



Ralph Chamness

Chief Deputy
Civil Division

Bridget Romano

Chief Deputy
Civil Division

Lisa Ashman

Administrative Operations

SIM GILL
DISTRICT ATTORNEY

Jeffrey William Hall

Chief Deputy
Justice Division

Anna Rossi Anderson

Chief Deputy
Justice Division

Chief Colleen Jacobs
West Valley City Police Department
3577 S. Market Street
West Valley City, Utah 84119

Chief Ken Wallentine
West Jordan Police Department
8040 S. Redwood Road
West Jordan, UT 84088

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

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

September 22, 2023

RE:	WJPD, SJPD, and UPD Officers' Use of Deadly Force
Incident Location:	1750 W. 11400 S., South Jordan, Utah
Incident Date:	February 17, 2022
WVCPD Case No.:	2022-13893
WJPD Case No.:	2022-8067
SJPD Case No.:	2022-4784
UPD Case No.:	2022-16836
DA-INV Case No.:	2022-284

Dear Chiefs Jacobs, Mazuran, Wallentine, and Carr:

This letter addresses the February 17, 2022, use of deadly force by West Jordan Police Department ("WJPD"), South Jordan Police Department ("SJPD"), and Unified Police Department ("UPD") officers against Zachary Alvarenga. Specifically, the officers who used deadly force were WJPD Officer Taylor Longmore, SJPD Officer Wayne Henderson, SJPD Officer Jennifer Rosse, WJPD Sgt. Tyler Webster, WJPD Det. Bo Reier, WJPD Det. Aaron Curtis, UPD Det. Cody Pender, and UPD Det. Jerry Valdez (collectively, "Involved Officers").

The Involved Officers' discharge of their firearms constitutes the "use of a 'dangerous weapon,'" which is defined under Utah law as "a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person." Utah Code § 76-2-408(1)(a), (f). As a result, pursuant to Utah State law and an agreement among participating law enforcement agencies called the "Officer Involved Critical Incident" ("OICI")

Investigative Protocol (*see* Utah Code § 76-2-408(2)-(3)), an investigative task force was called in to investigate the use of deadly force. The investigative task force was led by the West Valley City Police Department (“WVCPD”) protocol team and comprised of law enforcement officers employed by agencies other than WJPD, SJPD, and UPD. After the investigation, on May 16, 2022, the investigative task force’s findings were presented to the Salt Lake County District Attorney’s Office (“DA’s Office”), which has the constitutional and statutory mandate to screen such matters for possible criminal charges.¹

SUMMARY OF FACTS AND FINDINGS

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

On the morning of February 17, 2022, a female who we refer to as “F. N.” called 911 and reported that Zachary Alvarenga had threatened her with a handgun and was following her. WJPD officers attempted to conduct a traffic stop on Mr. Alvarenga, but he failed to yield. Officers pursued but the pursuit was terminated. A while later, F. N. returned to her apartment parking lot, she saw Mr. Alvarenga, and he again followed her. WJPD officers again attempted to conduct a traffic stop on Mr. Alvarenga and he again failed to yield. Officers pursued him but the pursuit was terminated. Later that afternoon, F. N.’s husband called 911 and reported that Mr. Alvarenga had flashed a handgun and again located F. N. WJPD officers located Mr. Alvarenga’s vehicle for a third time² and began loosely following him as they called in a Utah Department of Public Safety “Star 9” helicopter to conduct overhead surveillance. Mr. Alvarenga continued to drive as Star 9 monitored his movements and WJPD officers attempted to negotiate with him over the phone.

After driving for about two hours, Mr. Alvarenga stopped to refuel his vehicle at a Costco. As he exited the area, officers successfully deployed a spike strip on his vehicle. Mr. Alvarenga took off. As he fled, Star 9 continued to call out his movements and officers from multiple police agencies loosely followed. Eventually, Mr. Alvarenga came to a stop in the roadway, exited his vehicle, and ran, with a handgun in his right hand. Several officers, as well as a WJPD K-9, chased after Mr. Alvarenga on foot and into a parking lot. The K-9 caught up to Mr. Alvarenga, and Mr. Alvarenga turned and fired one round at the K-9, hitting and fatally injuring her. Three officers returned fire. Mr. Alvarenga briefly continued running and then fell to the ground. Officers called out “shots fired.”

A team of officers positioned themselves nearby behind a truck as they began yelling commands to Mr. Alvarenga. While laying face down on the ground, Mr. Alvarenga began moving; after several minutes, he retrieved the handgun with his right hand and then began

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

² A. N. got behind Mr. Alvarenga and followed him until WJPD located them.

manipulating it. Eventually, Mr. Alvarenga turned to look in the direction of the officers as he lifted up on his left elbow/forearm and moved his right hand and the gun in their direction. Five officers fired at Mr. Alvarenga from their positions at the truck. Officers tactically approached Mr. Alvarenga and saw that he was obviously deceased.

During the protocol investigation, investigators interviewed officer and civilian witnesses, documented the scene, examined physical evidence, reviewed radio traffic recordings and logs, reviewed video recordings (including body-worn camera,³ surveillance, Star 9 helicopter, and dash camera recordings), and examined the Involved Officers' weapons. Notably, each of the Involved Officers refused to be interviewed or provide a statement regarding the incident and his/her decision to use deadly force, as is their constitutional right.⁴

As we discuss in more detail below, we believe the facts of this matter, taken together with reasonable inferences derived from those facts,⁵ support a conclusion that if a charge was filed against the Involved Officers for their use of deadly force, and a jury (or other finder of fact) was called upon to determine whether their use of deadly force constituted a criminal act, a jury would likely determine that they reasonably believed the "use of deadly force [wa]s necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect." Utah Code § 76-2-404(2)(c)). Consequently, we believe that the Involved Officers' use of deadly force would likely be subject to the affirmative legal defense of justification under Utah law,⁶ and we decline to file criminal charges against them.

RELEVANT LEGAL STANDARDS

As relevant here,⁷ law enforcement officers are legally justified in using deadly force when:

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

³ Body worn camera recordings were available for Officers Longmore, Henderson, and Rosse. Body-worn camera recordings were not available for Sgt. Webster, Det. Reier, Det. Curtis, Det. Pender, or Det. Valdez.

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

⁵ While each of the Involved Officers refused to be interviewed by protocol investigators regarding the incident and his/her apparent decision to use deadly force, we presume their testimony in a criminal case (if any) would be consistent the facts developed from the OICI investigation.

⁶ 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.

⁷ Also relevant, but less so given the officer's status as a law enforcement officer, is the articulation of "justification" in Utah State law that applies to individuals more generally, including civilians, as provided in Utah Code Section 76-2-402(2):

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

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

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

Based on this statute, the legal defense of justification, then, may be available where a law enforcement officer “reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury⁸ to the officer or an individual other than the suspect.” Utah Code § 76-2-404(2)(c). That affirmative defense may also be available where a law enforcement officer “reasonably believes that deadly force is necessary” to prevent a suspect’s escape and the officer had probable cause to believe the suspect posed “a threat of death or serious bodily injury to the officer or to others if apprehension is delayed.” Utah Code § 76-2-404(2)(b). In determining whether the use of force was “justified” under Utah law, several factors may be considered, including: (i) the nature of the danger; (ii) the immediacy of the danger; (iii) the probability that the unlawful force would result in death or serious bodily injury, and (iv) the individual’s prior violent acts or violent tendencies. *See* Utah Code § 76-2-402(5).

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

⁸ “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).

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).

RELEVANT ETHICAL STANDARDS

The DA’s Office files cases that satisfy ethical standards and considerations in addition to legal standards for filing.⁹ 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, WVC PD led an investigative task force of law enforcement officers who

⁹ 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).

conducted the investigation of the Involved Officers' use of deadly force, and the protocol investigation's findings were presented on May 16, 2022, to the DA's Office to screen for possible criminal charges. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

On February 17, 2022, at about 11:30 a.m., a female who we refer to as "F. N." called 911 and reported that Zachary Alvarenga had threatened her with a handgun and was following her in a gray Honda Civic.¹⁰ WJPD officers located their vehicles and attempted to initiate a traffic stop on Mr. Alvarenga, but he failed to yield.¹¹ Officers pursued Mr. Alvarenga but then terminated the pursuit.¹²

Shortly after 1:00 p.m., F. N. returned to her apartment complex parking lot and saw Mr. Alvarenga's vehicle. F. N. immediately left, and Mr. Alvarenga again followed her; F. N.'s husband, who was in a separate vehicle, got behind Mr. Alvarenga (he later reported that Mr. Alvarenga pointed a weapon at him).¹³ WJPD officers located Mr. Alvarenga's vehicle and again attempted to initiate a traffic stop on Mr. Alvarenga, but again, Mr. Alvarenga failed to yield.¹⁴ Officers pursued Mr. Alvarenga for a second time but then terminated the pursuit.¹⁵ Meanwhile, throughout the afternoon, WJPD detectives were gathering information on Mr. Alvarenga, conducting surveillance, and attempting to locate him.¹⁶

Several hours later, at about 5:10 p.m., F. N.'s husband called 911 and reported that Mr. Alvarenga had just flashed a handgun, pulled up next to F. N. (who was in a separate vehicle), and was continuing to have the gun in his hand.¹⁷ WJPD detectives located Mr. Alvarenga's vehicle, began loosely following him, and called in a Utah Department of Public Safety "Star 9" helicopter to conduct overhead surveillance of Mr. Alvarenga's vehicle. Star 9 flew overhead and called out Mr. Alvarenga's movements as Mr. Alvarenga drove to Springville and then back to South Jordan (WJPD detectives loosely followed Mr. Alvarenga in unmarked police

¹⁰ F. N. later explained to investigators that she had told Mr. Alvarenga that she didn't want to pursue a friendship. F. N. said that at about 11:25 a.m., Mr. Alvarenga was at her apartment complex parking lot and confronted her about their relationship. F. N. said Mr. Alvarenga got in her vehicle, she got out, he got out, she got back in, and when she went to close the door, he grabbed it and put his body in the way, showed her his gun which he was holding, and told her they were going to have a conversation. F. N. said he took her cellphone and threw it, she retrieved it (so she could call 911), and he again grabbed her phone and threw it (shattering it). F. N. said she retrieved her phone, they got in their vehicles, and he followed her as she drove to pick up her son.

