so they lost sight of him. Officer Gates said that they didn't know where he went after that and explained that it just T's at Monroe and they didn't know if he went back south or north.

Officer Gates said they then heard Officer Bird say, "Hey, challenging one down here on Monroe. He is going down Monroe." Officer Gates said they all took off that way and went to there. Officer Gates said:

I go around the corner and as I go around the corner, [Officer Bird] is like, "Hey, just hit a motorcycle." I see the motorcycle's down, [Officer Bird]'s there. I see him take a right and go down this little side road next to the skating center. **And I go around that corner and then there are two other officers already there, school guys. So right when I come pulling up, I see the van coming back**

down, kind of rolling like a mile an hour along the side. And then two patrol cars, it's kind of trying to fit through here. Shots go off. I stop the car right there. Jump out. Car is still rolling. I can still see him holding the wheel, trying to sneak through. Everybody's yelling at him.

Officer Gates said he drew down on him, both officers were on the B-pillar, the suspect was starting to turn, officers were trying to get him to stop, everybody was yelling, and he wasn't stopping. Officer Gates said that "then he just kind of rolls," one of the officers went to the A-pillar, the sergeant came up and put his truck right in front of it, and then he just kind of rolled into the sergeant and then he couldn't go anywhere anymore. Officer Gates said that officers pulled him out of the car and as they did so, he went over the top of him, cleared out the vehicle, it was all cleared out, turned around, and he was on the ground and they were putting handcuffs on him, so he immediately started going into medical.

When asked if he saw the shooting, Officer Gates clarified that he could hear it and could see the rounds going off glass and stuff. When asked about when the vehicle was rolling northbound, Officer Gates said that the officers were all to the side, on the B-pillar, next to him, yelling at him to stop the car. Officer Gates clarified that that was after the shots were fired. When asked how close the vehicle was to the officer that was firing, Officer Gates said:

Yeah, I could see him. I thought, I thought he might have got hit by the car 'cause the gap between the SUV where he was and the van was like this far. It was really narrow, and he was behind the van. I thought, and he like, escaped through there. It was close. Yeah, it was close, I didn't know if he got hit with it 'cause he was behind it, he never, I never saw him back in the middle of it again. I don't know where he went after that. I went to the van. And I remember I could see him.

Officer Gates said he continued on with medical with Fire there. When asked how far away he was when the shots went out, Officer Gates estimated 10-15 yards away, "pretty close."

Sergeant Colton

Protocol investigators interviewed Sergeant Colton who said that that morning, they had a stolen car, they followed it for a while, it went out to Bangerter Highway, South Jordan Police Department tried to light it up, they had some unmarked vehicles behind it, it fled, and he called it off.

Sergeant Colton said that when he was at lunch on 94th South and Seventh East, he heard Officer Hartvigson call out that he had the same vehicle and he was coming northbound on Seventh East. Sergeant Colton said he asked him if was the same one from that morning and Officer Hartvigson confirmed that it was. Sergeant Colton said that then they got to 94th South and Seventh, made a left turn, and Officer Hartvigson said the suspect ran the red light (so Officer Hartvigson wasn't able to continue following). Sergeant Colton said that as it went down

94th South, a couple of their officers said they had spikes and would set up on David Street [410 East], and then they tried [to spike the suspect vehicle] but it didn't work.

Sergeant Colton said that at that point, he and Lieutenant Tyson got in their cars and started going down 94th South, went through State Street, and he had a green light and they (other officers) were a little way above them. Sergeant Colton explained that they knew the road "T"-ed and that it could either go north or south, so they had an officer start setting up spikes at 90th South and Monroe and one down by Sego Lily, and the suspect vehicle happened to go northbound. Sergeant Colton said that a few seconds later, they heard Officer Bird call out that he had spikes out, but he was challenging one. Sergeant Colton said that then he and a bunch of them on 94th South all lit up "code" and started heading that way.

Sergeant Colton said that then as he came around by Classic Skating, they said he had gone southbound, head-on with a motorcycle, had just hit a motorcycle and then went southbound kind of by the Classic Skating (he wasn't sure if they meant he had got out and was running southbound and a couple of them thought for a minute that he was on foot). Sergeant Colton said that as he came around to go onto Monroe Plaza (right there with the business district and Classic Skating), as he came around the corner and as he was pulling up, that's when he heard gunshots.

Sergeant Colton said he could see the car and the officer standing in the road, and he wasn't sure if it was them shooting or him shooting and that at first, he didn't even know the suspect was in the car. Sergeant Colton said he then saw the suspect still in the driver's seat, and the van was rolling slowly as they were still challenging him so to stop the vehicle, he pulled his truck up in front of him and kind of went nose-to-nose and rested it against his so it came to a stop. Sergeant Colton said he then got out and went around to the side as the suspect was still in the driver's seat. Sergeant Colton said they extracted him out, got him on the ground, put him in cuffs, and then he noticed the suspect's left shoulder and saw some blood staining. Sergeant Colton explained that they then began providing medical aid.

Sergeant Colton clarified that when he came around Monroe Plaza, he saw two officers and thought it was some of his patrol officers (he explained that Officer Pojoy and Peters are both youth officers). Sergeant Colton said that as he started coming around, he started hearing the gunshots go off and he could just see two officers kind of in the road facing the van as it was slowly still moving and they had their weapons drawn on it and were yelling to stop and show hands. Sergeant Colton said that as they were doing that, he was coming in and kind of "nosing" as the van was still coming. Sergeant Colton said that the driver was kind of moving around and was kind of erratic in the driver's seat as he went nose-to-nose with it. Sergeant Colton said that as he got out, all he could see was those two in the road, and then Officer Gates, who he believed arrived right before him, was helping do medical and cleared the car. Sergeant Colton clarified that he didn't see them actually firing and that he just heard it as he was coming around the corner, and then he could see the vehicle with the windows shot out. Sergeant Colton said that by the time he went nose-to-nose with the suspect vehicle and got out and went around the back of his truck, they were already starting to pull him out.

