



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

TO: John Choi, Ramsey County Attorney

FROM: John Kelly, First Assistant Ramsey County Attorney *JK*
Hao Nguyen, Trial Division Director *H. Q. N.*

DATE: May 24, 2024

RE: In the Matter of the Death of Brandon DaleShaun Keys
RCAO File Nos. 062-0564504
BCA File No. 2023-1125

I. INTRODUCTION

On December 7, 2023, Officer Michael Tschida of the Saint Paul Police Department ("SPPD"), while acting in his professional capacity as a licensed peace officer and responding to a 911 call, used deadly force that resulted in the death of Brandon DaleShaun Keys, age 24.

The Minnesota Bureau of Criminal Apprehension ("BCA") conducted the investigation of the circumstances resulting in the death of Mr. Keys. The Ramsey County Attorney's Office ("RCAO") then reviewed the evidence gathered by the BCA to determine whether Officer Tschida's use of deadly force against Mr. Keys was justified under Minnesota Statutes, Section 609.066.

This Memorandum identifies the relevant evidence gathered by the BCA during its investigation of the shooting of Mr. Keys. This evidence includes statements taken from lay witnesses and others, during interviews conducted by BCA agents; physical evidence, including DNA and ballistics evidence; audio and video taken from law enforcement in-car cameras ("ICCs"), and the body worn cameras ("BWCs") worn by the officers who were involved in the incident, including Officer Tschida. A written statement from Officer Tschida was also provided to the BCA. We then applied the above-referenced evidence to the legal standard used to determine whether the use of deadly force by Officer Tschida was justified under Minnesota law.

Based on our review of the evidence presented to this office by the BCA, and for the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Officer Tschida against Mr. Keys was justified under Minn. Stat. § 609.066, subd. 2(a)(1)(i-iii), (2) and (b). Accordingly, we recommend that no criminal charges be brought against Officer Tschida related to this incident.

II. CASE SUMMARY

A. Summary of Facts

At approximately 2:11 PM on December 7, 2023, K.L.D. called 911 to report that the father of her child, later identified as Mr. Keys, was “chasing” her with his car, while she was driving her van after exiting Interstate 94 (I-94) on the westbound Cretin-Vandalia Avenue exit ramp in Saint Paul. K.L.D. also told the 911 operator that she had an Order for Protection (“OFP”) against Mr. Keys, that he “has a gun – a Glock,” and that he had intentionally struck her van multiple times, with his blue Chevy Impala.

K.L.D. further told the 911 dispatcher that Mr. Keys was standing outside of K.L.D.’s van near the intersection of Cretin and Marshall Avenues and that he had broken a window in her vehicle. Shortly thereafter, she informed the 911 dispatcher that Mr. Keys was “ramming” her van, with his vehicle.

Officer Tschida was on patrol that afternoon driving a visibly marked SPPD squad vehicle, equipped with an ICC, in which he was the only occupant. Officer Tschida was dressed in a dark blue SPPD uniform typically worn by patrol officers, and the BWC he was wearing was activated throughout the entirety of this incident. For dispatch and other internal communication purposes, Officer Tschida was designated as Squad No. 138.

The audio and video taken from Officer Tschida’s ICC shows that information about the above-described incident began to be verbally shared with him at approximately 2:14:06 PM when he was stopped at the traffic light at the intersection of Hamline Avenue and St. Anthony Boulevard. An unknown officer is heard acknowledging that he will respond to the call and asking for vehicle and suspect information.

At approximately 2:14:48 PM, Officer Tschida is also heard acknowledging that he is “in route” to the area near Marshall and Cretin Avenues and is seen proceeding westbound toward I-94 at an accelerated speed and with his vehicle siren and emergency lights activated.

At approximately 2:15:17 PM, Officer Tschida is seen driving on westbound I-94, and is heard being informed by dispatch that Mr. Keys was reported to be “fleeing in a blue Impala towards 94 on Cretin Avenue, no plate info; caller is going to be waiting in a silver van, still working on suspect info.” Officer Tschida is heard acknowledging his receipt of

that information as he approaches the Cretin/Vandalia exit. The dispatcher then is heard saying that K.L.D. "has broken windows on her vehicle and that he is fleeing on Cretin towards I-94."

At approximately 2:16:13 PM, Officer Tschida exits I-94 onto Cretin Avenue where he heads south. Officer Tschida also asks dispatch for confirmation that the suspect is driving a "blue Impala," which the dispatcher affirms. At approximately 2:17:10 PM, the dispatcher is heard telling Officer Tschida that "people at Marshall and Cretin are now saying he [Mr. Keys] is ramming the car."

In addition to being verbally provided the above-referenced dispatch information, SPPD officers, including Officer Tschida, were also provided the following Computer Aided Dispatch ("CAD") text information to their respective in-car computers:

- At 2:13:32 PM – "Has OFP Against Child's Father, Says He Has a Gun – A Glock. He's Following Complainant"
- At 2:13:52 PM – "Complainant Trying to Drive Away. He's Outside and Just Broke Her Vehicle Window"
- At 2:13:58 PM – "TC Can Hear Him Screaming Outside"
- At 2:14:48 PM – "Complainant No Longer Talking To TC. She's Repeating 'Let Me Go.' She's Driving Away."
- At 2:15:12 PM – "He's Fleeing in His Vehicle on Cretin Toward I94 In Vehicle/Blue Impala"
- At 2:15:19 PM – "Complainant in Vehicle/Silver Van"
- At 2:16:17 PM – "Complainant at Marshall/Finn Now. Child's Father Is Following Complainant Again."
- At 2:16:24 PM – "Hit Complainant's Vehicle with His Vehicle Again."
- At 2:16:32 PM – "He's Ramming Complainant Now."
- At 2:16:47 PM – "Now Saying They Are Still at Marshall/Cretin."
- At 2:17:17 PM – "She's Still Pleading with Him. TC Hears Him Yelling in Background Again."
- At 2:17:45 PM – "Secondary Location for 138: Marshall Avenue/Cretin Avenue N., St. Paul MN 5510"
- At 2:17:53 PM – "Complainant Saying Please Don't Shoot"
- At 2:18:19 PM – "New Complainant at 21** Dayton Saying Male in Neighbor Yard Asking for Police"

At approximately 2:17:12 PM, as he approaches the intersection of Cretin and Marshall Avenues, Officer Tschida is heard saying "Alright, I'm there." Approximately four seconds later, as he is waiting for northbound traffic on Cretin Avenue to let up so he can turn left onto Marshall Avenue, Officer Tschida is heard telling dispatch that, "I'm out here."

As Officer Tschida turns left, the ICC in his squad clearly shows a blue Impala parked at an angle in the westbound left turn lane of Marshall Avenue approximately 100 feet east of the Cretin Intersection crosswalk. No other cars are ahead of the Impala in the turn lane. A silver van with a smashed windshield is seen stopped closely behind the Impala. The driver's side front door of the Impala is open, and a male in a dark blue hoodie is seen standing near the driver's side of the van.