¹¹ WJPD located their vehicles while F. N. was on the phone with 911. F. N. was able to safely pull over.

¹² WJPD terminated the pursuit at about 11:45 a.m.

¹³ F. N.'s husband, a male we refer to as "A. N.", later called 911 (at about 2:04 p.m.) and reported that Mr. Alvarenga had pointed a weapon at him.

¹⁴ F. N. was able to wave down an officer while Mr. Alvarenga and her husband continued driving. WJPD officers located Mr. Alvarenga's vehicle at about 1:17 p.m.

¹⁵ WJPD terminated the pursuit at about 1:29 p.m.

¹⁶ For example, detectives learned that Mr. Alvarenga was employed as a corrections officer at the prison (and possibly had a ballistics vest), was serving in the Utah National Guard, had previously applied to be a police officer (but was not selected), and that officers had responded to a report of him being suicidal about a week prior.

¹⁷ F. N.'s husband got behind Mr. Alvarenga and followed him until WJPD located him.

vehicles).¹⁸ During that time, WJPD detectives established contact with Mr. Alvarenga over the phone and attempted to negotiate with him (for over an hour).¹⁹

About two hours later, at about 7:08 p.m., Mr. Alvarenga stopped at a Costco fuel station in South Jordan to fill up.²⁰ As he left, a WJPD detective successfully deployed a spike strip on Mr. Alvarenga's vehicle, and Mr. Alvarenga took off.²¹ As Mr. Alvarenga fled, Star 9 continued to call out his movements and officers loosely followed (without lights or sirens).²² As Mr. Alvarenga was headed eastbound on 114th South, several marked police vehicles approached from the opposite direction with lights and sirens and then took over the front of the pursuit.²³

About six and a half minutes after being spiked, as Mr. Alvarenga approached Redwood Road, traveling eastbound on 114th South, traffic was stopped for a red light. Mr. Alvarenga came to a stop, quickly got out of his vehicle, and ran northbound across the street and to the east side of a Jordan Credit Union building.²⁴ As he exited the vehicle, officers observed a black handgun in his right hand, and WJPD K-9 Officer Longmore called out, "He's got the gun, he's got the gun in his hand!" Several officers—and also Officer Longmore's K-9 named "Maya"—pursued Mr. Alvarenga on foot, around the east side of the building and into the building's north parking lot. As they ran, SJPD Officer Henderson called out, "Gun in right hand, gun in right hand, gun in right hand!", and Officer Longmore commanded K-9 Maya to "hit."

As Mr. Alvarenga ran northwest across the parking lot and underneath a covered parking structure, K-9 Maya caught up to Mr. Alvarenga. Mr. Alvarenga turned and fired one round at her (and in the direction of pursuing officers), hitting and fatally injuring her.²⁵ Three of the officers—WJPD Officer Longmore, SJPD Officer Henderson, and SJPD Officer Rosse—returned fire as Mr. Alvarenga briefly continued running across the parking lot.²⁶ Mr. Alvarenga

¹⁸ Mr. Alvarenga drove southbound on I-15, got off Exit 260 (UT-77 to Springville), turned around, and returned to Salt Lake County on I-15 northbound.

¹⁹ Detectives maintained phone contact from about 5:56 p.m. to about 7:09 p.m. (when he was getting fuel).

²⁰ The Costco is located at 3571 West 10400 South in South Jordan. By this time, many officers in unmarked vehicles were in the area to assist, including officers from the Metro Gangs Unit.

²¹ WJPD Det. Jones deployed the spike strip. As Mr. Alvarenga approached the spikes, he stopped, backed up, and then drove to the right (towards Det. Jones's vehicle).

²² As he fled, officers called out that his tires were losing debris, were flat and smoking, and that he was swerving. In addition, Officers also clarified the details of the pursuit—"two counts agg[ravated] assault, armed with a handgun, possible vest, corrections officer, threatening suicide by cop, and suicide."

²³ As the marked vehicles approached, the undercover vehicles following Mr. Alvarenga activated their lights to let the incoming units know their location.

²⁴ The Jordan Credit Union building is located at 1750 West 11400 South in South Jordan.

²⁵ K-9 Maya was shot in the back with the bullet exiting through the abdomen. She was rushed to an emergency veterinarian hospital where she succumbed to her injuries.

²⁶ Officers Longmore, Henderson, and Rosse each fired their 9mm handguns. Sandy PD Officer Worwood, who was equipped with a less-lethal pepper ball gun, later told investigators that he saw the suspect turning back, heard the shots, saw three officers returning fire, and that he could see a gun in the suspect's hand when he heard the shots and saw him turn.

then fell to the ground, face down and on his stomach.²⁷ Officers called out “shots fired” and that the K-9 was hit over the radio.²⁸

Officers immediately began yelling commands to Mr. Alvarenga to show his hands as a team of officers—equipped with rifles, handguns, and a shield—tactically positioned themselves behind a police truck to the southwest of Mr. Alvarenga’s position (on the west side of the parking lot).²⁹ Star 9 continued to monitor Mr. Alvarenga from overhead as the officers’ commands continued. After more than a minute, Mr. Alvarenga began moving (still lying face down on the ground) and Star 9 called out that he was still moving.

After more than four minutes on the ground, Mr. Alvarenga retrieved his handgun from underneath him with his right hand; Star 9 called out that the gun was in his right hand and that they saw him pull it out.³⁰ Mr. Alvarenga then began manipulating the gun; as he did so, Star 9 advised that the gun is still in his right hand, and that he was manipulating it. After about six minutes on the ground, and despite numerous commands, Mr. Alvarenga turned his head to look in the direction of the officers as he lifted up on his left elbow/forearm and moved his right hand and the gun in the direction of officers.³¹ Five officers—WJPD Sgt. Webster, WJPD Det. Reier, WJPD Det. Curtis, UPD Det. Pender, and UPD Det. Valdez—fired their weapons at Mr. Alvarenga from their positions at the truck.³²

Officers called out that more shots were fired and continued giving commands. After observing no movement for a couple minutes, officers moved the truck closer to Mr. Alvarenga, used a K-9 to make contact, and then approached.³³ Mr. Alvarenga was obviously deceased.

Based upon the available physical evidence in this case, including the weapon downloads, it is likely that Officers Longmore, Henderson, and Rosse collectively fired up to 20 9mm rounds during the first volley of fire, and that during the second volley of fire, Dets. Curtis and Pender collectively fired five 9mm rounds and Sgt. Webster, Det. Reier, and Det. Valdez

²⁷ Mr. Alvarenga fell to the ground less than less than 30 seconds after exiting his vehicle.

²⁸ “Shots fired” was called out at about 7:16 p.m. After the shots were fired, the officers continued moving forward and Officer Longmore picked up K-9 Maya and carried her out of the parking lot.

²⁹ The truck, which was Det. Valdez’s unmarked black Ford F-150, was the closest vehicle to Mr. Alvarenga. Additional police vehicles were positioned further back and numerous officers were positioned further away and behind cover.

³⁰ Investigators determined that after going to the ground, Mr. Alvarenga started to move after about 1 minute and 16 seconds. Mr. Alvarenga retrieved his gun about 3 minutes and 2 seconds after starting to move. Specifically, Star 9 called out, “Gun in right hand, gun in right hand,” and then, “We saw him pull the gun out and it’s in his right hand.”

³¹ Mr. Alvarenga manipulated the gun for about 1 minute and 51 seconds before shots were fired the second time. In total, a little over 6 minutes elapsed between the initial shots fired and the second volley of shots.

³² The second volley of shots was fired at about 7:22 p.m. Sgt. Webster, Det. Reier, and Det. Valdez fired rifles while Dets. Curtis and Pender fired their 9mm handguns.

³³ Officers deployed a K-9 at about 7:28 p.m. and then moved in with a shield team at about 7:32 p.m.

collectively fired up to 26 rifle rounds.³⁴ In addition, it is likely that Mr. Alvarenga fired one 9mm round (the round which hit and killed K-9 Maya).³⁵

Witness Statements

Involved Officers

Each of the Involved Officers refused to be interviewed by protocol investigators or make a statement about his/her use of deadly force. The Involved Officers each have a constitutional right to remain silent and is presumed innocent of any wrongdoing.

Sandy PD Officer Worwood

Protocol investigators interviewed Officer Worwood who said he started following the suspect's vehicle and after the suspect pulled into the Costo to get gas, he retrieved his pepper ball gun and got it ready as a less-lethal option. Officer Worwood said that after the suspect got in and started going out, they tried to spike the suspect's vehicle. Officer Worwood said the suspect pulled up, saw the spikes, and tried to reverse, so he pulled behind him to stop him from reversing and the suspect went over the spikes. Officer Worwood said he started following the suspect. Officer Worwood said he turned on lights and sirens as they got closer to Redwood Road, and he was right behind the suspect.

Officer Worwood explained that there was a red light at Redwood Road [and 114th South] and the suspect stopped and bailed out on foot. Officer Worwood said he pulled up directly behind the suspect's car, grabbed his pepper ball gun, and ran after the suspect. Officer Worwood explained that the suspect went north and through the east side of the Jordan Credit Union, around it, and ended up on its north side. Officer Worwood said that as he came around the building, there were three other officers were directly in front of him, and he started going around them. Officer Worwood said he saw the suspect turning back, heard the shots, saw the three officers returning fire, and then saw the K-9 on the ground. Officer Worwood explained he could see a gun in the suspect's hand and heard the shots when he saw him turn. Officer Worwood said they continued moving forward and an officer picked up the K-9. Officer Worwood said the suspect went down in the parking lot.