Officer Bird

Protocol investigators interviewed Officer Bird who said he was on another call, heard something about a stolen car, knew that they'd been looking for it, officers were following, and they were looking for officers to set up spikes. Officer Bird said he heard 90th and Monroe and so he came up 90th, heard they went through State on 94th, and then got an update that the vehicle was going north on Monroe. Officer Bird said he turned around and left his car at 90th and Monroe, grabbed his spikes, got out of the car, saw the vehicle coming towards 90th from south on Monroe, and the car pulled up into the number one turn lane to go west (the vehicle was northbound on Monroe at the light at 90th). Officer Bird said he kind of tried sneaking up on it to throw spikes under, the suspect saw him, and so he challenged him. Officer Bird said the suspect backed up, turned around, started going south on Monroe, the wrong way. Officer Bird said he saw a motorcycle coming around the corner and the vehicle went head-on into the motorcycle.

Officer Bird said he ran over to the motorcyclist, there was another car there, and that about 30 seconds after he got to the motorcyclist, Fire pulled up. Officer Bird said that Fire jumped out and were working on him and he heard some shots. Officer Bird said that then he went running towards that, and then when he got there, the individual was in custody and they were administering first aid.

Officer Bird explained that when he challenged the suspect, he pulled his gun out and told him to show him his hands. Officer Bird recalled that at some point he ditched his spikes. Officer Bird clarified that he never deployed his spikes. When asked about the suspect's reaction when he pulled his gun, Officer Bird said that the suspect just looked at him and that he put the car in reverse. Officer Bird explained that the car was stopped, he kind of came up at an angle, he saw the suspect looked at him, he thought that's when he drew his gun, and the suspect put the car in reverse and backed up. Officer Bird said that then the suspect flipped around and went south. Officer Bird explained that after flipping around, the suspect drove about 30-40 yards before he went head-on with the motorcycle. Officer Bird said that at that point, he had his overhead lights on and he was parked in the number one eastbound lane on facing westbound on 90th, just east of the intersection of Monroe. Officer Bird clarified that he challenged the suspect before he threw the vehicle in reverse. When asked about the time between the challenge and the shots fired, Officer Bird estimated a minute or two.

K-9 Officer Thomas

Protocol investigators interviewed K-9 Officer Thomas who said that that morning, he wasn't involved but heard officers follow a guy out through South Jordan and he fled and officers lost him. Officer Thomas said that then he heard the dispatch of a suspicious vehicle on 10735 South and about 450 East. Officer Thomas said he wasn't sure how they connected it, but Officer Hartvigson started talking about being the same kid and so he went over to that area and was just looking around the neighborhood for him. Officer Thomas said they got over there, he couldn't find the van in the area, and so he went down to State Street and was driving away and when he got to about 102nd and State, Officer Gates called that he had found the suspect going east on 110th and about 450 East and was going eastbound. Officer Thomas said that then he

turned south on Seventh East and he thought maybe he could intersect him at 9800 South and Seventh East and that he had spikes. Officer Thomas said he couldn't get there in time and decided to go down David Street [410 East] in case he came down 94th. Officer Thomas said he got there just barely in time, he couldn't get set up like he wanted to, the suspect came past, and he threw his spikes and missed. Officer Thomas said that then he saw the suspect run through the red light at 300 East, going westbound, and that was the last he saw him.

Officer Thomas said he then heard radio traffic about everything going on down on Monroe. Officer Thomas said that when he heard the accident with the motorcycle, he went lights and sirens to that. Officer Thomas said that before he could really even get started, he heard the "shots fired" called out. Officer Thomas said that when he got into the area, there were already a lot of officers over where the suspect was shot, but there was hardly any down by the motorcycle crash, so he went down there. Officer Thomas said that the victim was still there and explained that the Fire Department came on that crash right after it happened and were already rendering aid. Officer Thomas said that the motorcyclist was coherent and told him that a minivan had come head-on with him.

When asked about the intersection he threw spikes, Officer Thomas clarified that it was 9400 South and David Street, from the south side, and the suspect was going westbound. Officer Thomas said that when he threw the spikes, he left room for the suspect. Officer Thomas said that when he saw the suspect run the red light, Officer Gates was behind him, but not lights and sirens, and was about 100-150 yards behind in a marked vehicle. Officer Thomas said he wasn't sure if the suspect even knew Officer Gates was there and that he thought he ran because he saw him throw spikes. Officer Thomas said that the suspect knew he was an officer (he had his vest and everything on), and that as he drove around the spikes, he looked at him. When asked if he had any contact with the suspect, Officer Thomas said he did not, other than him driving past him, that he had already seen a picture of him, and it was the same guy in the picture. Officer Thomas said they had arrested him a week ago for stealing cars and burglarizing houses.

Officer Hartvigson

Protocol investigators interviewed Officer Hartvigson who said that that morning at about 6:30 a.m., he got a dispatch on an abandoned vehicle crash, went over to it, and knew as soon as he got there that it was a stolen vehicle (a truck was in a parking lot, backing up into a light pole, and had its flashers on). Officer Hartvigson said that as he tracked down the registered owner, Officer Gates had a city employee pull a video. Officer Hartvigson said that Officer Gates recognized the driver because he had dealt with him the week prior on a couple other stolen cars and a burglary.

Officer Hartvigson said that as he finished up that, they got another stolen vehicle report where a guy was following a vehicle that was stolen from the army recruiter's office. Officer Hartvigson said that they got behind him, ended up following the van all the way out to Bangerter Highway and 134th where South Jordan Police Department tried to stop him and he fled. Officer Hartvigson said he then went to the driver's last known address, a halfway house in Bluffdale, and the car wasn't there so he came back to Sandy and started getting ahold of the

company who the first truck belonged to and went and talked to the army recruiter to get a statement from him.