Officer Tschida provided the BCA investigators with a written statement. In his statement, he stated that as he approached the intersection in his police vehicle, he saw the blue Impala was parked in front of the silver van approximately 100-150 feet east of the Cretin Avenue intersection. He also wrote that he saw the van with a busted windshield on the passenger side, and a female seated in the driver's seat, who he assumed was the "victim/protected party in the protection order." Officer Tschida also stated that he saw a male standing next to the van's driver side window, whose attention he noted "appeared to be drawn towards the female victim, and he had not yet noticed my [meaning Officer Tschida's] presence."

At approximately 2:17:27 PM, audio and video from both his BWC and ICC shows Officer Tschida exiting his vehicle with his firearm in a "low-ready" position. Mr. Keys is seen walking away from the van and towards the Impala and as he makes eye contact with Officer Tschida he moves his hands into the front pouch of his hooded sweatshirt. At the same time, K.L.D. begins to slowly drive the van from the westbound left turn lane into the opposite eastbound lane of Marshall Avenue before stopping. Officer Tschida is seen holding his gun chest-high with his right hand as he moves to the front of his police vehicle while he loudly orders Mr. Keys three times, to "Get on the ground!

Video from both his BWC and ICC show that Mr. Keys ducked behind the rear of the Impala and was no longer visible. In his written statement, Officer Tschida stated that he temporarily lost sight of Mr. Keys at that point and that he then knew that Mr. Keys did in fact have a gun and was likely getting ready to use it. Officer Tschida then is heard saying "Oh, fuck!" as he begins to move toward his right to seek better protective cover and to avoid putting K.L.D. and other occupants of the van in his potential line of fire. He also began holding his department issued handgun in a "high ready" position (i.e. both arms extended chest-high while holding his firearm with two hands).

Video and audio from both his ICC and BWC show that approximately 1-2 seconds after ducking, Mr. Keys suddenly popped up from behind the rear of the Impala holding a black handgun with a two-handed shooting grip, pointed at Officer Tschida. Mr. Keys rapidly fires three shots at the officer. As he continued to move towards his right, Officer Tschida stated that before he returned gunfire, he knew that he had been struck by a bullet in the right leg.

The ICC and BWC show that Officer Tschida then rapidly returned gunfire at Mr. Keys while he quickly moved across the front of his squad vehicle towards the passenger side. Mr. Keys appears to have dropped behind the rear of the Impala and is no longer visible from either Officer Tschida's ICC or his BWC.

Audio and video from the ICC further show Officer Tschida seeking protective cover on the passenger side of his police vehicle, while K.L.D. begins to drive the van west on Marshall Avenue in front of his vehicle before she turns left into the parking lot of the adjacent Minnoco Gas Station. Officer Tschida is heard loudly informing dispatch "Shots fired!" multiple times. Officer Tschida also is heard saying "I'm hit!" as he retreats to the rear of his police vehicle.

Audio and video from the ICC and BWC, then show K.L.D. exiting the van and running towards the rear of the Impala, yelling "No! No!" Officer Tschida is heard yelling to K.L.D. "Where is he? "Get out of the way! Get out of the way! Get out of the way!" At that moment, neither his ICC, nor his BWC, given Officer Tschida's protective position behind his vehicle, enabled him to see Mr. Keys. Officer Tschida is heard informing dispatch "13, I'm hit. Send me medics. I'm not Code 4 yet, though." In law enforcement parlance, "Code 4" typically means "no further assistance needed."

K.L.D. did not move away from the rear of the Impala prompting Officer Tschida to continue to loudly order her to do so. According to his written statement, Officer Tschida stated that he could not see Mr. Keys and was concerned that he could reappear and begin shooting again, placing K.L.D., himself, and others in further harm. Because K.L.D. refused to move away, Officer Tschida also stated that he needed to resort to his "priorities of life" police training and began to gradually move away from his protected position near his police vehicle and towards where K.L.D. and Mr. Keys were, so that he could better protect K.L.D.

Audio and video from the ICC and BWC, show Officer Tschida moving away from his vehicle, while noticeably limping to favor his injured right ankle. Despite having cautiously moved away from his vehicle, Mr. Keys could not yet be seen by Officer Tschida from the video taken from his BWC. He continued to yell for K.L.D. to "Get out of the way!" and to "Move!" so he could get medical assistance to Mr. Keys. He is also heard asking K.L.D. "Is he down?" K.L.D. replied "Yes," but still refused to move away from the rear of the Impala, despite Officer Tschida's repeated commands to do so, so that he could help Mr. Keys. A female witness on the sidewalk adjacent to the Impala is also seen and heard urging K.L.D. to move away from Mr. Keys.

As Officer Tschida moves a few steps to his right, he is first able to see Mr. Keys since their exchange of gunfire. Mr. Keys is seen from Officer Tschida's BWC, from approximately 20-25 feet away, lying on the street behind the rear of the Impala. At that same time, the first police backup is seen and heard travelling west on Marshall Avenue towards the scene.

K.L.D. is seen and heard sobbing while cradling the upper torso of Mr. Keys as Officer Tschida quickly limps across Marshall Avenue to pick up a black firearm that he found next to the left foot of the body of Mr. Keys lying on his back. The firearm appears to have a piece of black cloth covering the grip and lower part of the gun, including the trigger. The officer then placed the gun on the street, approximately 10-12 feet away from Mr. Keys. Officer Tschida is heard informing dispatch, "Fuck! 138. I got the gun off him." He then yells toward SPPD Officer Porter who is running toward the scene, to "Just get up here and cuff him!"

Officers Tschida and Porter are then seen rolling Mr. Keys' body over to handcuff him behind his back. After placing handcuffs on Mr. Keys, Officer Tschida is seen and heard saying "138. Next one that pulls up, you're taking me to Regions." Officer Tschida then picks up the gun he recovered from Mr. Keys and is seen handing it to SPPD Officer Porter and says "It's his gun. Take the fucking thing and secure it."

In his written statement, Officer Tschida stated that during this process, he noticed a gunshot wound to Mr. Keys' face and believed that he had died. He also stated that although the scene was then secure, he did not feel comfortable leaving Mr. Keys' firearm in the middle of the street. Because he believed that the entire incident was captured on his ICC and BWC, he wrote that he "made the decision for evidence preservation to pick up [the firearm] and hand it to Officer Porter and told him to secure it."

Officer Tschida is then seen stopping an arriving SPPD vehicle, limping to enter the vehicle, and then directing the driver of that vehicle, SPPD Officer Matt Jones, to take him to Regions Hospital for medical treatment for the gunshot wound to his right ankle. While in route to the hospital, Officer Tschida self-applies a tourniquet to his leg. He then uses the vehicle's radio to notify dispatch that there are "no other suspects outstanding. There are some witnesses out there. I fired about four rounds in an easterly direction. I'm going to go to Channel 2 for my medical aid. Suspect's gun was given to someone else to secure."

In his written statement, Officer Tschida stated that he provided the foregoing information to both dispel inaccurate police radio information that a second suspect was running through the Cretin-Marshall neighborhood and to provide a brief, public safety statement to assist the officers on the scene by telling them the direction in which he fired his gun.