Officer Worwood said that they were told to get behind cover, he moved over behind a truck that had come in, and then he pulled back behind another truck where he could still see the suspect. Officer Worwood described, "I could see him moving. I could see his legs moving. At one point, I saw... his top half prop up. I could see the gun in his hand again, just pointing forward from where he was laying. He was laying just flat on his stomach and then I could see him push himself up and he had the gun in his hand." Officer Worwood continued, "I could see him starting to move and roll a little bit and that's when I heard the other shots going. I saw the

³⁴ Investigators located 18 9mm casings in the vicinity of where the officers fired the first volley, and five 9mm casings and 19 rifle casings in the vicinity of where the officers fired the second volley.

³⁵ Investigators located one 9mm casing in the vicinity of where he shot K-9 Maya.

other officers that were up at the first vehicle, it's where the shots came from." Officer Worwood explained that before the second round of shots, commands were being given (*e.g.*, "Show us your hands," "Drop the gun") and he continually heard commands from the group up front.

WJPD Sgt. McElreath

Sgt. McElreath said that earlier in the day, there were patrol units that followed the suspect around; later, he listened to the radio and learned that they were getting Star 9 up and then responded to the area. Sgt. McElreath said he saw the suspect vehicle, Star 9 got eyes on the car, and he loosely followed the vehicle as it traveled down to Springville and back to Bangerter Highway. Sgt. McElreath said they followed the suspect to the Costco gas pump where he stopped. Sgt. McElreath said he heard on the radio that Det. Jones spiked the suspect on his way out. Sgt. McElreath said they followed him and marked units eventually took over.

Sgt. McElreath said that the suspect stopped at a red light and ended up bailing on foot. Sgt. McElreath said the suspect was on the east side of the building, and he pulled into the parking lot from the west side (he was the first one to pull into the parking lot). Sgt. McElreath said that when he pulled in, he saw the suspect running, a dog was in pursuit after him, he got out, and he heard one shot. Sgt. McElreath said that there was a bunch of other officers who were running up from the east side, in pursuit of him. Sgt. McElreath explained there was one shot fired, the suspect continued to run, there were more shots fired from east of where he was at (he didn't know who fired), and then the suspect stumbled and went down shortly after.

Sgt. McElreath said Det. Valdez's unmarked truck pulled up (which they ended up using for cover) and they called for everyone else who was still exposed to cover and slow down. Sgt. McElreath said that after the suspect had fallen, he ended up taking a shield (from Det. Valdez) and that initially he also had his handgun out, but he had a rifle on either side of him, so he holstered his weapon and turned the shield to give more protection to everyone behind him. Sgt. McElreath said that the suspect laid there for a while (he could see blood starting to pool), he was kind of moving, and he was not responding to commands. Sgt. McElreath said that Sgt. Webster was giving the suspect commands—calling him by first name, telling him to show his hands, and to show them his hands so they could come up and help him.

Sgt. McElreath said that at one point, Star 9 had said that the suspect still had the gun in his right hand and he was manipulating the gun. Sgt. McElreath said that the suspect was laying kind of canted toward them and they were off to the side. Sgt. McElreath said that as he heard Star 9 saying that the suspect had the gun and was manipulating it, the suspect started to turn his legs (he thought the suspect was going to roll over), so he was calling what the suspect was doing out. Sgt. McElreath explained that there were points the suspect would lift his head up, put his head down, he was kind of lifting up on his shoulders, and he had both hands underneath him. Sgt. McElreath explained that the suspect's left hand was underneath him (he couldn't see the right side of his body), he would lift up his shoulders and then put them back down and then lift up his head, and that he was kind of moving his legs. Sgt. McElreath said that as the suspect

was manipulating with his shoulders, he could see daylight coming from under his left armpit, so he called it out (Sgt. Webster was on his right and Det. Reier was on his left, both with rifles). Sgt. McElreath said at one point, "I was sure I saw the handgun coming, like he was maneuvering it to get underneath, like to put it under his armpit," and he was calling it out. Sgt. McElreath explained, "He did that and I saw, you know, I kinda saw the open space under the armpit. Saw it go dark. I really felt that it was the handgun"; he further explained, "As he was like moving his shoulders around, kinda lifted up, so I could see an open space, and then that open space would disappear. . . while he was still up." Sgt. McElreath explained that at that point, "I made myself as small as I could so behind [the shield] so they could get as close to me as they could, and kind of lifted it up, so that I was just dedicated shield guy at that point. . . I'm giving them as much room as possible" (he also later explained that he tucked and ducked his head). Sgt. McElreath said that and that right after that, shots were fired all around him.

Sgt. McElreath said he called for a K-9, they continued to call out to the suspect, Star 9 advised at one point that it'd been a few minutes and they didn't notice any change, they decided to move the truck up, the K-9 went up but didn't engage, they pulled the K-9 back, and they decided to move up with a shield. Sgt. McElreath said they tactically approached with the shield and saw that the suspect was obviously deceased. Sgt. McElreath said they pulled back and left the suspect and the gun where they were at.

Sgt. McElreath explained that he learned earlier that the suspect was wanted for aggravated assault and probably domestic violence, that he had fled from WJPD two different times during the day, that he was armed, suicidal, and possibly suicide by cop.

WJPD Det. Higby

Det. Higby said that after he was notified of an incident and a pursuit that was terminated, he went to the suspect's house, got briefed (the suspect had held a female at gunpoint), and waited. Det. Higby said another pursuit took place, the pursuit got terminated, and he continued to wait. Det. Higby said he heard the suspect had threatened the husband with a gun again. Det. Higby said he then followed the suspect, with Star 9 overhead, to Mapleton, back up, to Bangerter Highway, and to Costco. Det. Higby said the suspect filled up, they called for less lethal, and he got less lethal ready (the 40mm). Det. Higby said they followed the suspect out of Costco, did a "cold spike," and continued to follow him. Det. Higby said they were on 114th South, some marked units came towards them, he saw the suspect stop just before Redwood Road and bail out on foot, and Star 9 called it out. Det. Higby said the suspect ran north through the parking lot of the credit union.

Det. Higby said he and two other vehicles turned left into the parking lot. Det. Higby said he pulled in, saw the suspect running (he didn't see anybody else), and then saw a little shadow (K-9 Maya). Det. Higby said the suspect took a shot (he heard a "pop" and thought the suspect was shooting at him). Det. Higby said he ducked down, tried to call out "shots fired" (but the air was busy), and heard return fire (which came from towards 114th South). Det. Higby

said the suspect was running when he stiffened up, hit the ground, and went down. Det. Higby also said he saw the suspect turn back before he heard the shot.

Det. Higby said he got out of his truck, held less lethal on the suspect, and took cover behind a truck. Det. Higby said he watched the suspect wiggling his left foot and looking around and looking their direction (he explained that he first saw the suspect's heels rocking back and forth and then saw his head turn and look at them). Det. Higby said about four to five officers went over to a truck that was closer to the suspect, they called for a medic bag, and he retrieved one from his truck. Det. Higby said he was peeking around and could see the suspect still looking around and moving his feet. Det. Higby said he heard another volley of shots, saw them impact him, and then the suspect stopped moving but still had his right arm tucked under him. Det. Higby said he moved up to where the volley of shots came from, held cover as a shield team moved up, and the shield team confirmed he was deceased.

WJPD Lt. Jenkins

Protocol investigators interviewed Lt. Jenkins who said that in the late morning, he heard on the radio that a pursuit was going on and learned it was on an aggravated assault where someone had threatened a female with a handgun. Lt. Jenkins said the pursuit was terminated but he continued to the area and went to the suspect's house. Lt. Jenkins said he learned the suspect's name and more information about the suspect and from the victim about the incident that day. Lt. Jenkins said that he and officers continued to try to locate the suspect. Lt. Jenkins said that he was notified that the suspect was driving around and talking about suicide by cop. Lt. Jenkins said he had Sgt. Webster and Det. Reier help try and locate him. Lt. Jenkins said they had also gotten into another pursuit with the suspect, but the pursuit was terminated. Lt. Jenkins said they got in contact with the suspect's First Sergeant in the National Guard who was in contact with him and tried to get him to turn himself in, but he was ultimately unsuccessful.

Lt. Jenkins said they were still looking for the suspect when dispatch said that he had just pulled a gun on the husband of the original victim. Lt. Jenkins said that he and Det. Reier were the closest in the area and tried to locate them. Lt. Jenkins said they got the Star 9 helicopter to track the suspect and had officers stay loose in the area (the victim said the suspect had the gun on his lap in the car). Lt. Jenkins described the pursuit that followed, which went through Utah County and back, and that negotiators were able to get on the phone with the suspect.

Lt. Jenkins said that the suspect got off on Bangerter Highway, and then pulled off 104th South and went to a Costco fueling station. Lt. Jenkins said that the helicopter could see the suspect outside his vehicle and didn't see anything in his hands. Lt. Jenkins said they called for a "cold spike," the suspect came out shortly after, and Det. Jones did a successful spike on the suspect's rear tire (the suspect stopped, backed up, and tried to go around and officers said on the radio that he tried to swerve at Det. Jones). Lt. Jenkins said they followed the suspect, without lights or sirens, and that at that point, it was evening. Lt. Jenkins explained that the suspect continued to drive, they had plenty of resources in the area and the helicopter overhead, and four marked units came from the opposite direction and joined the pursuit (at about 2700 West and

114th South). Lt. Jenkins said they started calling out that the suspect was starting to lose control of the car and swerve.