Officer Hartvigson said that he then got dispatched on a suspicious vehicle call where a lady called in and reported a guy driving around in a van with government plates on it, asking for gas money. Officer Hartvigson said the lady said she'd asked him what he was doing driving a vehicle with government plates, and he'd said it was his dad's and that he was just drive training. Officer Hartvigson said that the lady was able to send him a photo of him in the car driving as she was talking to him and so he put the photo out with the patrol shift.

Officer Hartvigson said he then started driving around through the neighborhoods and then Officer Gates said that he had the car and they were east on 110th. Officer Hartvigson said he was in the neighborhood just below him so he pulled out, got behind him, and they went up and made a left turn from 110th to Seventh East and started going northbound. Officer Hartvigson said he started giving call-outs, they didn't light him up, and didn't do anything. Officer Hartvigson said they were trying to set up spikes so that when they did light him up, they could spike him if he decided to run. Officer Hartvigson said they went northbound on 7th East, they got to 94th, and he decided he was going to make a left turn on 94th. Officer Hartvigson said the suspect got in the left turn lane (on 94th South), the green arrow turned, a few cars in front of him went through, the light changed solid red, and he ran the red light. Officer Hartvigson said that Officer Gates was able to follow him through, so they continued to follow. Officer Hartvigson said that K-9 Officer Thomas was set up on 94th and David [410 East] and tried to spike him but the spikes didn't deploy all the way.

Officer Hartvigson said that they continued to follow him down 94th, he was a little bit behind because he got stuck in traffic, and that once they hit State Street and 94th, the suspect ran the red light on State Street. Officer Hartvigson explained that 94th goes up and then down the hill and so they lost sight of him. Officer Hartvigson said that that's when he got on the radio and asked for a unit to go to 90th and Monroe and another unit to go down to Sego Lily and Monroe since there were only two ways you can go from there.

Officer Hartvigson said that as he hit the bottom of 94th and got to Monroe, Officer Bird called out, "I'm challenging one." Officer Hartvigson said he turned on his lights and sirens, started "going code" there, got around by Classic Skating, and got information that he was headed back southbound through Classic Skating. Officer Hartvigson explained that where the shooting occurred, Monroe Plaza, if you go down it dead ends but there's a little street that curls back and goes into a bunch of mechanic shops. Officer Hartvigson said he flipped a "U" on Monroe, went back up, and ran through there since that was the only way he could come out. Officer Hartvigson said that when he pulled up, officers were pulling the suspect out of the car and cuffing. Officer Hartvigson said that he did not hear shots fired and clarified that he was not there when the shooting occurred (he heard it called out on the radio).

When asked if the van involved was the van that was stolen from the army recruiters, Officer Hartvigson that it was. Officer Hartvigson explained that as they were following, they decided to set up so they could light him up and spike him (because he'd ran that morning), and

that they hadn't even lit him up when he took off through the red light and that nobody was pursuing. Officer Hartvigson clarified that the first car (from 6:30 a.m.) was stolen and crashed down by one of their public works buildings down by the cemetery and that he'd backed into a light pole. Officer Hartvigson explained that Officer Gates reviewed the video with the employee, recognized the driver, and told him he was M. P. (Officer Hartvigson didn't know him) and that he'd arrested him last week. Officer Hartvigson said that when he went back and talked to the army recruiter after they'd followed him (in South Jordan), the army recruiter gave him a description of the suspect that matched what M. P. was wearing in the video from that morning when the truck was abandoned. Officer Hartvigson said that when he got the photos from the lady on the latest call, Officer Gates confirmed it was M. P.

T. L.

Protocol investigators interviewed a male who we refer to as "T. L." who said he was sitting in his car for lunch, noticed a city worker that was out there, and then saw a van coming southbound, "flying through" the wrong way. T. L. said he had his window down, with his AirPods in, was sitting there, and was like "slow down." T. L. said he started to hear sirens and stuff, and at that point, was out of his car because he could see all the cops coming. T. L. said that the city worker in front of him and himself were flagging the officer down to let him know which way. T. L. said that the officer stopped and rolled his window down and asked, "Where did he go?" and he responded, "He went that way." T. L. said that by the time they both looked to see, the suspect had already turned around and was heading the other direction (because there was a dead end).

T. L. said it happened really fast, but the officer saw that that was the guy, pulled forward 5-10 feet, parked his car, got out, drew his weapon, and screamed at the guy, "Stop the car, stop the car." T. L. said that the guy had no intention to stop and wouldn't have. T. L. said that at that point, he was standing outside his car, 5-10 feet away from him, and then the officer opened fire. T. L. said he realized what was going on and ran and hid behind a sign. T. L. said that within that time, other officers trailing behind him came to his aid. T. L. recalled that the guy was screaming after he got shot and believed that officers had to pull him out of the car.

T. L. explained that it was "within that same frame" that he told the officer "He went that way" and was "all of a sudden pointing at him" because he had flipped around. T. L. said the officer drove not even 10 feet forward, came to an abrupt stop, opened his door and then drew out his gun and then kind of had it behind his door. T. L. said that the police vehicle was an SUV and had lights on.

When asked if there was enough room for the guy to have gone around him, T. L. explained:

No, 'cause, so you have all those cars including mine on the side of the road, and then you had him kind of in the middle, and the way he parked was kind of to build like a barricade almost, like he wasn't like completely 90 degrees, but the officer had parked kind of like at a, or maybe he did, like, the way he opened the

door and the way that I saw the vehicle coming, I was like, "There's no way he's getting through, unless he, you know."

T. L. explained that it is "tight" and that "with cars on both sides, plus him like two, you know, two-thirds in the middle of the road, plus with the other guy, like, I don't think he, I don't think he could have made it through without it at least like taking off his mirrors and, you know, hitting his door or something.