After Officer Tschida left the scene, SPPD officers immediately began performing life-saving emergency first aid measures on Mr. Keys until Saint Paul Fire and Emergency Medical Services ("EMS") professionals arrived on the scene approximately six minutes later and continued performing life-saving measures on Mr. Keys. Mr. Keys was declared deceased at 1:11 A.M. on December 8, 2024, and his body was transported to the Ramsey County Medical Examiner's Office.

The autopsy completed on December 8, 2023, by the Ramsey County Medical Examiner, found that Mr. Keys was struck one time by gunfire, and that his death was caused by a single gunshot wound to the head.

A black Beretta Model 92FS 9mm Luger caliber pistol was found next to Mr. Keys' body. Testing conducted by the BCA on the gun found next to Mr. Keys' body, determined that his DNA was found on the gun.

Two bullet jacket fragments and a bullet were recovered at the scene by the BCA and were identified by a BCA forensic scientist as having been fired from Mr. Keys' Beretta Model 92FS 9mm Luger caliber pistol. In addition, three spent shell casings were found near Mr. Keys' body but could not be scientifically identified as having been fired from his gun. Two spent shell casings and a bullet were recovered at the scene by the BCA and were identified by a BCA forensic scientist as having been fired from Officer Tschida's Smith and Wesson 9mm semi-automatic handgun.

III. SUMMARY OF RELEVANT EVIDENCE

A. 911 Calls

911 Call of K.L.D.

The call duration is about 7 minutes and 15 seconds long.

"911 what is the emergency?" 911 Dispatcher

"Yeah so, give my stuff, give me my stuff, give me my stuff, give me my stuff Brandon." K.L.D.

"Why are you doing this to me, why are you doing this bullshit?" Brandon Keys

"Give me my shit." K.L.D.

"Where are you ma'am." 911 Dispatcher

"Can you close my door, close my door!" K.L.D.

"Can you pull over and talk to me?? Brandon Keys

"Yes"

"Hello"

"I need help." K.L.D.

"Where?" 911 Dispatcher

"I'm on Marshall and Vandalia" K.L.D.

"Marshall and Vandalia?" 911 Dispatcher

"Yeah." K.L.D.

"Okay what's going on there? 911 Dispatcher

"My baby daddy is chasing me, I have a court current? restraining order on him, he has a gun." K.L.D.

"What do you mean he has a gun? 911 Dispatcher

"He has a gun" K.L.D.

"Did you see the gun?" 911 Dispatcher

"Yes" K.L.D.

"Okay what kind of gun does he have then?" 911 Dispatcher

"It's like a Glock, oh he just hit me, he just hit my car!" K.L.D.

"Are you in a vehicle or what is happening?" 911 Dispatcher

"I'm in my vehicle yes, he just hit my car." K.L.D.

"Okay ma'am what is your name?" 911 Dispatcher

"My name is K** D****." K.L.D.

"Is it Kacie Barnes?" 911 Dispatcher

"No it's K** D****." K.L.D.

"Okay are you injured at all?" 911 Dispatcher

"Um he about to, he trying to injury me, he just hit my car, he just hit my car." K.L.D.

"With his hands or what's going on?" 911 Dispatcher

"Ohh he is hitting me with is vehicle" K.L.D.

"So you both are in two separate vehicles?" 911 Dispatcher

"Yes oh my god, oh my god, please I need help, please" K.L.D.

"Are you driving or are you in foot?" 911 Dispatcher

"I'm trying to get away from him yes." K.L.D.

"You need to get somewhere safe." 911 Dispatcher

"I'm trying, I'm trying to get there. His license plate is KDL7474." K.L.D.

"Give me the license plate again." 911 Dispatcher

"No Ohh my god, he busted my window, are you fucking kidding me you're going to jail, he just busted my window, he just busted my windshield. this is my mother's car, I can't believe it. Ohh my god are you kidding me?" K.L.D.

"What kind of vehicle are you in ma'am?" 911 Dispatcher

"What!" K.L.D.

"Open the door?!" Brandon Keys

"No." K.L.D.

"No, I'm not I'm not calling the police." K.L.D.

"You wont even talk to me?!"

"Brandon please!" K.L.D.

"Oh my god are you fucking kidding me?" K.L.D.

"Ma'am help is on the way okay, what's your vehicle, what are you looking for? Ma'am"
911 Dispatcher

"No, he's now..,oh my god are you kidding me? Ohh my god, ohh my god, let me go, let me go. I'm on Marshall and Cretin, I'm in a van." K.L.D.

"What kind of van are we looking for? 911 Dispatcher

"A silver, ahh he just turned ahh towards 94." K.L.D.

Okay on which road did he go on? 911 Dispatcher

"He's on cretin" K.L.D.

"Ohh he's going towards 94 on cretin?" 911 Dispatcher

"Yeah" K.L.D.

"Okay what's his vehicle?" 911 Dispatcher

"He on a blue impala and a blue impala" K.L.D.

"And your vehicle again? 911 Dispatcher

"I'm in a van" K.L.D.

"What color is the van?" 911 Dispatcher

"Silver." K.L.D.

"Are you going to be staying at Cretin and Marshal then and waiting for officers, they are on the way." 911 Dispatcher

"Yeah, I'm trying t get away from him." K.L.D.

"Right but we want to we want to, if he is driving away from Cretin and Marshall then well if he is driving away from you then you're safe." 911 Dispatcher

"No no he's back he's back." K.L.D.

"Where can you go that's safe because we have to get officers over." 911 Dispatcher

"I don't know saint paul, I don't know, I don't know saint paul." K.L.D.

"Tell me where you are right now." 911 Dispatcher

"I just took a right off of Marshall or cretin and marshal." K.L.D.

"That's were officers are going if you're driving then you're driving away from there, tell me where you are right now, the next intersection you see tell me where you're at." 911 Dispatcher

"On Marshall and Fin, he's right behind me, Ohh my god he hit me again, he hit me again, he's going to fucking kill me, he's going to kill me, I can't." K.L.D.

"Okay just try to safe officers are driving to you." 911 Dispatcher

"He's ramming me, he's ramming me, Ohh no." K.L.D.

"Are you at Marshall and Fin or have you gone further?" 911 Dispatcher

"No Marshall and Cretin, Marshall and Cretin" K.L.D.

"No, Brandon no, No" K.L.D.

"Did you do this to me again?" Brandon Keys

"You're not going to jail; you're not going to jail, why did you do me like this?" K.L.D.

"Do you do me like this, is this how you've been doing me?" Brandon Keys

"Where is the gun? Where is the gun?" 911 Dispatcher

"Brandon please go, leave." K.L.D.

"Give me a cigarette, give me a cigarette." Brandon Keys

"Brandon, I don't cigarettes, I was just going to go get cigarettes I don't have one." K.L.D.