Lt. Jenkins said that right before Redwood Road, the suspect stopped and got out of the car and he saw several officers running after him, including the K-9. Lt. Jenkins explained that they ran on the east side of the credit union. Lt. Jenkins said he saw several unmarked vehicles turn on the west side of the credit union (into a big parking lot) and he also pulled in the west side of the parking lot. Lt. Jenkins said he saw the K-9 and a couple people running out, and he was calling out on the radio to stay back from him. Lt. Jenkins said there was a truck up in the middle of the parking lot, he'd heard that there were shots that had been fired, and it sounded like the K-9 had been hit, and the suspect had gone down. Lt. Jenkins said he got out of his vehicle and saw a wave of people running up. Lt. Jenkins explained that a truck had pulled up about 10-15 yards southwest of the suspect, facing north, and there was another truck about 25-30 yards back from the suspect. Lt. Jenkins said there was not enough cover for the number of officers, so he started yelling to get back and just leaving a small contingent; at that point, there were 6-7 officers behind the truck closest to the suspect, including Sgt. Webster.

Lt. Jenkins said he came up behind a truck and could see the suspect was on the ground and not moving at that point (at least not significantly), but his hand was underneath him. Lt. Jenkins said they made sure officers were staying back, he had an officer retrieve medical kits, and Sgt. Shepard had come back. Lt. Jenkins said that the suspect was laying, face down on the ground, with his hand underneath him. Lt. Jenkins explained that they had moved even further back (to his car) and he was trying to get a K-9 up so they could pull the suspect away.

Lt. Jenkins said that after about a minute, the suspect started moving again. Lt. Jenkins said he was back behind cover but could see the suspect kind of moving, pulling his arms out, and it looked like he was trying to sit up and turn towards the officer. Lt. Jenkins said that the officers had continued calls with the suspect even though he was down. Lt. Jenkins said that the suspect turned, and he heard a shot and then several more shots. Lt. Jenkins explained he saw the suspect "prop up in a fashion that he was turning back to look. It appeared he was turning back towards them and trying to engage them again." Lt. Jenkins said the shots all came from the officers up at the front truck. Lt. Jenkins said that officers came up with a plan to approach the suspect, pulled the truck forward, used a K-9, and then a small contingent moved up with a shield. Lt. Jenkins said the suspect was obviously deceased.

Lt. Jenkins clarified that he believed the suspect's movements were definitely deliberate. Lt. Jenkins reiterated, "It was very clear he was a danger to others. It was very clear that he had opportunity to give up. The fact that he ran with a gun in his hand. It was identified from the helicopter, I saw it, other people saw it, I could tell he had the gun in his hand when he ran." Lt. Jenkins continued, "It wasn't like he was just trying to get away. . . if he just wanted to get away, he could have left it in the car. So the fact that it's in the hand, and then getting shot, he goes down again, given several commands, and the fact that he tries to move with his capacity still holding the weapon and trying to turn. . ."

WJPD Det. Strong

Protocol investigators interviewed Det. Strong who said that earlier in the afternoon, he and Det. Curtis were told to work a case with Sgt. Shepherd and attempted to locate the suspect at his house. Det. Strong said that he stayed at the house for a while, and then got information that Det. Reier had information on the suspect's phone's location, and also that the suspect's First Sergeant in the military was going to pick the suspect up. Det. Strong said he responded to that area, but the suspect never showed up. Det. Strong said he was still looking for the suspect's vehicle when information came out that the victim's husband had called in about the suspect brandishing a gun again and that the husband was following him. Det. Strong said he headed that direction. Det. Strong said that while he trying to get there, the helicopter got up and the suspect headed south. Det. Strong said he listened as the helicopter called out the location (as they drove south on I-15 and then back north), and he waited in Lehi for them. Det. Strong said he got behind the suspect and followed him (with no lights or sirens and the helicopter overhead). Det. Strong said the suspect turned into the Costco and stopped and got gas. Det. Strong said they set up spikes on the entrance where the suspect had come in. Det. Strong said the suspect got back in his car, turned to go out, and got spiked by Det. Jones. Det. Strong said he pulled out and tried to catch up to the suspect. Det. Strong said he got up behind SJPD officers and the suspect's car stopped in the left turn lane on Redwood Road and 114th South.

Det. Strong said that the suspect got out of his car and started running around the credit union building west of Redwood Road, and a couple of officers were running and chasing the suspect. Det. Strong said he pulled up and also got out and started running towards the suspect. Det. Strong explained the suspect went past the building, so he lost sight of him (he also lost sight of two or three officers). Det. Strong explained that as soon as he was running, he saw a K-9 running towards where everybody else was running. Det. Strong said he went around the corner, pulled his weapon, turned to go into the back corner of the parking lot, and heard the sound of shots being fired as he was coming around the corner (he did not see the shots). Det. Strong said he looked up and saw the suspect wobbling, still running a little bit, and then fall down and collapse (laying on his stomach).

Det. Strong said he had his gun out and was still going towards the suspect, when a bunch of cars pulled up on the west side of the building. Det. Strong said there were about four to five of them standing and everyone was yelling at them to get back behind cover, so he went to the southwest of where the suspect was laying down and got behind a vehicle. Det. Strong explained there was a truck closer to the suspect with four to five officers. Det. Strong said he spoke to the two SJPD officers who had shot, took their handguns, and had them stand further back. Det. Strong said he went up to the second or third closest truck to the suspect, about 30-40 feet from the suspect, and stood there watching the suspect while the other officers at the closest truck had rifles on him. Det. Strong described:

I wait there for a bit and then I see the suspect moving. Puts his head up. Gets his arms out in front of him and the other officers are yelling at him, 'Put the gun down. Put the gun down.' And he's moving his hands up above his head, not like

way above his head, but next to his head. Looked like he was fiddling around with something. I knew he had a gun 'cuz we'd determined that he had a gun on him from what the other officers could see up front so that was relayed back to us. And then he was fiddling around with it, fiddling around with it. And then I just heard gunshots, I don't know who shot, but at that truck shot. And I saw the suspect getting hit with the rounds and then just lying there and not moving.

WJPD Sgt. Shepherd

Protocol investigators interviewed Sgt. Shepherd who said that earlier that afternoon, he learned that their patrol officers got into a pursuit, terminated it, and that the suspect had pointed a gun at a female victim. Sgt. Shepherd said they tried to locate the suspect and patrol officers got into a second pursuit with the suspect and also terminated it. Sgt. Shepherd said they continued looking for the suspect and learned that the week prior the suspect was suicidal (Det. Curtis went to look for the suspect at another location). Sgt. Shepherd said they set up in the West Jordan area and were in contact with the suspect's First Sergeant in the National Guard who was trying to get him to surrender (but was unsuccessful). Sgt. Shepherd said he learned that the suspect had had located the victim again and the victim's husband followed the suspect, and that the suspect still had the handgun on him. Sgt. Shepherd said they called out Star 9, followed him, and continued following him down into Utah County where he flipped around and came back up. Sgt. Shepherd said he got off the highway and went to Costco. Sgt. Shepherd said that as the suspect went out the exit, Det. Jones "cold spiked" him. Sgt. Shepherd said they continued to follow him to 114th South (the suspect's tires were deflated), they called for SJPD to assist, and SJPD came westbound with lights and sirens.

Sgt. Shepherd said the suspect bailed on foot and ran across 114th South and cut through at a building. Sgt. Shepherd said he pulled up and as he got out of his car, he heard shots fired (but did not see them). Sgt. Shepherd said that as he rounded the corner, he saw the K-9 shot on the ground (underneath the covered parking), Officer Longmore was picking up the K-9, and Mr. Alvarenga was laying on the ground, facedown.

Sgt. Shepherd said he pulled officers from out in the open to a police vehicle, and WJPD Sgt. McElreath got a shield from Det. Valdez's vehicle. Sgt. Shepherd said he could see Mr. Alvarenga's left hand under him and that he was not moving. Sgt. Shepherd said he then went further back to where other vehicles were to get a "med bag" and then stayed back. Sgt. Shepherd said that after commands were given, Mr. Alvarenga started to move his legs and head, and Star 9 called out they could see the gun. Sgt. Shepherd said Mr. Alvarenga was lifting his head and looking towards them (they would have been in line of fire), so they pulled back further to a further position of cover (he posted up behind Lt. Jenkin's white Ford Explorer). Sgt. Shepherd said that this whole time, Sgt. Webster was giving commands (for him to show his empty hands, that they wanted to give medical help) and Star 9 said they could see he was still armed. Sgt. Shepherd said Sgt. Webster continued to give commands, for at least a few minutes (to drop it, to not do this, and that they wanted to help him). Sgt. Shepherd said he saw

movement of Mr. Alvarenga (but couldn't say exactly how he moved), and then a second volley of gunfire erupted.

Sgt. Shepherd said that after the second volley, he moved up with Det. Higby (who had a "med bag") to Det. Valdez's truck, held there, and then moved the truck closer. Sgt. Shepherd said that a K-9 tried to pull the suspect back but wouldn't latch, so they moved up on foot. Sgt. Shepherd said that as officers got up to him, they called that he was obviously deceased.

Sgt. Shepherd estimated that it was about three to five minutes between the first and second volleys of fire. Sgt. Shepherd explained that after the first volley, they knew the suspect still had the gun and he was still moving, his legs were moving, and he was looking at them. Sgt. Shepherd explained that Star 9 still said he had the gun and the officers at Det. Valdez's truck called out "gun" and then continued to give verbal commands before the second volley of shots.

Sgt. Shepherd said Mr. Alvarenga was wanted for aggravated kidnapping (from the initial incident), aggravated assault/brandishing (involving the husband), interruption of a communication device, and fleeing.