T. L. explained that the guy was "hauling" or he was "getting up to speed," and that "you could tell he was ramping up to speed to like do some damage." When asked if he heard him rev up the van, T. L. explained, "he was like kind of coasting once he saw us" and that he "could tell that he was like getting on it." T. L. said that both the van's windows were up. T. L. explained, "it all happened really fast and [the officer] made a judgment call. . . maybe I could have jumped out of the way or something. But I think he did every, because you have to think of all the people that were behind him and the city worker on that side too. Like, he could have done, he could have done some damage to some people for sure, so." T. L. said that other officers were behind him, but they hadn't got out and set up, and that "he was definitely like the first closest one there and he did what he, what he could to, to stop any further."

When asked if he saw him hit the motorcyclist, T. L. said he did not. T. L. said he thought that the officer definitely kept him and other people out of danger. When asked how fast the van was going, T. L. estimated 25, 30, maybe in the ballpark of 40 miles per hour.

I. L.

Protocol investigators interviewed a male who we refer to as "I. L." who said he was at work at lunch eating in his car, parked where the road dead-ends. I. L. said he heard a crash, looked up at the intersection, and didn't see anything. I. L. said that all of the sudden, he saw a minivan "come ripping down the road, and it's toast, like the whole front-end is smashed, it's smoking and dripping fluids and everything." I. L. said he was looking over his shoulder and then heard sirens, looked up and saw red and blues down by 90th, and then saw a couple guys get out and start waving officers down. I. L. said that at that point, the officers drove down the road and stopped to talk to one of the guys who waved them down. I. L. described:

[A]t that point, directly behind me, within arm's reach the guy comes around the corner, sees that officers are there—and he's this far away from my vehicle—sees that the officers are there, **pauses just for a brief second, and then floors it, straight towards the officers.** And they're yelling commands, and the vehicle gets there, and "pop pop pop pop pop." Stopped, they pull him out, cuff him. . .

I. L. said that when he heard the crash, it was audible, even with his windows up. I. L. described how the van was "ripping"—that the van floored it to the point where he would have to slam on his breaks to get to the dead end, that he was full speed, and he was "flying." I. L. described the driver and recalled that he was looking over his shoulder as he drove by. I. L. said that as he came back out, **he came out and stopped momentarily and then "gunned it,"**

“floored it.” I. L. said there was one officer in an SUV that had come up, but there were more units behind it (he didn’t know how many). I. L. said that that officer parked and then got out and was the one yelling commands, and then the van drove right by. I. L. said he thought it was the first officer who showed up that had the shots fired. When asked why he described it as “gunned it,” I. L. explained, “pedal to the floor, he wanted to get away,” and further explained, “just the rate he took off from” and “if you’re going to run a line of guys that are pointing weapons at you, you don’t do it slowly, and so he gunned it.” I. L. further explained, **“And he wasn’t, from what I could tell, wasn’t aiming directly at the officers he was trying to get around, but still, there was dudes there, he was trying to run through their line, and he was doing it quickly.”** I. L. confirmed that from where he was sitting, it didn’t look like he was directing his car towards the officer. I. L. explained that the officer got out of the way, the van kinda went around, and at that point, that’s when shots were fired.

I. L. said he heard commands, at first it was “stop” and there may have been a “get out of the car.” I. L. explained it was a “stone’s throw’s distance” from his car to where it happened and in two seconds he was already to where the officer were. I. L. said that when shots were fired, he got out of his car and stepped behind it to take cover, and then he saw them take him out of the vehicle. I. L. said he never saw what the vehicle hit.

B. A.

Protocol investigators interviewed a male who we refer to as “B. A.” who said he was on his lunch break and inside his car across from Caliber Collision, facing north on the east side of Monroe. B. A. said he looked up and saw his coworker, T. L., pointing down the street. B. A. said he looked back and saw a minivan fly past (south), then he looked back forward and a bunch of cops came, the minivan flipped around at the end of the street, then there was a cop outside of his car and he fired four or five rounds into the window of the minivan, and then they pulled him out and arrested him.

B. A. recalled that the cops all kind of came in at once and kind of blocked it off, then he thought the minivan tried to go in between them, and that’s when the cop fired a bunch of rounds, and that he yelled four or five times to stop and get out of the car and then he heard shots and then he was on the ground. B. A. said that the cop wasn’t even like two feet away from the car when he started firing off rounds, and that the officer’s car was right beside his car, just on the other side of the street. B. A. clarified that he saw one police car, then looked back forward and then saw more. B. A. said he saw the cop shoot, he heard the glass break, and the minivan slid to a stop and then they pulled him out of the car. B. A. confirmed that the cop was standing in front of his car but off to the side a little bit and explained that he was like walking with the minivan.

B. A. explained that when the van flew past, he barely saw it go by, it looked like it was going pretty fast, and he knew he flipped around at the end of the street because it’s a dead-end. B. A. said he couldn’t really hear the van coming back (he had his driver’s window down halfway). B. A. clarified that the T. L. was pointing at the minivan that flew by. B. A. clarified that he heard like one shot and then he looked over and saw the rest of the shots. B. A. explained

that it looked like the minivan went in between the cop car and all the cars that were parked behind him (on the east side), and that that's when the cop started shooting.

M. B.

Protocol investigators interviewed a male who we refer to as "M. B.," who works for Sandy City Public Utilities. M. B. said he was on 9125 South Monroe Street, out of his truck, and was looking at the ground for his work. M. B. said that all of a sudden he heard a crash, looked up (north), and saw the van coming heading south on Monroe (towards his way, speeding) and it had went in the wrong way of traffic coming towards the dead-end street. M. B. said he wasn't really in the way but stepped further out of the way, more towards the curb. M. B. said the van had a flat tire on the passenger side and went down the road. M. B. said he then heard sirens and saw a cop come and he was flagging him down, trying to point which way the car went. M. B. said he went back to what he was doing. M. B. said he then heard "stop the vehicle" and gunshots but could not recall which happened first. M. B. explained that as he looked through his truck, he couldn't see the vehicle.