"Give me cigarettes I don't have no money, let me pull over, let me pull over. Okay the police are here the police are here. No no no no no no no no no no no tell them don't shoot, don't shoot him, don't shoot, don't shoot please, no oh my god no, no, no, oh my god no, no please Brandon please Brandon please no no. K.L.D.

"Get out of the way." Officer Tschida

"No please no he's down he's down he's down, K.L.D.

"Get out of the way." Officer Tschida

"He doesn't have no gun, please. Get an ambulance please get an ambulance please." K.L.D.

"Get out of the way." Officer Tschida

"Please he's down please he's down, he's down, he's down god, please come here please help me." K.L.D.

911 Call of N.D.

The call duration was about 3 minutes and 47 seconds long.

N.D.'s voice is strained and stressed; she tells the dispatcher that there is a man in her neighbor's backyard. Almost immediately she stops and tells the dispatcher that she is hearing gunshots. The male is hiding in the backyard, and she is speaking with him through the fence. She tells the 911 dispatcher that she lives on Dayton Avenue and provides an address to the dispatcher. She describes the male as black and wearing a yellow sweatshirt. She says she will wait for law enforcement to arrive. She describes the male as looking terrified and says he is asking her to call the police. She leaves the backyard and goes to the front of her house to wait for police to arrive. N.D. says she is standing next to the male and asks him if he needs an ambulance. This male is later identified as L.D.W., (who was the front passenger in K.L.D.'s minivan). As N.D. stood next to K.L.D., he can be heard saying:

"That's my girlfriend she was in the car with me, the guy, the father of her kid was taken down, he jumped out with a gun, where's my wife now? That's my fiancé." K.L.D.

N.D. then tells the dispatcher that K.L.D. ran away from her and down the street towards the corner to the scene. She tells the dispatcher that K.L.D. was worried about his girlfriend. The dispatcher tells her to be safe and to wait for officers to arrive to the area. The call ends.

B. Toxicology Results

Toxicology testing and analysis of Officer Tschida's blood showed no presence of alcohol or drugs in his system. Toxicology testing and analysis of Mr. Keys' blood showed the presence of Methamphetamine (25 ng/ml), Amphetamine (8.5 ng/ml), Fentanyl (8.9 ng/ml), Benzoyllecgonine (570 Ng/ml), and Methadone (150 ng/ml).

C. DNA

Forensic testing by the BCA of the Beretta Model 92FS 9-millimeter Luger caliber pistol bearing serial number A108749Z that Mr. Keys wielded showed that his DNA was on the firearm.

D. Interviews of Key Witnesses

Interview of K.L.D.

On December 7, 2023, at about 2:11 PM, K.L.D. stated she was driving eastbound on Interstate 94, seated in the front passenger side of her vehicle was her boyfriend, L.D.W. As the two crossed over from Hennepin County into Ramsey County, she took the Vandalia exit, then merged into the left turn lane with the intention of taking a left turn for northbound Vandalia Avenue. While waiting to turn, K.L.D. saw the father of her child and ex-boyfriend Mr. Keys driving in the same area. K.L.D. was nervous to see him, she was afraid of him, and she had taken out an Order for Protection against him on October 25, 2023.

During their previous relationship, K.L.D. said that Mr. Keys had assaulted her. Mr. Keys was driving a blue Chevrolet Impala. Upon seeing Mr. Keys, K.L.D. became nervous and concerned for the safety of her passenger. As they waited to turn, Mr. Keys pulled in front of her vehicle, blocking her ability to move forward. To get away from Mr. Keys, K.L.D. made a right turn onto southbound Vandalia Avenue. As she and L.D.W. proceeded southbound on Vandalia Avenue, Mr. Keys pursued them in his blue Chevrolet Impala.

A short time later, Mr. Keys was able to catch up to them and once again blocked her vehicle with his vehicle. Not able to move her vehicle forward, she stopped her car. It was at this point that L.D.W. opened the front passenger side door of her vehicle and ran away. K.L.D. said that she knew that L.D.W. only ran away because he didn't want to be shot by Mr. Keys.

While alone and still blocked in, K.L.D. said she saw Mr. Keys walk up to her vehicle. Once at her car, he yelled at her, saying he was angry because the reason for him not being able to see their son was because she was with another man. K.L.D. said she was scared so she drove her car around his vehicle trying to get away from him. As she did so, she saw Mr. Keys get back into his vehicle, once again pursuing and chasing after her. Mr. Keys cornered her into an alley and again was able to block her vehicle from moving.

As K.L.D. sat in her vehicle, she saw Mr. Keys exit his vehicle and walk towards her. Once at her vehicle, he smashed her front windshield with his fist. Scared for her safety, she called 911 for help. While on the phone with the dispatcher, K.L.D. was able to drive away from Mr. Keys, but he again got back into his vehicle and continued to pursue her.

At one point, K.L.D. stopped near a gas station. This time Mr. Keys walked up to her vehicle and asked her to see their son. He also asked her for money to buy cigarettes, and it was about that time during the conversation that a police officer, later identified as Officer Tschida arrived.

K.L.D. said she saw Officer Tschida point a gun at Mr. Keys. She then saw Mr. Keys go behind his Chevrolet Impala. She said she then saw the officer shoot Mr. Keys in the head.

K.L.D. was unsure if she saw Mr. Keys holding a cell phone or a handgun during the incident, though she has seen him with a handgun in the past. K.L.D. said Mr. Keys had made suicidal comments in the past, telling their young son that he (Mr. Keys) was going to die, saying goodbye to him as though it was for the last time. K.L.D. further reported that Mr. Keys was struggling with addiction and used drugs.

Interview of L.D.W.

On December 7, 2023, at about 2:00 PM, L.D.W. said he and his girlfriend, K.L.D., were driving from Minneapolis into Saint Paul. He was in the front passenger seat, and she was driving. As they entered Ramsey County, L.D.W. took the Vandalia Avenue exit. As he was looking up an address, he heard L.D.W. say that she just had seen her son's father, later identified as Mr. Keys, driving a vehicle near their van.

L.D.W. said that Mr. Keys' vehicle came to a stop right next to their van. From L.D.W.'s position in the front passenger seat, he was directly parallel to Mr. Keys. L.D.W. said he looked over and saw Mr. Keys grabbing for an object and had a feeling that Mr. Keys was reaching for a gun. L.D.W. was afraid for his safety and told his girlfriend to drive away.

As they drove away, Mr. Keys immediately began to follow them in his blue Impala. As they attempted to get away from Mr. Keys, he drove in front of them and used his vehicle to block them in. L.D.W. said it was at this point he got out of the car. When he did so, he saw that Mr. Keys also was exiting his vehicle as well, saying at one point the two men were only about 5 feet apart from one another. L.D.W. said he saw Mr. Keys reach into his vehicle, pulling out a black handgun. He then saw Mr. Keys point a handgun at him.

L.D.W. feared for his life and believed Mr. Keys was going to shoot him. He heard Mr. Keys yelling towards K.L.D. about not letting him see their son. L.D.W. said he unsuccessfully tried to distract Mr. Keys from K.L.D. L.D.W. said he was afraid of being shot and decided he had to run away from the scene.