WJPD Det. Jones

Protocol investigators interviewed Det. Jones who said that he and Sgt. McElreath were working another case when he heard on the radio about a complainant following the suspect and then getting onto Bangerter Highway (he heard that the suspect was wanted on a couple aggravated assaults with a handgun, he was armed with a handgun, he had fled from WJPD a couple times, and he was tracking or communicating with the victim and threatening them). Det. Jones said they went to the area, saw the suspect pass them, caught up to him, and followed him. Det. Jones explained that they got a helicopter on him and so they loosely followed him. Det. Jones said the suspect eventually went on I-15 Southbound, followed him down to Springville, got off and headed back north, went back north, and went west on Bangerter Highway.

Det. Jones said the suspect got off on 104th South and stopped at the Costco gas station. Det. Jones said they set up in the area, they asked for spikes, and he set up spikes at the entrance. Det. Jones said the suspect came out, turned down the exit, and as he approached Det. Jones's vehicle, the suspect stopped, looked over at Det. Jones, tried to back up, and then hit the gas. Det. Jones said he was able to spike the suspect's vehicle (he may have hit one of the front tires and then the back tires). Det. Jones said the suspect went back out to 104th South.

Det. Jones said he heard over the radio the suspect's location as he was trying to catch up. Det. Jones said he caught up to them and heard that the suspect had bailed on foot and was running, and then heard that there were shots fired. Det. Jones said he pulled in the credit union parking lot and officers had the suspect prone out on the north end of the parking lot. Det. Jones said he went over to Det. Valdez's black F-150 (which was directly behind the suspect and had about 8-9 officers there), he heard Lt. Jenkins calling for people to come back (for only 4-5

people to be up at the vehicle), and he went to Sgt. Richards's blue Ford F-150 which was parked west of the black F-150.

Det. Jones said that he saw the suspect moving and explained that the suspect was prone out at first, it looked like he had his hands tucked under his waist or under his stomach, and he kept rolling back over on his side to look back at the officers at the black Ford. Det. Jones said the suspect did that a few times and kept rolling back. Det. Jones said he heard someone call out on the radio that the suspect had pulled a gun out from under him and it was in his right hand. Det. Jones said they were called back to Lt. Jenkins's white Explorer which was further back. Det. Jones said the suspect continued to turn, roll onto his side, and turned back (it looked like he was looking back at the officers at the black Ford). Det. Jones said that as the suspect turned another time, he heard the officers at the black Ford shoot (one volley of gunfire, a dozen or more shots). Det. Jones clarified that from his position, he didn't see the suspect's handgun.

Det. Jones said they held until they could get an additional K-9, they eventually sent in another K-9 but the dog wasn't able to pull the suspect back, and officers approached the suspect with a shield.

RVPD Officer Johnson

Protocol investigators interviewed Officer Johnson who said he heard that WJPD was in pursuit of a suicidal suspect, and he eventually became involved and blocked traffic at 114th South and Redwood Road. Officer Johnson said he saw the pursuit and the suspect car coming east on 114th South, saw the suspect car swerve to the left, and saw people running. Officer Johnson said he didn't think there were enough people chasing, so he left his block, stopped, took off running, and then called "shots fired" because he heard shots fired. Officer Johnson said he ran around the east side of the credit union (as he ran, the officers carrying the K-9 passed him). Officer Johnson said he came around the east side of the corner and saw officers already in a stick.

Officer Johnson said he went over by a car on the northwest corner of the building where he had a direct line of sight to where the suspect was laying. Officer Johnson said that the suspect was moving but it appeared he was injured because not very much. Officer Johnson said that the officers were giving repeated verbal commands—calling him by name, to "show hands" and drop the gun. Officer Johnson described that the suspect's head was facing northbound, his right calf was moving, and his hands were up but closer to him. Officer Johnson said that eventually, at the very end, the suspect's head into his shoulders started to rise (which he interpreted as not listening to commands), they were still giving him commands (including to drop the gun), and then the second round of shots. Officer Johnson said the shots came from the group of officers next to the truck. Officer Johnson said the officers continued to give commands. Officer Johnson said he left before anyone approached the suspect. Officer Johnson clarified that he never saw a gun.

WJPD Sgt. Julian

Sgt. Julian said that after the first initial pursuit, he responded to the suspect's house but later left. Sgt. Julian said he heard that there was a second pursuit, which was terminated, and that later, they were working on locating the suspect (he believed that the suspect had brandished a weapon to the husband of the girlfriend he was involved with and the husband was following the vehicle). Sgt. Julian said he responded in his unmarked vehicle, followed the suspect down to Utah County (where he got stuck in traffic), and got negotiators involved. Sgt. Julian said negotiators were on the phone with the suspect from about 6:03 p.m. and he helped relay information. Sgt. Julian said learned that suspect said he was getting gas at about 7:05 p.m. and then they got disconnected.

Sgt. Julian said that when the suspect got off Bangerter Highway, he heard the suspect was getting gas at the Costco, they were talking about doing a "cold spike," and they spiked his vehicle as he left. Sgt. Julian said he caught up to them on 114th South, saw SJPD vehicles flip around, and as they approached Redwood, he saw the suspect's car go right and hit the median. Sgt. Julian said that he went left into oncoming traffic and stopped right by his car. Sgt. Julian said he saw the suspect run out, to the left, and on the east side of the credit union. Sgt. Julian said he got out and started running. Sgt. Julian said that when he was on the side of building, he heard all the shots.

Sgt. Julian said that as he went around the corner, he saw the two SJPD officers (he couldn't see the suspect very well), and then behind them, he saw Officer Longmore with K-9 Maya (she was limping, he lifted her up, and started running back; he heard that his dog had been hit). Sgt. Julian said he saw the suspect laying facedown. Sgt. Julian said he was under the carport, trying to evaluate, and was not a good position, so he went back to a car in the parking lot.

Sgt. Julian said he heard the lieutenant saying they had enough officers on the IA team. Sgt. Julian said Sgt. Webster was giving commands (e.g., "put your hands out," that they wanted to help him). Sgt. Julian said he could see the suspect moving (his right back leg was kind of rotating on his toe). Sgt. Julian said he had some officers hold security on the suspect's car, and that when he came back, he could still hear them giving commands. At some point, he heard the helicopter say the suspect had the handgun in the right hand. Sgt. Julian said the suspect was still rotating his foot and his head was kind of moving (he couldn't tell if he was trying to shimmy up or what). Sgt. Julian said he heard the sound of metal hit the ground (he assumed the suspect dropped the gun), the suspect's leg went limp, and then his legs started moving again. Sgt. Julian said that the suspect started shimmying more, lifting his head up, and leaning over (he could see the suspect's stomach), but his legs were not moving very much. Sgt. Julian said the suspect kind of went back over, was still moving his head, and his arms were up (he was directly behind the suspect, so he was seeing elbows). Sgt. Julian said that as the suspect was moving, he heard the shots and could see the shots from the team, and there was no movement after that.

SJPD Officer Weeks

Officer Weeks said he heard that WJPD was in their area following a vehicle and learned that the suspect was armed and that they were trying to spike the vehicle. Officer Weeks said they asked for marked units and so he and other SJPD units responded and joined the pursuit (with lights and sirens). Officer Weeks said the suspect ended up bailing on foot outside the Jordan Credit Union.

Officer Weeks said he got out on 114th South and ran after him (he saw several officers and the K-9 running in front of him). Officer Weeks said that as he rounded the corner, he took a wider turn because he heard a gunshot, saw a dog limping, and had officers in front of him (everyone had guns out). Officer Weeks said he heard more gunfire (the officers to his side were firing), got on target, and the suspect went down (he didn't fire). Officer Weeks could not tell if the suspect was holding a firearm as his hands had moved in and he was going down. Officer Weeks said he gave commands as the suspect went to the ground.

Officer Weeks said that they moved across to cover, a few tactical officers moved up and took control, and they stayed behind cover. Officer Weeks said he moved back to other vehicles.

WJPD Sgt. Richards

Protocol investigators interviewed Sgt. Richards who explained that WJPD officers had been trying to locate an aggravated assault suspect who was wanted for pointing a gun at a female and that they got another call reporting that the suspect had gone to another house and pointed a gun at somebody else and that person was following the suspect. Sgt. Richards said he headed that direction, caught up with officers, and they followed the suspect to Mapleton on I-15, came back north on I-15, and the suspect pulled into the gas pumps at the Costco on 104th South. Sgt. Richards said that when the suspect finished filling up, he pulled out, and an officer was able to spike his vehicle. Sgt. Richards said they followed the suspect and SJPD units got involved and pursued him. Sgt. Richards said he heard on the radio that the suspect was bailing out on foot and going northbound, so he pulled into the west side parking lot of the credit union. Sgt. Richards said that as he was pulling down the west side, he heard someone say there were shots fired and a dog was hit (he did not hear the shots).

Sgt. Richards said he parked, got out, and went behind the car. Sgt. Richards said he saw the suspect prone out on the ground, on his stomach. Sgt. Richards explained there was another unmarked vehicle with some officers stacked up in front of him, near the front (about 20-30 yards south of the suspect), and that eventually he moved further back behind another vehicle. Sgt. Richards said he heard officers up front giving commands and saying over the radio that one of the suspect's hands was out but they couldn't see the other hand. Sgt. Richards said they were giving commands to show his other hand out. Sgt. Richards said that at one point, he heard someone say that the suspect brought his hand out and had the gun. Sgt. Richards explained he was pretty far back but saw some of the officers at the front fire several rounds at the suspect

who was on the ground (he did not see a firearm). Sgt. Richards said that after their gunshots, they stayed back where they were at and figured out an approach.