M. B. clarified that he tried to flag down the first cop car he saw, he just saw the one, and then more showed up after that. M. B. recalled hearing four gunshots. M. B. said that after the gunshots, he stayed in front of his vehicle, behind cover. M. B. estimated that he was 40-50 yards away from where it happened. When asked if there was just one cop car when shots were fired, M. B. said he couldn't tell because he was trying to look through the front window of his truck but couldn't see. M. B. said his truck was parked facing north on Monroe Street at 9125 South Monroe Street with his overhead lights on.

Additional Witnesses

Protocol investigators interviewed additional witnesses who heard shots fired and/or witnessed other related events, including the collision, but did not incident itself. They are mentioned here for the purpose of completeness.²²

Physical Evidence

Protocol investigators inspected and documented the OICI scene, reviewed the 911 call, reviewed the dispatch radio recording and call log, reviewed body-worn camera and dash camera recordings, downloaded Officer Peters's weapons, and reviewed the autopsy findings.

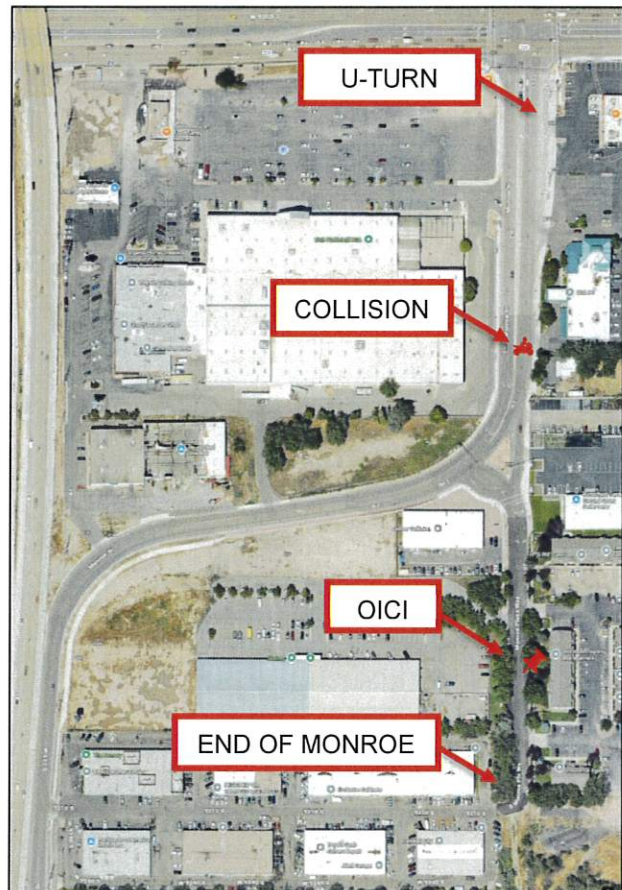
²² For example, a female who we refer to as J. A. said she was at the front desk of her office (182 West 9210 South), saw a gray mini-van Chrysler Pacifica go from west to east and then turn north, heard the van's tires make noises, and then heard gunshots. J. A. said she heard the gunshots about five seconds after the van came through, and that they were in a north direction. J. A. said she reviewed surveillance cameras and saw that the van had turned around in between the buildings near the Saab company (195 West 9210 South) after coming west. Another witness, a male who we refer to as S. R. said he heard gunfire, turned around and looked out his office window, and saw two police officers with their guns drawn, walking towards the minivan, and that it was still rolling then came to a stop.

OICI Scene

Protocol investigators inspected the OICI scene located at approximately 9151 South Monroe Plaza Way in Sandy, as well as the collision scene, located at approximately 9075 South Monroe Street in a northbound lane of travel.

At the OICI scene, a silver Chrysler Voyager van bearing a government plate was facing north in the roadway. To the north of the van, a black Ford F-150 (Sergeant Colton's) faced south; its front passenger side bumper was in contact with the front bumper of the van. South of the van were three black police Ford Interceptors, two facing south in the southbound direction of travel (Officer Peters's and Officers Pojoy's) and one facing north towards the impacted vehicles.

In the roadway near the driver's side of the van, investigators located various articles of clothing, shoes, and medical debris. To the south of the scene, in the roadway and gutter in the area near the front of Officer Peters's vehicle and the north-facing Interceptor, investigators located a total of eight 9mm shell casings, as well as a fired bullet.



Investigators documented that the van had damage to the passenger front area, a flat passenger front tire, and scratches down the passenger side of the vehicle (consistent with the collision with the motorcycle), as well as a shattered driver's side, a shattered driver's side passenger window, and multiple exterior defects (consistent with bullet damage) to the front and driver's side of the vehicle (e.g., to the driver's side panel, the windshield/driver's side windshield frame, above the windshield, windshield/passenger's side windshield frame, passenger's side top windshield, driver's side door, etc.). During a subsequent search of the van, investigators documented additional bullet damage, located two bullet fragments (from the passenger front floor area and the passenger side rear seat), and determined the trajectories of two bullets—one was into the front bumper and through the radiator (at a downward angle) and the other was through the driver's side headrest (from the back) and ended at the passenger-side A-pillar (at an upward angle).

At the collision scene, a Harley Davidson Sportster 1200 motorcycle was lying on its side in the roadway. Investigators observed drag, scuff, and tire friction marks in the area, and also tire marks heading southbound from the collision scene (which appeared to be caused by a flat tire and led to the area of a business complex in the area of 9200 South Monroe Plaza Way). In

the street, investigators located various personal items (*e.g.*, keys, leather gloves, clothing, a shoe, a backpack, and glasses).

911 Calls, Radio Recording, and Call Log

Investigators reviewed 911 calls, radio traffic, and the dispatch call log related to this incident, which are briefly summarized as follows.²³ At 11:38 a.m., a female caller reported a suspicious dark gray/charcoal Chrysler Voyager minivan that she noticed driving through her neighborhood, that the vehicle had US government plates and the driver appeared 16-17 years old, and that he had stopped and asked for gas.²⁴

At 11:45 a.m., SPD Officers Hartvigson and Bird were dispatched to the call and advised over the radio that it was possibly related to the stolen vehicle case that Officer Hartvigson had earlier and of the plate number. Officer Hartvigson then requested additional units to help check the area, and Officers Gates and Thomas were dispatched. At about 11:51 a.m., Officer Hartvigson advised that when they tried to stop him “on the last one” he fled from them.