Once L.D.W. fled on foot, he saw K.L.D. drive away from the area with Mr. Keys getting back into his vehicle continuing to pursue her. L.D.W. ran through some alleyways and could see that Mr. Keys was still pursuing K.L.D. He then knocked on the door of a house asking the homeowner, later identified as N.D., to call the police for him.

As L.D.W. waited for N.D. to make the 911 call, he said he heard about four to five gunshots being fired. He immediately thought that Mr. Keys had shot K.L.D. Wanting to see if she was okay, he went back to the scene and saw Mr. Keys lying on the ground with police already on scene.

L.D.W. reported to law enforcement that he was certain Mr. Keys was going to try and kill him. During the six months that he and K.L.D. had been dating, Mr. Keys without invitation came by K.L.D.'s apartment on several occasions. L.D.W. heard from others in the

community that Mr. Keys owned a 40-caliber handgun and was actively on the lookout for him. After learning that Mr. Keys was looking for him, he decided to lay low staying away from K.L.D.'s residence.

Interview of N.D. and P.D.

On December 7, 2023, N.D. said she was in her backyard with her dog. She saw a black male, later identified as L.D.W., who looked agitated and distressed. L.D.W. was in her neighbor's backyard and asked her to call 911 for officers to come to the scene.

While N.D. was on the phone with the 911 dispatcher, she could hear approximately five to six gunshots being fired. L.D.W. told her that he was just in his fiancé's car and that her ex-boyfriend was chasing after them and being aggressive towards them. L.D.W. told her that when they came to a stop in the neighborhood, the ex-boyfriend broke the car's windshield they were in and then brandished a gun. L.D.W. told her it was at that point he ran away from the vehicle and into her backyard.

N.D. said L.D.W. looked scared and agitated. N.D. said her husband, P.D., walked with L.D.W. back to the scene so officers could speak to him. P.D. told officers he is former military and has training and experience dealing with people made him think that from the look on L.D.W.'s face, he appeared to be scared for his life. When he and L.D.W. arrived to the scene, he saw a male lying on the ground. The male was receiving medical treatment and people were trying to resuscitate him. P.D. heard a woman screaming "you guys killed him."

Interview of B.D.P and A.E.P.

On December 7, 2023, B.D.P. and A.E.P were in their vehicle driving westbound on Marshall Avenue, near the Cretin Avenue intersection. B.D.P. stated he saw a van and a car involved in what looked like a road rage incident. B.D.P. said it looked like the black male in the blue Impala was upset with whomever was in the van.

B.D.P. said he saw a black male walk towards the rear of his Impala and said it looked like the black male then shot at a police officer, and the officer then shot back at the black male, who then fell to the ground. B.D.P. believed the male was dead.

His wife, A.E.P., said she and her husband were driving in their car westbound on Marshall Avenue when she saw a vehicle chasing a van. The vehicle got near an intersection and stopped, and a male jumped out of the driver's side door and ran towards the van. The van then pulled over to the curb and sped away. The male then ran back to his car and continued to chase after the van.

A.E.P and B.D.P. continued west on Marshall Avenue, when she heard a series of gunshots. She believed she heard about four or five shots beings fired. As she and her husband came towards the intersection, she saw a heavier set white woman running

towards a male who was lying on the ground. The male who was on the ground was the same male who had earlier chased after the van.

Interview of J.M.

On December 7, 2023, J.M. said she was at the Minnoco Gas Station. She was on the phone with her mom when she heard yelling and then saw a gentleman, later identified as Mr. Keys, pounding on the window of a minivan saying, "Don't fucking do this to me! Don't fucking do this to me!"

J.M. told her mom that she had to end their phone call because she knew something was wrong. J.M. reported she then saw a police officer, later identified as Officer Tschida driving a squad car southbound on Cretin Avenue. J.M. then saw Officer Tschida turn left on Marshall Avenue and stop adjacent to the gas station. She saw the officer park the car and get out.

J.M. saw Officer Tschida draw his gun and heard him giving "hands up, hands up" commands to Mr. Keys. J.M. said that Mr. Keys then ran towards the back of his Impala, then lift up his shirt, pull a gun from his waistband and fire at Officer Tschida. J.M. said she saw that the officer still had his gun drawn when Mr. Keys decided to shoot at the officer. She said she heard Mr. Keys fire first.

J.M. said that Mr. Keys fired at least two shots at Officer Tschida. She said she was only thirty to forty feet from the incident and saw everything unfolding. J.M. reported after being fired upon, that Officer Tschida then shot back at Mr. Keys.

J.M. said that Mr. Keys "...did shoot at the officer first, that was for sure a fact." J.M. said that Mr. Keys had a choice, he didn't have to pull out a gun, and he didn't have to shoot at the officer. J.M. said she believes Mr. Keys shot the officer in the leg.

Interview of C.S.

On December 7, 2023, C.S. said she was speaking with her daughter, J.M., and suddenly her daughter told her that there was a guy who was freaking out. C.S. then reported that J.M. said, "Oh my god, oh my god, he's got a gun! He shot the cop!" C.S. then heard a gunshot and the line went dead. She tried to call J.M. back several times before she was able to get through to her to find out she was safe.

Interview of C.B.

On December 7, 2023, C.B. was working at the Minnoco Gas Station when his manager told him there was a man standing in the middle of the street next to a van. C.B. then saw the male, later identified as Mr. Keys, attempt to open the door of the van. C.B. said that Mr. Keys, who was wearing a dark blue hoodie, never was able to get into the van.

C.B. said he saw Mr. Keys take out a black semiautomatic handgun and aim it down the street. C.B. saw Mr. Keys fire the handgun several times and saw shell casings eject from the handgun. C.B. said he was worried for his safety and later learned that Mr. Keys was shooting at an officer.

Interview of M.C.M.

On December 7, 2023, M.C.M. was driving westbound on Marshall Avenue. There was a van behind him; the van accelerated rapidly and was driving towards incoming traffic. There was a blue Chevrolet Impala that was chasing the van. The blue Impala was trying to catch up to the van and get around and in front of the van. M.C.M. said he could hear tires squealing as the van tried to get away from the blue Impala. Both vehicles passed him and ended up near the left turn lane on Marshall Avenue by the intersection with Cretin Avenue.

As M.C.M. caught up to the van and Impala, he saw both vehicles were stopped in the roadway. M.C.M. said he was just a half car length from the Impala and parallel to its passenger side. M.C.M. said his driver's side door of the vehicle he was driving was next to the back passenger side of the Impala, leaving less than 10 feet from him and the male driver of the Impala.

M.C.M. said he saw the driver, later identified as Mr. Keys, exit the blue Impala. M.C.M. said Mr. Keys was wearing blue pants and a blue hoodie. He said that Mr. Keys was yelling at the female driver of the van, later identified K.L.D. As this was happening, M.C.M. said that a police officer arrived, later identified as Officer Tschida. M.C.M. said that the officer parked his vehicle facing the van and the blue Impala, exited the vehicle and immediately drew his weapon.