WJPD Det. McDonald

Protocol investigators interviewed Det. McDonald who said that earlier that afternoon, he became involved in the case and interviewed one of the victims. Det. McDonald said the suspect was supposed to meet his sergeant in the military and turn himself in, but it didn't happen. Det. McDonald said he heard on the radio that the suspect found the victims again and so he responded to the location and followed the suspect. Det. McDonald said the suspect drove down to Utah County, got off an exit, and then got back onto the freeway. Det. McDonald said they intercepted him by the Costco. Det. McDonald said the suspect finished getting gas and pulled back out. Det. McDonald said they tried spiking tires and he heard on the radio that the suspect had swerved at Officer Jones. Det. McDonald said the suspect turned southbound; he turned a different direction, but caught back up.

Det. McDonald said that they were approaching Redwood Road (eastbound on 114th South) and he heard on the radio that the suspect was coming to a stop, getting out, and running. Det. McDonald said he was in the middle lane and saw the suspect take off running northbound across traffic. Det. McDonald clarified that he didn't see the suspect get out of the car but saw him running in the middle of the road, in a northwest direction, and that he was too far away to see his hands. Det. McDonald said he saw officers pursuing the suspect. Det. McDonald said drove into oncoming traffic and into the 7-11 parking lot [east of the credit union]. Det. McDonald said he pulled into the lot, heard shots, and then heard "shots fired" on the radio.

Det. McDonald said he heard something said about the K-9 being shot, so he got out of his car, ran around the north side of the building, and took cover behind a cinder block wall on the northwest corner of the 7-11. Det. McDonald said he saw 4-5 officers behind a truck and he could see the suspect laying flat on the ground, on his stomach (he was about 50-60 yards away). Det. McDonald said he remained behind cover, walking from side to side, as he tried to figure out the best position to see the suspect. Det. McDonald said he heard them say on the radio that he has a gun in his right hand and is still moving. Det. McDonald said he started hearing shots (a decent-sized volume) and looked and saw shots being fired (he saw muzzle flashes) and the suspect was on the ground still.

Additional Officer Witnesses

Additional officers were on scene during the incident and/or involved in the preceding events, however, they either did not witness the shots fired or were at too great a distance to clearly see what occurred. They are mentioned for the purpose of completeness.

Additional Civilian Witnesses

Protocol investigators interviewed the alleged victims from the reported incidents with Mr. Alvarenga earlier that day—a female who we refer to as "F. N." and her husband who we

refer to as “A. N.”³⁶ They did not witness the shootings but are mentioned here for the purpose of completeness.

Physical Evidence

Protocol investigators inspected and photographed the OICI scene, reviewed radio traffic recordings and logs, reviewed video recordings (including body-worn camera, surveillance, Star 9 helicopter, and dash camera recordings), examined the officers’ weapons, and reviewed the autopsy findings.

OICI Scene

Protocol investigators inspected the OICI scene located in the area of 1750 West 11400 South in South Jordan, at a Jordan Credit Union building. In the roadway south of the building, investigators located a number of police vehicles, both marked and unmarked, in both the eastbound and westbound lanes.³⁷ A gray 2019 Honda Civic was located within the cluster of vehicles, in the far-left turn lane of 11400 South eastbound. The vehicle’s front driver tire was against the cement center median and mostly deflated, and its rear tires were obviously damaged (e.g., deflated and shredded). The vehicle was still running with keys in the ignition.

On the north side of a large parking lot north of the building, investigators located Mr. Alvarenga’s body, lying face down on the asphalt. A GLOCK 43X 9mm pistol was near Mr. Alvarenga’s head and right hand; it was later determined that the pistol was loaded with one cartridge in the chamber and nine cartridges in the magazine.³⁸ A bullet with reddish-brown stains was located underneath Mr. Alvarenga’s body.

³⁶ F. N. told investigators that she had told Mr. Alvarenga that she didn’t want to pursue a friendship. F. N. said that at about 11:25 a.m., Mr. Alvarenga was at her apartment complex parking lot and confronted her about their relationship. F. N. said Mr. Alvarenga got in her vehicle, she got out, he got out, she got back in, and when she went to close the door, he grabbed it and put his body in the way, showed her his gun which he was holding, and told her they were going to have a conversation. F. N. said he took her cellphone and threw it, she retrieved it (so she could call 911), and he again grabbed her phone and threw it (shattering it).

F. N. said she retrieved her phone, they got in their vehicles, and Mr. Alvarenga followed her as she drove to pick up her son. F. N. said that Mr. Alvarenga parked right behind her and then went out of sight. F. N. said that she had been on the phone with 911 since she’d left the apartment complex, that Mr. Alvarenga was there again after she left with her son, and she drove to an In-N-Out where she met with an officer and gave a statement.

F. N. said that she and her husband, A. N., met up and then both drove into her apartment parking lot, she passed Mr. Alvarenga, and then Mr. Alvarenga followed her, and A. N. followed Mr. Alvarenga. F. N. said she saw a police officer, they pulled over, she told the officer, and then the officer followed Mr. Alvarenga and A. N.

A. N. said his wife called, he left his work and met her at a gas station, and they went back to the apartment parking lot where they saw Mr. Alvarenga’s vehicle (a Honda Civic). A. N. said he attempted to call 911 and that F. N. was able to flag down an officer. A. N. said that Mr. Alvarenga started to swerve him off the road, he got side by side with Mr. Alvarenga, and Mr. Alvarenga pointed a gun at him. A. N. said that later, Mr. Alvarenga pointed a gun at him a second time and the officer followed the car. A. N. described the gun as a black Glock. A. N. also added that Mr. Alvarenga had a gun under the steering wheel again when he was in his parents’ neighborhood.

³⁷ Investigators documented seven police vehicles on scene south of the Jordan Credit Union building.

³⁸ Investigators determined that Mr. Alvarenga purchased the GLOCK 43X one week prior on February 10, 2022.

In the east side of the parking lot, investigators located 18 9mm casings (consistent with where the officers who first fired shots were located). In the northeast side of the parking lot, investigators located another 9mm casing (confirmed by ballistic testing to have been fired by Mr. Alvarenga's gun and consistent with Mr. Alvarenga's location when he shot K-9 Maya). In the middle of the parking lot and southwest of Mr. Alvarenga's body, investigators located 19 rifle casings and five 9mm casings (consistent with where the officers who fired the second volley were located). A number of police vehicles were on the west/northwest side of the parking lot.³⁹

At a residence northwest of the shooting location (consistent with the direction of shooting from the first volley), investigators observed a possible bullet impact to a window/window frame.

Dispatch Recordings and Logs

Protocol investigators reviewed the 911 calls from F. N. and A. N., the dispatch radio traffic recording for the events that day, and the CAD logs related to the incident. They are mentioned here for the purpose of completeness.

Notably, the call log reflects that F. N. called 911 at 11:30 a.m. (it was noted that a male with a gun was following her in a grey Honda Civic, that she'd told him she did not want to see him anymore, that he'd threatened her with a gun and was chasing her, and that he was still behind her). At about 11:37 a.m., officers got behind the Honda Civic and attempted to initiate a traffic stop, however, at 11:45 a.m., the pursuit was terminated. At about 1:17 p.m., officers again located and followed the Honda Civic, and at 1:29 p.m., the pursuit was terminated.

At about 5:13 p.m., A. N. called 911 (he reported that Mr. Alvarenga had just flashed a black GLOCK handgun and had a gun in his hand, that he and F. N. were driving separate vehicles, and that he was following the suspect). At 5:21 p.m., Star 9 was requested, and officers continued to follow and call out the pursuit. The log reflects that at 7:04 p.m., he was stopping at the Costco gas pump. At 7:09 p.m., spikes were deployed. At 7:15 p.m., he was stopped at a red light at Redwood Road, he was out on foot, and had a gun in his right hand. "Shots fired" is noted at 7:16 p.m. "More shots fired" is noted at 7:22 p.m.

Body-Worn Camera Recordings

Protocol investigators reviewed available body-worn camera recordings relating to this incident. With respect to the first volley of shots, body-worn camera recordings were available for WJPD Officer Longmore, SJPD Officer Henderson, and SJPD Officer Rosse, as well as SJPD Officer Weeks (who was behind the three involved officers). With respect to the second volley, none of the officers at the shooting location (Det. Valdez's black Ford F-150) were

³⁹ Investigators documented nine police vehicles on scene in the parking lot.

wearing body-worn cameras.⁴⁰ While other officers' body-worn camera recordings depicted events on scene as well as the sound of the second volley, none of the available recordings captured Mr. Alvarenga's movements in the moments immediately preceding the second shooting (as such, we do not attempt to summarize all available recordings herein). The recordings relevant to the first shooting are briefly summarized, in relevant part, as follows.

As Officer Henderson's video begins, he is running along the east side of the Jordan Credit Union with his firearm out and Mr. Alvarenga's figure can be seen running in front of him. K-9 Maya runs past him, and Officer Henderson calls out, "Gun in—gun in right hand. Gun in right hand. Gun in right hand." Officer Longmore is heard yelling commands to K-9 Maya. As Officer Henderson reaches the north parking lot, the sound of a shot is heard. Officer Henderson continues running into the parking lot toward Mr. Alvarenga's figure (in a northwest direction), a whining sound is heard (presumably from K-9 Maya), and additional shots are heard (at this point, the audio recording is muffled). In the distance, Mr. Alvarenga can be seen running and then falling to the ground, and Officer Weeks runs to the front right of Officer Henderson and continues to run towards Mr. Alvarenga (before slowing). The officers move to cover as repeated commands to Mr. Alvarenga begin. Notably, Officer Henderson's recording later captures him explaining (after the second volley is fired), "Yeah, he shot our dog. The West Jordan K-9. Yeah. That's why we ended up shooting. He turned around and shot the dog..."