At about 12:16 p.m., Officer Hartvigson advised that he’d located the vehicle at approximately 416 East 11100 South. Officer Hartvigson then began to provide updates of the vehicle’s location (which he hadn’t “lit up” yet) as additional officers—including Officer Peters²⁵—headed his direction, and Officer Thomas and Officer Peters advised that they had spikes. Officers continued to call out the location of the vehicle as they attempted to get in place ahead of it with spikes (Officer Peters indicated that he was set up at about 8800 South 700 East), and Officer Hartvigson confirmed that it was the stolen vehicle from that morning.

At 12:20 p.m., Officer Hartvigson advised that the van had failed to yield and turned left onto 9400 South westbound from 700 East, and that Officer Gates was still behind it (Officer Hartvigson got stuck in traffic). At 12:21 p.m. Officer Thomas, who was set up at 9400 South and David Street (410 East), advised that he missed the spikes and that the vehicle went through a red light at 300 East (9400 South). At 12:22 p.m., Officer Gates advised that they were approaching State Street, and then that the vehicle continued straight through the light on State, continued on 9400 South, and then that “I hit the red light. He went right through it.” After losing sight of it, officers attempted to get units in the area to cut him off.

At 12:23 p.m., Officer Bird advised that he was at 90th and Monroe, had spikes, and was getting out of his car. Officer Bird then advised, **“I got him at the light on 90th and Monroe. I’m challenging.”**²⁶ Officer Peters then advised that he was close by. Officer Bird then further advised, **“He is wrong way on Monroe, back south.”** At 12:24 p.m., Officer Bird advised that he **“10-50’d with a motorcycle”** (code for a motor vehicle accident),²⁷ and then further advised,

²³ In addition, investigators reviewed 911 calls, radio traffic, and dispatch call logs from the events involving M. P. earlier that morning, as well as other events involving M. P.

²⁴ The caller also provided her address (in the area of 500 East and 10700 South). Importantly, because Officer Peters’s was not privy to the 911 call, we did not rely on their contents for the purpose of our screening analysis.

²⁵ Officer Peters was dispatched at 12:17 p.m.

²⁶ The call log indicates “9000 S Monroe St Challenging one” at 12:23:44.

²⁷ The call log indicates “1050 w moto” at 12:24:05.

“He is straight on Monroe, back towards the Classic Skating.” Officer Peters then advised, **“I’m in the area. I don’t see him.”**²⁸ Officer Peters then advised of shots fired.²⁹

Body-Worn Camera Recordings

Protocol investigators reviewed body-worn camera recordings relating to this incident, including from Officers Peters, Pojoy, and Bird, and Sergeant Colton.³⁰ These recordings collectively show, in relevant part, the following.

Officer Peters’s recording begins with him driving, with sirens on.³¹ After turning onto Monroe Street from 90th South (Peters BWC at ~00:27), he continues driving south, past where the motorcycle has already been hit, and then turns onto Monroe Plaza Way. Officer Peters then advises over the radio, “I’m in the area. I don’t see him” (Peters BWC at 00:46). After rolling down his window, he asks a male where he’s at (Peters BWC at 00:50) and the male points him in the direction of “straight down and then left. Right there.” Officer Peters continues driving forward, puts his car into park (Peters BWC at 00:58), and quickly exits his vehicle.

As Officer Peters steps out, the van is seen driving northbound towards him, and Officer Peters draws his handgun as he closes his door and begins yelling, “Get on the ground” (Peters BWC at 1:00). As the van continues in his direction (north), Officer Peters begins firing at the front of the van (Peters BWC at 1:01).³² Officer Peters continues firing at the side of the van as it passes him. As the van passes, Officer Pojoy’s vehicle is seen behind Officer Peters’ vehicle, with the driver’s door slightly open; as the van then nears the driver’s side of Officer Pojoy’s vehicle, Officer Pojoy closes the door (Officer Pojoy then reopens it, Pojoy BWC at 1:06). Officer Peters calls out “shots fired” over the radio (Peters BWC at 1:05).

As the van slows down but continues forward, Officers Pojoy and Officer Peters approach the van with their firearms pointed at it and begin yelling commands, including, “Stop” and “Do not move,” “Stop moving,” and “Put your hands up” (Pojoy BWC at 1:10). Sergeant Colton then arrives and uses his vehicle to stop the van from going forward (Peters BWC at 1:17). Officer Peters then opens the driver’s door (Peters BWC at 1:19; Pojoy BWC at 1:22), and M. P. steps out as he raises his hands. Officer Pojoy then has M. P. go to the ground and places handcuffs on him, and M. P. is heard saying, “I’m sorry” (Peters BWC at 1:34; Pojoy BWC at 1:37; Colton BWC at 1:36).

Sergeant Colton then requests medical over the radio, officers begin rendering emergency medical aid, and Officer Peters tells Sergeant Colton, **“He started coming right at me”** (Peters BWC at 2:02; Colton BWC at 2:03).

²⁸ The call log indicates that Officer Peters was at scene at 12:24:42.

²⁹ The call log indicates “shots fired” at 12:24:59.

³⁰ In addition, investigators reviewed body-worn camera recordings from other officers relating to this incident, as well as the pursuit earlier that morning.

³¹ Officer Peters’s body-worn camera recording and Officer Pojoy’s body-worn camera recording both begin at approximately 12:23 p.m.

³² Officer Pojoy had already put his vehicle in park and begun to open his door before shots were fired (Pojoy BWC at 1:03).