M.C.M. said that he saw Mr. Keys walk away from the van and back towards the Impala. He said that Officer Tschida was ordering Mr. Keys to get on the ground, but he did not listen to the officer. Instead, M.C.M. said he was looking right at Mr. Keys and saw him duck down behind the Impala and pull out a gun from his waistband. M.C.M. said he saw Mr. Keys put his arms on the trunk aiming to take a shot at the officer. He also said that Mr. Keys was not complying and looked as though he was preparing to shoot the officer.

From M.C.M.'s perspective, Mr. Keys had a choice not to pull out his gun, and it appeared to M.C.M. that Mr. Keys was in a "game on" mode and that he was going to start firing at the officer. M.C.M. said that Mr. Keys' gun was very large, looked like a Beretta 98 or a Desert Eagle. M.C.M. then heard shots being fired and, not wanting to be hit by gunfire, he ducked down behind the door of his vehicle.

M.C.M. said he could not determine who shot first but believes he heard about four to five shots being fired. M.C.M. said he looked at Mr. Keys and saw that he had fallen to the ground and was injured and bleeding. M.C.M. said he believed that Mr. Keys was dead.

Interview of B.P.

B.P. was driving westbound on Marshall Avenue with his wife, when he saw what he described "as a road rage situation...involving a man who was clearly upset with whoever was in the minivan." B.P. said that he saw a younger black male driving a blue Impala. B.P. said "I'm pretty sure that guy shot at the police officer and I'm pretty sure I heard a gunshot go off before the officer shot."

Interview of N.D.

On December 7, 2024, at about 2:00 PM, N.D. was at her home in the backyard with her dog. She looked over and saw a man, later identified as L.D.W., in her neighbor's backyard. L.D.W. asked N.D. to call 911 right away. As she called 911, she heard several gunshots ring out.

N.D. then asked L.D.W. if he was okay. He said no and N.D. said he looked scared for his life. L.D.W. told her that he was in the car with his fiancé, later identified as K.L.D. L.D.W. said that K.L.D.'s ex-boyfriend, later identified as Mr. Keys, chased them with another car and brandished a gun and was acting extremely aggressive. L.D.W. said that Mr. Keys got out of his vehicle and broke the windshield of the van they were driving.

N.D. said that L.D.W. was panicked and worried about K.L.D. She said that L.D.W. looked very distraught and worried for his and K.L.D.'s lives. L.D.W. explained that he ran from the van hoping that Mr. Keys would chase him and not hurt K.L.D. While N.D. was calling 911, her husband, P.O.D., returned home. At one point her husband walked with L.D.W. to the scene. They saw Mr. Keys on the ground, and it looked like he was dead. P.O.D. reported that L.D.W. looked scared and had a facial expression of someone who was running for his life.

Written Statement of Saint Paul Police Officer Michael Tschida

Officer Michael Tschida declined the BCA's request to be interviewed. Instead, he provided a written statement to BCA investigators. The following is a summation of his statement.

On December 7, 2024, at about 2 PM, he was on duty around Saint Anthony and Hamline Avenue, when he heard radio traffic for the Western District. Simultaneously, he heard radio traffic saying there was an Order for Protection violation near Cretin and Marshall Avenues. He looked at the call description and learned that the victim's ex-boyfriend was following her in a vehicle and the ex-boyfriend was armed with a firearm.

Officer Tschida activated his squad car emergency lights and drove towards the area of Marshall and Cretin Avenues. He was wearing a patrol officer uniform and driving a squad car that had the words Saint Paul Police in large words displayed on the vehicle. The squad car was also equipped with red lights and sirens. As he approached the area, he was provided with updated information by dispatch that the suspect had fled northbound on Cretin Avenue in a vehicle described as a blue Chevrolet Impala.

After a short time, dispatch gave additional information that the suspect was now ramming the victim's vehicle at the location of Marshall and Cretin Avenues. As he approached the intersection, to his left he saw a blue Impala. The Impala was parked in the middle of the roadway facing westbound and about 100-150 feet from the intersection of Marshall and Cretin Avenues. He saw a silver minivan with a broken windshield parked directly behind the blue Impala. Standing next to the driver's side window of the blue minivan was Mr. Keys. Officer Tschida could see there was a female in the driver's seat of the minivan. From the information provided to him by dispatch, he ascertained that the female in the driver's seat was the protected party of the Order for Protection. Mr. Keys had not yet noticed his presence, since he was focused on the female driver in the minivan.

Officer Tschida reported that he then turned left onto westbound Marshall Avenue, stopping his squad car about 30-40 feet from the front of the blue Impala, his squad and the Impala were facing each other. Because he was aware that Mr. Keys was said to be in possession of a firearm, had rammed K.L.D.'s vehicle and busted out her windshield, Officer Tschida wanted to create as much distance as he could between him and Mr. Keys, since he was the only officer on scene at the time and without any backup in sight.

Officer Tschida reported he then exited his squad car leaving the driver's side door open. As he did so, Officer Tschida said that he saw Mr. Keys walking away from the van and towards the Impala, and he could tell Mr. Keys was now aware of his presence. Officer Tschida said that Mr. Keys was wearing a large blue hoodie, and the hoodie was pulled over Mr. Keys' head, making it difficult for Officer Tschida to see any facial expression on Mr. Keys' face.

Officer Tschida saw Mr. Keys walk away from the front of the minivan and back towards his blue Impala. There was a direct line from the minivan to Mr. Keys and to where Officer Tschida was standing. Officer Tschida reported he did not know if Mr. Keys was walking back to the blue Impala to flee or if he was coming to surrender or do something else. Based on information that Mr. Keys had a firearm, Officer Tschida immediately drew his department issued firearm, keeping it at a low ready position. The low ready position is where a gun is drawn from its holster, but the muzzle isn't pointed up but rather down at the ground.

Officer Tschida reported he then moved a few feet forward to the front of his squad car. Mr. Keys was still walking towards him at this point. He then ordered Mr. Keys at least twice to "Get on the ground, get on the ground." Mr. Keys then got near the driver's side door of the Impala. Mr. Keys then moved his hands inside the hoodie and concealed his hands from view. Mr. Keys then walked back towards the rear of the Impala.

At the rear of the Impala, Officer Tschida watched Mr. Keys duck away from sight. It was at this time that Officer Tschida had no doubt that Mr. Keys was armed with a firearm and that he was in the process of getting the firearm out. Officer Tschida then said "Oh, Fuck," and began to move to the right with his gun at the high ready, pointing it towards the rear trunk area of the Impala. Mr. Keys was still out of view ducked behind the trunk.

Officer Tschida reported he was concerned for his safety and had to keep moving as he was in the middle of the street in an open area and had no cover. Officer Tschida also reported he was concerned that there was still a relatively straight line between the victim and through Mr. Keys and himself, making the situation more dangerous in the event he did have to open fire on Mr. Keys as he did not want to accidentally hit the victim, who was still sitting in her vehicle.