As Officer Longmore gets out of his vehicle, he calls out, "He's got the gun, he's got the gun in his hand!" Officer Longmore calls for "Maya," opens his rear passenger door, and K-9 Maya gets out. As she and Officer Longmore run across the road and then to the east side of the Jordan Credit Union building, he gives commands to Maya (including to "hit"). Officer Longmore runs on the east side of the building, K-9 Maya runs past Officer Henderson (Officer Longmore yells out warnings of his K-9), and Officer Longmore continues to yell commands to K-9 Maya and to Mr. Alvarenga (to stop). Near the northeast corner of the building, Officer Henderson is heard saying "Gun in right hand" as Officer Longmore runs to the left side of him and gives more commands to K-9 Maya (to "hit that guy"). As Officer Longmore reaches the sidewalk on the north side of the building, the sound of a shot is heard. Officer Longmore then yells "fuck," a whining sound is heard (presumably K-9 Maya), and Officer grasps his firearm in both hands, moves forward into the parking lot, and begins firing in a northwest direction (he appears to fire nine times). Mr. Alvarenga's figure is seen in the distance. As shots are fired, police vehicles are seen pulling into the west side of the parking lot.

Officer Rosse gets out of her vehicle and runs across the street and to the east side of the Jordan Credit Union. Two officers are seen running in front of her. Before she reaches the northeast corner, Officer Longmore can be heard yelling commands to K-9 Maya and then the sound of a shot is heard. As she rounds the corner, the two officers are seen in the parking lot (Officer Longmore is further west and Officer Henderson is to his right), the sound of additional shots is heard, Officer Rosse grasps her handgun in both hands, and she fires her weapon in a

⁴⁰ Specifically, body-worn camera recordings were not available for any of the involved officers (*i.e.*, Sgt. Webster, Det. Reier, Det. Curtis, Det. Pender, or Det. Valdez), or for Sgt. McElreath (who was behind the shield).

northwest direction (she appears to fire two times). Notably, a second volley of shots is heard on the recording over six minutes after the first series of shots.

Officer Weeks gets out of his vehicle and runs across the street and to the east side of the Jordan Credit Union, with his firearm out. As he runs on the east side of the building, three officers are seen running ahead of him. Before he reaches the northeast corner, the sound of a shot is heard. Officer Weeks continues running and additional shots are heard. Officer Weeks continues running in a northwest direction across the parking lot.

Surveillance Videos

Protocol investigators reviewed surveillance camera videos from the Jordan Credit Union. One video depicted Mr. Alvarenga running northbound (from 11400 South) through the east parking lot (during which a dark object can be seen in his hand). Though at a distance, another video depicted Mr. Alvarenga running northwest across the parking lot, continuing to run after K-9 Maya came up to him, and then falling to the ground; it also depicted the officers chasing after Mr. Alvarenga and shooting their weapons. The video further captures the police activity after Mr. Alvarenga fell to the ground, and though from a considerable distance, the second shooting. Due to the distance, the videos were unable to provide a complete and accurate depiction of the events that occurred.

Star 9 Video

Protocol investigators reviewed lengthy overhead video footage from the Star 9 helicopter, which begins after Star 9 located Mr. Alvarenga's vehicle in Riverton.⁴¹ The footage captures Star 9's surveillance of Mr. Alvarenga as he drives to Utah County and back and then fuels his vehicle at Costco. The footage then captures the spike deployment (after he leaves the Costco fuel station), Mr. Alvarenga continuing to drive for about six and a half minutes), and then Mr. Alvarenga stopping, getting out, and running north across the street (just before Redwood Road on 11400 South).

Relevant to the shootings, the footage depicts Mr. Alvarenga running to the east side of the Jordan Credit Union; he is then seen running in a northwest direction from the building's northeast corner and across the north parking lot. A pursuing officer (Officer Henderson) is heard calling out, "Gun in right hand. Gun in right hand," before Mr. Alvarenga goes under a large shade structure located in the parking lot north of the building. K-9 Maya is seen running after Mr. Alvarenga and also going under the shade structure. Several seconds later, as Mr. Alvarenga runs out from the northwest corner of the shade structure, an officer (toward the northeast corner of the building) is seen firing shots in his direction. Mr. Alvarenga then stops running and goes to the ground, face down, with his head to the north. Notably, less than 30 seconds elapsed from when Mr. Alvarenga exited his vehicle to when he went to the ground.

⁴¹ The video is over 2 hours in length and begins in the area of Sandhill View Way and Eagles Flight Road (approximately 13200 South and 4500 West).

As Mr. Alvarenga lay on the ground, a group of officers positioned themselves at a police truck southwest of Mr. Alvarenga while other officers moved further back. Eventually, Mr. Alvarenga is seen moving, while remaining face down.⁴² After over four minutes on the ground, Mr. Alvarenga pulls out a gun with his right hand; Star 9 calls out, “Gun in right hand. Gun in right hand,” and further advises that they “saw him pull the gun out and it’s in his right hand.”⁴³ Mr. Alvarenga manipulates the gun; as he does so, Star 9 advises, “Gun is still in his right hand. He’s manipulating it.” Mr. Alvarenga continues to manipulate the gun. After six minutes on the ground, Mr. Alvarenga is seen slightly lifting up on his left elbow/forearm and moving his right arm (which is on the ground and bent at the elbow while holding the gun), and a large volley of shots is fired in Mr. Alvarenga’s direction by the group of officers at the truck.⁴⁴ Star 9 monitors Mr. Alvarenga for movement and officers formulate and begin executing an approach.

Dash Camera Recordings

Protocol investigators reviewed dash camera recordings relating to this incident. While the recordings captured earlier events, the events in the Jordan Credit Union parking lot were not captured. We note that the recordings captured Mr. Alvarenga’s vehicle coming to a stop, Mr. Alvarenga opening the door and fleeing on foot, and Officer Longmore letting K-9 Maya out.

Weapons Downloads

Officers Longmore, Henderson, and Rosse – First Volley

Protocol investigators examined and downloaded Officer Longmore’s GLOCK 45 9mm pistol, which had an inserted 17-round capacity magazine. Protocol investigators counted one cartridge in the chamber and eight cartridges in the inserted magazine, for a total of nine cartridges.⁴⁵ Presuming Officer Longmore began with a fully loaded magazine and a chambered round, that count indicates he likely fired up to nine rounds during the incident.

Protocol investigators examined and downloaded Officer Henderson’s GLOCK 17 9mm pistol, which had an inserted 17-round capacity magazine.⁴⁶ Protocol investigators counted one cartridge in the chamber and nine cartridges in the magazine, for a total of ten cartridges.⁴⁷ Presuming Officer Henderson began with a fully loaded magazine and a chambered round, that count indicates he likely fired up to eight rounds during the incident.

⁴² Investigators determined that Mr. Alvarenga began moving after 1 minute and 16 seconds.

⁴³ Investigators determined that Mr. Alvarenga retrieved the gun that was under his body (in his stomach/chest area) 3 minutes and 2 seconds after he started moving again.

⁴⁴ Investigators determined that Mr. Alvarenga manipulated the gun for about 1 minute and 51 seconds before the second series of shots.

⁴⁵ Officer Longmore’s spare magazines were fully loaded.

⁴⁶ Protocol investigators later determined that Officer Henderson’s and Officer Rosse’s weapons had been switched after another officer had taken their weapons following the shooting; the download counts stated herein have been corrected accordingly.

⁴⁷ One of Officer Henderson’s spare magazines was fully loaded and the other contained one less than capacity.

Protocol investigators examined and downloaded Officer Rosse's GLOCK 17 9mm pistol, which had an inserted 17-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 14 cartridges in the inserted magazine, for a total of 15 cartridges.⁴⁸ Presuming Officer Rosse began with a fully loaded magazine and a chambered round, that count indicates she likely fired up to three rounds during the incident.

Based on the download counts, it is possible that Officer Longmore, Henderson, and Rosse collectively fired up to 20 rounds during the first volley of fire. However, in their body-worn camera recordings, Officer Longmore appears to fire his weapon nine times and Officer Rosse appears to fire her weapon two times (it is unclear how many times Officer Henderson fires). In addition, investigators located a total of 18 9mm casings in the vicinity where they fired. As such, we believe it is likely that these officers collectively fired 18-19 rounds.

Dets. Curtis and Pender – Second Volley

Protocol investigators examined and downloaded Det. Curtis's GLOCK 45 9mm pistol, which had an inserted 22-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 21 cartridges in the inserted magazine, for a total of 22 cartridges.⁴⁹ Presuming Det. Curtis began with a fully loaded magazine and a chambered round, that count indicates he likely fired one round during the incident.

Protocol investigators examined and downloaded Det. Pender's Smith & Wesson M&P 9mm pistol, which had an inserted 17-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 13 cartridges in the magazine, for a total of 14 cartridges.⁵⁰ Presuming Det. Pender began with a fully loaded magazine and a chambered round, that count indicates he likely fired up to four rounds during the incident.

Importantly, investigators located five 9mm casings in the vicinity of where they fired; as such, we believe that Dets. Curtis and Pender fired rounds consistent with their download counts.

Sgt. Webster, Det. Reier, and Det. Valdez – Second Volley

Protocol investigators examined and downloaded Sgt. Webster's Primary Weapons Systems MK111 .223 Wylde rifle, which had an inserted 30-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 23 cartridges in the magazine, for a total of 24 cartridges.⁵¹ Presuming Sgt. Webster began with a fully loaded magazine and an empty chamber, that count indicates he likely fired up to six rounds during the incident.

Protocol investigators examined and downloaded Det. Reier's Primary Weapons Systems MK111 .223 Wylde rifle, which had an inserted 30-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 16 cartridges in the magazine, for a total

⁴⁸ Officer Rosse's spare magazines were fully loaded.

⁴⁹ Det. Curtis's spare magazine contained one less than capacity.

⁵⁰ Det. Pender's spare magazines were fully loaded.

⁵¹ One of Sgt. Webster's spare rifle magazines was fully loaded and another contained five less than capacity.

of 17 cartridges.⁵² Presuming Det. Reier began with a fully loaded magazine and an empty chamber, that count indicates he likely fired up to 13 rounds during the incident.