Additionally, Officer Bird's recording, which did not capture the incident itself, shows as Officer Bird parked his vehicle facing westbound in an eastbound lane on 90th South at the intersection with Monroe Street, he advised over the radio that he had spikes and was just getting out of his car (Bird BWC at ~7:52). Officer Bird then walked south across 90th (with spikes) towards the southwest corner of the intersection and then advised, "**I got him at the light on 90th and Monroe. I'm challenging**" (Bird BWC at 8:24). Officer Bird then drew his handgun as he began yelling commands ("Car. Get out of the car now. Get out of the car now. Get out of the car now") (Bird BWC at 8:30), the van, which was facing northbound in a left-hand turn lane, is then seen making a U-turn and driving southbound in the northbound lanes of traffic. Officer Bird then advises over the radio, "**He is wrong way on Monroe, back south**" (Bird BWC at 8:38), a loud sound is heard (consistent with the van hitting the motorcyclist) (Bird BWC at 8:44), and Officer Bird then calls out, "**10-50'd with a motorcycle**" (code for a motor vehicle accident) (Bird BWC at 8:48). Officer Bird then advises, "**He is straight on Monroe, back towards the Classic Skating**" (Bird BWC at 8:57) as he continues southbound on foot, in the direction of the motorcyclist. Patrol vehicles (Officer Peters and then Officer Pojoy) are then seen driving by, with lights and sirens, southbound on Monroe Street (Bird BWC at 9:08 and 9:18, respectively). Officer Bird then approaches the motorcyclist, who is down in the street. As a firetruck arrives, faint sounds (consistent with gunfire) are heard and then Officer Peters is heard calling out "shots fired" over the radio (Bird BWC at ~9:42).

Dash Camera Recordings

Protocol investigators reviewed dash camera recordings relating to this incident, including from Officers Peters and Pojoy, as well as Sergeant Colton. These recordings collectively show, in relevant part, the following.

Officer Peters's dash camera recordings—which consist of a front view, a wide-angle front view, and an interior view—begin as he is driving; approximately the first minute has no audio (the recordings are activated when emergency lights are switched on).³³ As the audio begins, Officer Peters is turning westbound onto 90th South from State Street (the timing is consistent with Officer Bird having already advised that he was at 90th and Monroe and challenging).

After turning left onto Monroe Street from 90th South (Peters Dash at ~1:32), he drives south; to the left, Officer Bird is seen southbound on foot and he then passes the wrecked motorcyclist, who is in a northbound lane). Officer Peters then turns left onto Monroe Plaza Way to continue driving southbound. As he travels south, Officer Peters is heard advising over the radio, "I'm in the area. I don't see him" (Peters Dash at 1:51). Officer Peters is then heard asking, "Where he's at?" (Peters Dash at 1:55) and a male is heard telling him that the van is "straight down and then left." As the male responds, the van emerges from down the street and to the right, at a high rate of speed (Peters Dash at 1:59). The van continues northbound towards Officer Peters as Officer Peters pulls to the right and abruptly stops. As the van comes closer,

³³ The recording begins as Officer Peters is driving westbound on 8800 South at approximately 220 East. At State Street, he turns left and travels southbound. At 9400 South, he turns right and travels westbound to Monroe Street.

Officer Peters is heard yelling, “Get on the ground” (Peters Dash at 2:05) and the van’s wheels are seen turning to the left and the van also travels towards the left. Shots are then heard (Peters Dash at 2:06); on the wide-angle recording, Officer Peters steps backwards into view as he fires. Officer Peters is then faintly heard calling out “shots fired” (Peters Dash at 2:11).

In addition, Officer Pojoy’s dash camera recordings—which consist of a front view and an interior view—begin as he is driving; approximately the first minute has no audio. As he is stopped at the light on 90th South and State Street, Officer Peters’s vehicle comes into view and is seen activating its lights (Pojoy Dash at 0:58). Audio then begins as he travels westbound on 90th South, with Officer Peters further ahead and traffic separating them at times. After turning left onto Monroe Street from 90th South (Pojoy Dash at ~1:37), he continues southbound (Officer Bird is seen southbound on foot and he also passes the wrecked motorcyclist. Officer Pojoy crosses in front of a fire truck as he turns left onto Monroe Plaza Way. As Officer Pojoy turns to face south, Officer Peters is seen in the road ahead with a pedestrian to his driver’s side. The van is then seen emerging from further down (south) and to the right (Pojoy Dash at 1:58). As the van drives north towards them, Officer Peters goes forward and then to the right and Officer Pojoy also drives forward, behind Officer Peters’s vehicle. As the van gets closer, Officer Peters is seen getting out of his vehicle and drawing his weapon, the van is seen veering towards its left, and Officer Peters is seen firing at the van (Pojoy Dash at 2:06).

Notably, Sergeant Colton’s dash camera recordings did not capture the incident itself but show the scene as he arrives shortly after shots are fired. Sergeant Colton then uses his vehicle to stop the van from moving further forward and M. P. is seen exiting the van.

Surveillance Video Recordings

Protocol investigators obtained surveillance footage from the area, including from the Classic Skating which had a camera over their north parking lot as well as to the east, towards Monroe Plaza Way.³⁴ The footage has no audio, is at a distance to the roadway, is low quality, and does not capture the shooting incident itself; it is mentioned here for the purpose of completeness.³⁵

Weapons Downloads

Protocol investigators examined and downloaded Officer Peters’s Glock 17 Gen 5 MOS 9mm pistol, which had an inserted 19-round-capacity magazine. Protocol investigators counted one round in the chamber and ten rounds in the inserted magazine, for a total of 11 rounds.³⁶

³⁴ Additionally, investigators reviewed footage which captured officers following M. P. prior to the incident, as well as events from earlier that morning.

³⁵ Notably, the footage captures the van driving by, south on Monroe Plaza Way (timestamp ~12:31:08-10). Officer Peters’s vehicle is then seen driving south (timestamp ~12:31:39), stopping (timestamp ~12:31:43), and then continuing forward and off screen as Officer Pojoy’s vehicle also comes into view, driving south and slowing down as it goes out of view (timestamp ~12:31:47-52). Officer Gates’s vehicle comes into view driving south (timestamp ~12:31:56), followed by Sergeant Colton’s truck (timestamp ~12:31:58), which then moves forward and stops (timestamp ~12:32:06).