After a short 1 to 2 seconds from the time he saw Mr. Keys duck behind the trunk of the Impala, Officer Tschida saw Mr. Keys pop up with a firearm in his hands. Officer Tschida saw that Mr. Keys was holding the gun with a two-handed grip aiming directly at him. Officer Tschida saw Mr. Keys open fire at him and heard a gunshot and the sound of the round impacting the area of his squad car.

Officer Tschida stated at this point he continued to move to the right while Mr. Keys continued to fire at him. As he was trying to get to cover, he felt a sudden pain in his right leg. The pain spread from his heel to upper thigh, and he knew at that point he had been shot somewhere in his right leg. At that point he understood fully that Mr. Keys had now shot at him, shot him, and was continuing to try to shoot him. Officer Tschida understood it was apparent that Mr. Keys was trying to kill him by using deadly force against him.

Officer Tschida then raised his gun higher and then pointed it directly at Mr. Keys. As he continued to move to his right, he fired about three rounds at Mr. Keys in rapid succession. He could see Mr. Keys disappear behind the Impala and out of sight again. It was unclear to Officer Tschida if Mr. Keys was ducking, hiding or had been shot at that point.

Officer Tschida reported he then took cover behind his squad car and called out over the radio "138 shots fired; I've been hit." He then requested paramedics to the scene and told dispatch that the area was not yet safe for them to enter. While at the squad car, he moved from the driver's side of the vehicle to the passenger side using the squad car as cover. He looked for Mr. Keys but was still unable to see him. As this was happening, he saw K.L.D. pull her van from the street and into the parking lot of the gas station located directly on the corner of Marshall and Cretin Avenues.

Officer Tschida did a quick assessment of his body looking for any uncontrolled bleeding and could not see any blood at that point but was fully aware he had been shot. The gunshot to his leg was painful to the point he felt he was unable to walk. Officer Tschida

reported his plan was to hold his position until backup arrived; he was concerned for the safety of civilians in the area and wanted to provide cover to them as they escaped the busy intersection.

Officer Tschida then saw and heard K.L.D. screaming and yelling, "no, no, no, no," as she ran across the street and to Mr. Keys' side. Officer Tschida said he then yelled at K.L.D. several times to get away from Mr. Keys. K.L.D. would not listen to his commands putting herself directly in the line of fire had Mr. Keys emerged again to continue and fire his gun.

Officer Tschida was concerned for his safety and the safety of K.L.D. because just moments ago Mr. Keys was actively shooting his gun. Fearing for her safety, Officer Tschida left his place of cover to take Mr. Keys into custody. As he approached Mr. Keys, he felt that at any moment Mr. Keys would emerge again and open fire at him, killing him and K.L.D.

As he approached Mr. Keys, he continued to yell and give commands to K.L.D. to move away, telling her that he would help Mr. Keys. Officer Tschida said he yelled and yelled but K.L.D. refused to follow his commands. He heard a female bystander standing at the sidewalk of the gas station. The bystander was also yelling at K.L.D. to move away from Mr. Keys.

Looking at the female bystander Officer Tschida reported he could tell the bystander had a clear view of Mr. Keys. Officer Tschida then asked the bystander if Mr. Keys was down. The bystander replied and yelled back "yes." He then continued to approach and saw that Mr. Keys was lying face up on the roadway. There was a gun near his feet.

Seeing the firearm near Mr. Keys' feet, Officer Tschida limped towards him and grabbed the gun, moving it away from him, and placed it on the roadway away from Mr. Keys' reach. It was around this time that Saint Paul Police Officer Porter arrived at the scene. He and Officer Porter rolled Mr. Keys onto his stomach. Officer Tschida then handcuffed Mr. Keys.

It was at this point he saw that Mr. Keys appeared to have a gunshot wound to the head. It appeared that Mr. Keys was deceased at that point. Officer Tschida reported he did not feel comfortable leaving Mr. Keys' handgun where it was and decided to pick up the firearm and give it to Officer Porter to secure the weapon. Officer Tschida reported this firearm was a large black semiautomatic handgun, which appeared to be partially wrapped in a black sock. From his training and experience, people wrapped firearms in socks to avoid their DNA rubbing off onto the gun.

Officer Tschida then saw several squad cars arrive on the scene. His attention now turned to the gunshot wound he suffered to his leg. He did not know how many times he had been shot. Officer Tschida said he knew that getting a ride via squad to a hospital would

be faster than waiting for medics to arrive. He then radioed to dispatch that the next squad car to arrive on scene would have to take him to the hospital. While on the way to the hospital, he applied a tourniquet to his right leg. At the hospital medical staff informed him that he suffered a gunshot wound to his right ankle with the bullet having traveled from the interior of the ankle through the other side, exiting out on the posterior area.

Officer Tschida stated that the moment he fired his weapon at Mr. Keys, he could see that Mr. Keys had a gun. He also did not fire on Mr. Keys until he was shot at and only after being shot by Mr. Keys. It was clear to Officer Tschida that from Mr. Keys actions that Mr. Keys was trying to kill him and possibly others on scene. Officer Tschida reported he had no doubt in his mind that he had to fire at Mr. Keys to save his own life and the lives of those in the community. Officer Tschida described Mr. Keys' conduct as terrifying and dangerous, reporting that he had to shoot Mr. Keys before Mr. Keys could kill him or others.

E. Recorded Cellphone Footage from L.S.

The footage is taken with a cellphone from inside a residential porch. The footage shows a clear view of Marshall Avenue and the intersection of Cretin Avenue. It is a bright and sunny afternoon; the weather conditions are clear.

The video begins capturing footage moments after shots have been fired. Officer Tschida can be heard giving commands to K.L.D. to get out of the way. He is repeatedly giving her commands to get out of the way. K.L.D. is distraught and screaming; she does not listen to Officer Tschida's commands. There is a moment when Officer Tschida can be heard asking, "Is he down?"

K.L.D. can be seen standing in the middle of the roadway, and she is behind the blue Impala. Mr. Keys is lying on the ground and not moving. Officer Tschida is to the passenger side of his squad. He is standing in the middle of the road. He is limping and has his gun drawn pointed at Mr. Keys and K.L.D. Officer Tschida yells at K.L.D., telling her to get out of the way so he can help him (Mr. Keys). K.L.D. continues to scream, yelling to Officer Tschida that Mr. Keys is down, she however refuses to leave or get out of Officer Tschida's way. There is a female voice coming from the same area where Officer Tschida is standing. The female voice is begging K.L.D. to come towards her, telling K.L.D. to come towards her and that she wanted to help too.

K.L.D. continues to walk back and forth screaming, and she remains standing next to Mr. Keys. Emergency lights can be heard approaching the scene.

Officer Tschida is seen limping and walking towards K.L.D.'s and Mr. Keys' location. Officer Tschida is seen moving quickly, hopping on one leg, while he makes his way towards Mr. Keys. Once there, Officer Tschida bends down on the ground and is seen picking up a

firearm from the area of Mr. Keys' feet. Officer Tschida is seen moving the firearm away from Mr. Keys and then placing the firearm on the roadway between his squad car and the Impala.