Protocol investigators examined and downloaded Det. Valdez's Colt M4 Carbine 5.56mm rifle, which had an inserted 30-round capacity magazine. Protocol investigators counted one cartridge in the chamber and 22 cartridges in the magazine, for a total of 23 cartridges. Presuming Det. Valdez began with a fully loaded magazine and an empty chamber, that count indicates he likely fired up to seven rounds during the incident.

Based on the download counts, it is possible that Sgt. Webster, Det. Reier, and Det. Valdez collectively fired up to 26 rifle rounds during the second volley of fire. However, we note that investigators located a total of only 19 rifle casings in the vicinity of where they fired.

Autopsy

Nicole E. Stanley, M. D., with the Utah Office of the Medical Examiner performed an autopsy of Mr. Alvarenga's body and determined that he died from multiple gunshot wounds. Dr. Stanley reported gunshot wounds of the head, neck, torso, and extremities. A number of projectiles and bullet fragments were recovered from his body.

LEGAL ANALYSIS

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

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

⁵² Det. Reier's spare rifle magazines each contained two less than capacity.

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

With respect to the first volley of shots, we know from the evidence produced in the protocol investigation, that all three of the officers—Officers Longmore, Henderson, and Rosse—were pursuing Mr. Alvarenga after his vehicle was spiked and they were at or near the front of the vehicle pursuit. As such, it is reasonable to infer that they were receiving information being provided over the radio about the pursuit; and in particular, that they heard information clearly communicated over the radio less than a minute before Mr. Alvarenga got out of his vehicle and fled on foot—specifically, that they were pursuing Mr. Alvarenga for “Two counts agg[ravated] assault, armed with a handgun, possible vest, corrections officer, threatening suicide by cop, and suicide.”

The evidence shows that after Mr. Alvarenga stopped and fled on foot, with a handgun in his right hand, these three officers immediately exited their vehicles and ran after him. Based on body-worn camera recordings, we know that Officer Longmore immediately—as he was exiting his vehicle—called out that Mr. Alvarenga had the gun in his right hand; he then released K-9 Maya and commanded her to hit as he ran after Mr. Alvarenga. We also know that Officer Henderson, who was initially first in the foot pursuit, repeatedly yelled “Gun in right hand” as he ran after Mr. Alvarenga along the east side of the credit union building, and that it was transmitted two times over the radio. We also know that Officer Rosse was directly behind the other three officers as they pursued Mr. Alvarenga to the north side of the credit union building.

Further, we know from video evidence as well as other physical evidence, that Mr. Alvarenga ran northwest across the parking lot and underneath a covered parking structure, K-9 Maya caught up to Mr. Alvarenga, Mr. Alvarenga turned and fired one round from his handgun at K-9 Maya (and in the direction of pursuing officers)—the sound of which is clearly captured on the officers' body-worn camera recordings (followed by the sound of her whining). Mr. Alvarenga then continued to run across the parking lot and Officers Longmore and Henderson, followed by Officer Rosse, returned fire.

The statements of witness officers further corroborate the evidence in this case. For example, Officer Worwood said that as he came around the building (with three officers in front of him), he saw the suspect turning back, heard the shots, saw the three officers returning fire, and then saw the K-9 on the ground. Officer Worwood further explained that he could see a gun in the suspect's hand and heard the shots when he saw him turn. In addition, Det. Higby said he pulled into the parking lot, saw the suspect running and then saw a little shadow (K-9 Maya). Det. Higby said he heard a "pop" and thought the suspect was shooting at him, ducked down, and then heard return fire. Det. Higby explained that he saw the suspect turn back before he heard the shot.

Thus, based upon the facts known to us, as outlined here, we believe it is reasonable for us to infer that Officers Longmore, Henderson, and Rosse likely believed they needed to use deadly force against Mr. Alvarenga to prevent death or serious bodily injury to themselves and/or others (in this case, to themselves and to other officers). We further conclude that such a belief was reasonable. Mr. Alvarenga unlawfully presented an immediate threat of death or serious bodily injury when he fired his handgun at K-9 Maya during the foot pursuit.

Turning to the second volley, we know that the officers who fired—WJPD Sgt. Webster, WJPD Det. Reier, WJPD Det. Curtis, UPD Det. Pender, and UPD Det. Valdez—were positioned at Det. Valdez's truck (for cover) and that together (along with Sgt. McElreath who was holding a shield) they took control of the incident after Mr. Alvarenga went to the ground, and that they did so as a team. As Mr. Alvarenga lay on the ground, Sgt. Webster (who was leading the team) continued giving commands. However, Mr. Alvarenga did not comply. Rather, and despite his injuries, Mr. Alvarenga began moving, while still lying face down on the ground. After over four minutes on the ground, Mr. Alvarenga retrieved the handgun from under him with his right hand, and Star 9 called it out over the radio. Mr. Alvarenga then began manipulating it and Star 9 advised over the radio that the gun was still in his right hand and that he was manipulating it. Mr. Alvarenga continued to not comply with commands and instead continued manipulating the gun and moved—for a total of 1 minute and 51 seconds before being shot. After about six minutes on the ground, Mr. Alvarenga turned his head and looked in the direction of the officers as he lifted up on his left elbow/forearm and moved his right hand and the gun in their direction. WJPD Sgt. Webster, WJPD Det. Reier, WJPD Det. Curtis, UPD Det. Pender, and UPD Det. Valdez immediately fired their weapons.

In addition to the Star 9 surveillance recording, which captured Mr. Alvarenga's movements as he lay on the ground, we specifically relied on the testimony of Sgt. McElreath, who was with the team of officers at Det. Valdez's truck and was calling out the suspect's movements to the team throughout the incident. Sgt. McElreath explained that he saw the suspect moving, heard from Star 9 that the suspect still had the gun in his right hand and was manipulating it, and saw the suspect continue to move. Sgt. McElreath explained that the suspect would lift up his shoulders and then put them back down and then lift up his head, and that he was kind of moving his legs. Sgt. McElreath said that as the suspect was manipulating with his shoulders, he could see daylight coming from under his left armpit, so he called it out. Sgt. McElreath said at one point, "I was sure I saw the handgun coming, like he was

maneuvering it to get underneath, like to put it under his armpit,” and he was calling it out. Sgt. McElreath explained, “He did that and I saw, you know, I kinda saw the open space under the armpit. Saw it go dark. I really felt that it was the handgun”; he further explained, “As he was like moving his shoulders around, kinda lifted up, so I could see an open space, and then that open space would disappear. . . while he was still up.” Sgt. McElreath explained that at that point, “I made myself as small as I could so behind [the shield] so they could get as close to me as they could, and kind of lifted it up. . . I’m giving them as much room as possible” (he also later explained that he tucked and ducked his head), and that right after that, shots were fired all around him.

In addition, the statements of many of the witness officers, who were further away, corroborated the other evidence in this case and helped us better understand Mr. Alvarenga’s movements in the moments preceding the second shooting. For example, Lt. Jenkins explained that before he heard the shots, he saw the suspect “prop up in a fashion that he was turning back to look. It appeared he was turning back towards them and trying to engage them again.” Officer Worwood described, “At one point, I saw . . . his top half prop up. I could see the gun in his hand again, just pointing forward from where he was laying. He was laying just flat on his stomach and then I could see him push himself up and he had the gun in his hand.” Officer Worwood continued, “I could see him starting to move and roll a little bit and that’s when I heard the other shots going. Det. Jones explained that the suspect continued to turn, roll onto his side, and turn back (it looked like he was looking back at the officers at the black Ford), and that as the suspect turned another time, he heard the officers shoot. Det. Strong described, “And he’s moving his hands up above his head, not like way above his head, but next to his head. Looked like he was fiddling around with something. I knew he had a gun ‘cuz we’d determined that he had a gun on him from what the other officers could see up front so that was relayed back to us. And then he was fiddling around with it, fiddling around with it. And then I just heard gunshots. . .” Officer Johnson, who had a direct line of sight, said that he saw the suspect’s head into his shoulders started to rise before the second round of shots. Det. Higby also said that he could see the suspect’s head turn and look at them. In addition, Sgt. Julian described seeing the suspect started shimmying more, lifting his head up, and leaning over (he could see the suspect’s stomach), that the suspect kind of went back over, was still moving his head, and his arms were up (he was seeing his elbows), and that as the suspect was moving, the team fired shots.

In conclusion, based upon the evidence of which we are aware, we believe it is reasonable for us to infer that WJPD Sgt. Webster, WJPD Det. Reier, WJPD Det. Curtis, UPD Det. Pender, and UPD Det. Valdez likely believed they needed to use deadly force against Mr. Alvarenga to prevent death or serious bodily injury to themselves and/or others when Mr. Alvarenga, after fleeing and then shooting K-9 Maya, failed to comply with any of the officers’ commands and instead—and despite his injuries—retrieved his handgun and continued to manipulate it, began lifting himself upwards, and moved the handgun in the direction of the officers as he lifted himself up and looked towards them. Based upon the facts in this case, as well as the reasonable inferences derived from those facts, we conclude that such a belief was reasonable.

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

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

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

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

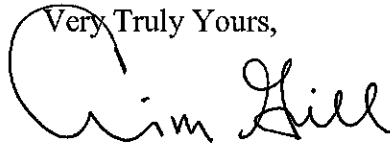
inferences to be drawn therefrom, we conclude that the Involved Officers' use of deadly force would likely satisfy the elements of a justified use of deadly force as set forth in Utah State law.

CONCLUSION

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

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

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Sim Gill". The signature is written in a cursive, flowing style. The first name "Sim" is written with a large, looped 'S' and a small 'i'. The last name "Gill" is written with a large, looped 'G' and a small 'i'. The signature is positioned above a horizontal line.

Sim Gill,
Salt Lake County District Attorney