³⁶ Investigators also examined Officer Peters’s two spare 19-round capacity extended magazines, which were both fully loaded (19 rounds).

Presuming that Officer Peters began with a fully loaded inserted magazine and a round in the chamber, that count indicates that he likely fired up to nine rounds during the incident. Notably, his body-worn camera recording captured him firing eight rounds, consistent with the eight 9mm shell casings located on scene.

Autopsy

Erik D. Christensen, M. D., with the Utah Office of the Medical Examiner performed an autopsy of M. P.'s body and determined that he died of a gunshot wound of the back. Dr. Christensen located an entrance wound in the left upper back, identified a wound path of left to right, back to front, and slightly upward, and recovered a medium-caliber, mushroomed, copper-jacketed bullet over the right medial clavicle.

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 Peters's use of deadly force. In other words, we believe that if a charge was filed against him for his use of deadly force, a jury (or other finder of fact) would have a reasonable basis to conclude that he used deadly force because he reasonably believed that deadly force was necessary to prevent death or serious bodily injury to himself 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, Officer Peters 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.

While we do not know Officer Peters's actual beliefs and thus cannot say whether he "reasonably believed" deadly force was necessary, we can infer the reasonableness of a belief that deadly force was necessary from the facts of which we are aware. In this case, we know that Officer Peters was responding to a stolen van that had fled from officers earlier that morning. As officers followed, the van failed to yield at multiple intersections and officers attempted to deploy spikes. After officers lost sight of the van, Officer Bird advised that he had located him and was challenging him. Officer Peters then activated his lights and sirens and began "running code" to the area; meanwhile, Officer Bird further advised that the vehicle was "wrong way on Monroe, back south," had hit a motorcycle, and then went "straight on Monroe, back towards the Classic Skating." Officer Peters arrived in the area, drove past Officer Bird as well as the wrecked motorcyclist, and continued south onto Monroe Plaza Way. After not seeing the van, Officer Peters asked a bystander where he was. As the bystander pointed down the road, the stolen van emerged from the end of the street and accelerated northbound towards Officer Peters. Officer Peters quickly pulled his vehicle forward and exited, with his handgun drawn, and began yelling, "Get on the ground." As the van got closer, it veered in his direction and Officer Peters began firing his weapon.³⁷

Officer Pojoy, who remained in his vehicle behind Officer Peters, described to investigators the threat he perceived as the van came towards them. For example, Officer Pojoy recalled seeing the van "accelerating back out," "at a higher rate of speed," and heard the "engine revving up." Officer Pojoy further recalled thinking that the van was going to hit him, closing the door and then leaning to his right "to brace for the impact," and that he "ducked" "to brace for it" when he saw the vehicle coming towards him. Officer Pojoy estimated that the suspect vehicle was anywhere from 30 feet from him, "so roughly pretty close," when he realized he was about to get hit. Officer Pojoy explained that he could see Officer Peter's car in front of him, around 10 feet away, and that Officer Peters was in front of his vehicle, towards the middle of the road. Officer Pojoy further explained, "**And so the vehicle coming in our direction. . . [Officer Peters] was pretty much in the way of the vehicle as the vehicle was coming towards us.**"

Based upon the evidence before us in this case, we believe that M. P. unlawfully presented an immediate threat of death or serious bodily injury to officers when he accelerated towards Officer Peters and veered towards him, especially after having fled from police earlier that day, driving in the wrong direction of travel, and hitting a motorcyclist and then fleeing. Accordingly, we believe that it was reasonable to infer that Officer Peters believed he needed to use deadly force against M. P. to prevent death or serious bodily injury to himself, and that such a belief was reasonable.

³⁷ Consistent with video evidence of the van traveling towards Officer Peters, investigators observed bullet damage to the front of the van. For example, investigators determined that one bullet traveled into the front bumper and through the radiator (at a downward angle). Additionally, investigators documented bullet damage to the windshield/driver's side windshield frame and above the windshield.

The totality of the facts in this case, taken together with reasonable inferences about Officer Peters's decision to use deadly force, would likely cause a jury to determine that his use of deadly force satisfies the elements of the affirmative legal defense of justification. Assuming his testimony in a criminal case (if any) would be consistent with 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 he used deadly force because he reasonably believed deadly force was necessary to prevent death or serious bodily injury to himself 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 Peters for his use of deadly force, and he 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 he did not reasonably believe that using deadly force against M. P. 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 Peters would likely claim successfully at trial that he reasonably believed deadly force was necessary; therefore, his use of deadly force would be found justified and he 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 Peters for his use of deadly force, we would have to show evidence to prove, beyond a reasonable doubt, that either Officer Peters did not believe he needed to use deadly force to prevent death or serious bodily injury (to himself or another); or, that if he did believe he needed to use deadly force, that his 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 Officer Peters 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 Peters the legal defense.

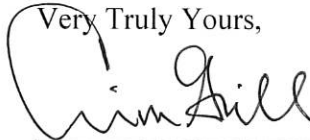
As the United States Supreme Court instructed in *Graham*, assessing "reasonableness" in the Fourth Amendment context "requires careful attention to the facts and circumstances of each particular case, including . . . whether the suspect poses an immediate threat to the safety of the officers or others." 490 U.S. at 496 (emphasis added). The facts of this matter support a conclusion that Officer Peters 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 Peters'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 Peters's decision to use deadly force, would likely support a finding that he reasonably believed deadly force was necessary to prevent death or serious bodily injury to himself 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 him a legal defense to a criminal charge. Accordingly, we decline to file a criminal charge for the 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. The first name "Sim" is written with a large, looped "S". The last name "Gill" is written with a large, looped "G". The signature is positioned above a horizontal line.

Sim Gill,
Salt Lake County District Attorney