Officer Tschida then kneels on one knee and yells towards SPPD Officer Porter who has just arrived, asking him to help handcuff Mr. Keys. Officer Tschida then gets up and limps towards Mr. Keys. The two officers are seen handcuffing Mr. Keys.

A third officer approaches and runs to help. K.L.D. is still audibly screaming. Once Mr. Keys is handcuffed, Officer Tschida retrieves Mr. Keys' firearm that he had put on the ground, and hands it to Officer Porter telling him it is Mr. Keys' gun and ordering him to secure it. Officer Tschida then limps out of the view of the camera.

The third officer puts on latex gloves and begins to check Mr. Keys' pulse. Another officer arrives and does the same. Several more officers arrive to the scene and begin chest compressions on Mr. Keys. There is a female, later identified as P.A., standing next to the male who is recording the cellphone video. The male recording the video is identified as L.S. The two speak while L.S. continues to record. L.S. comments that the man shot a police officer. P.A. comments back that she saw the officer was shot in the leg. L.S. says she thinks the male was shot in the head and dead.

F. Body Worn Camera Footage

Officer Michael Tschida

Date December 7, 2024, Duration of the Footage is 11 minutes and 44 seconds.

Start Time 2:14:39

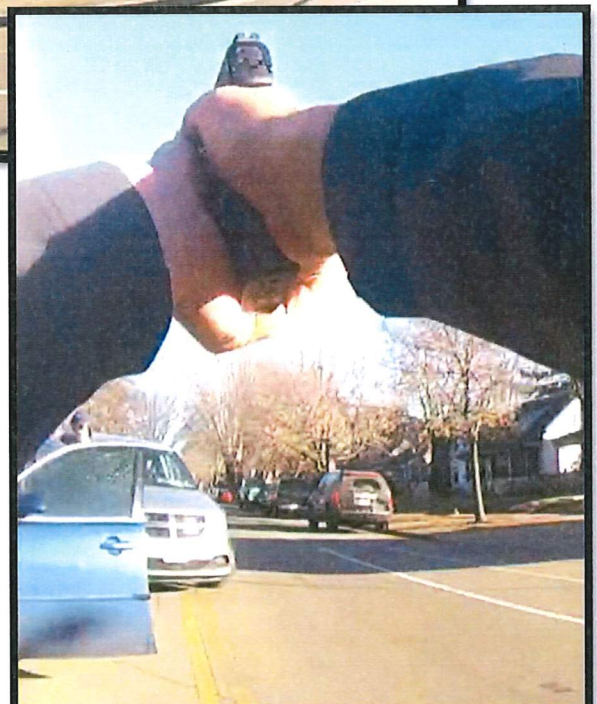
The first thirty seconds of footage has no sound. Officer Tschida can be seen behind the wheel of a squad car; he is driving with his left hand while using the radio with his right hand. He is traveling westbound on I-94. The dispatcher provides an update that the suspect, later identified as Mr. Keys, has fled the scene in a blue Impala towards I-94 from Cretin Avenue. Officer Tschida uses the radio and updates his location information saying he is approaching Cretin Avenue. The squad sirens can be heard blaring and the engine of his squad car can be heard accelerating. Dispatch airs that Mr. Keys broke the victim's, later identified as K.L.D.'s, car window before fleeing the area. At 2:16:05 PM the footage shows Officer Tschida slowing down and taking the Cretin Avenue and Vandalia Street exit. At 2:17:09 PM dispatch airs over the radio that Mr. Keys is ramming the victim's vehicle located at Cretin and Marshall Avenues. At 2:17:18 PM, the footage shows officer Tschida taking a left turn from Cretin Avenue onto Marshall Avenue. He uses his right hand to radio to dispatch that he is on scene. At 2:17:29 PM he exits his squad car.

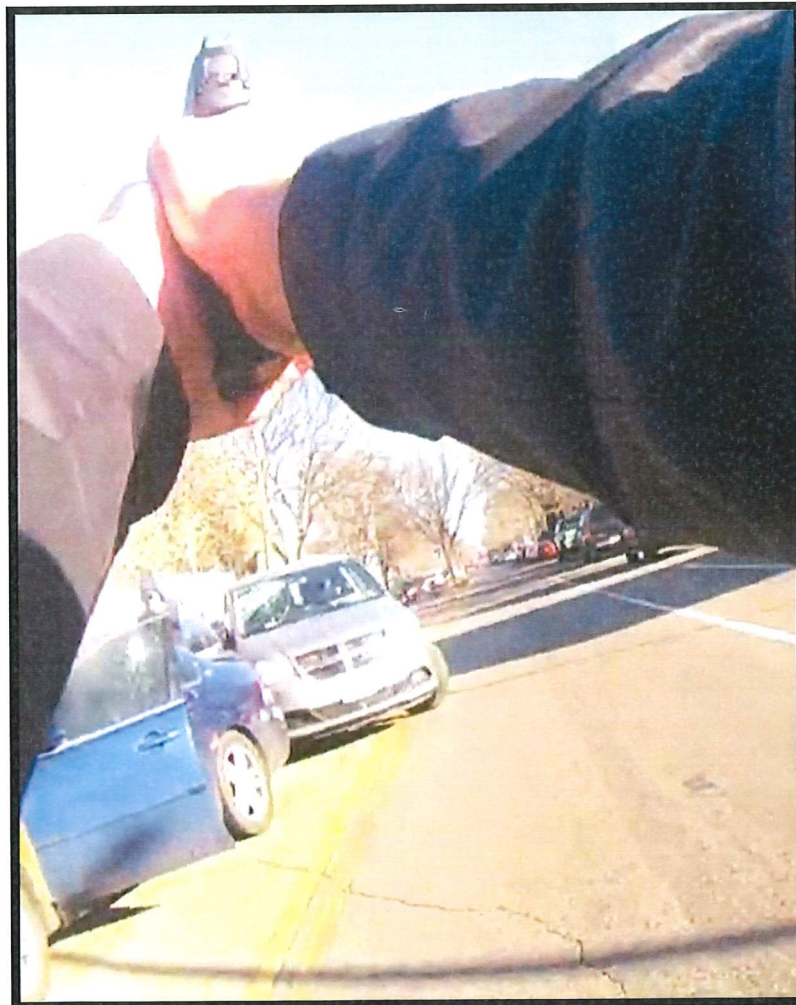
2:17:30 PM Officer Tschida is seen with his right hand extended; his firearm is pointed down towards the ground but in the direction of a blue Impala. Mr. Keys is standing upright and walking towards Officer Tschida. Mr. Keys is seen wearing blue jeans and a

blue hooded sweatshirt. The hood is up and over Mr. Keys' head. Officer Tschida is heard yelling at Mr. Keys to "Get on the ground, get on the ground." This command is repeated several times. Mr. Keys continues to advance towards Officer Tschida now away from the back of the Impala, standing behind the open driver's side door of the Impala. The victim's (K.L.D.'s) silver minivan can be seen parked directly behind the Impala.

2:17:32 PM Officer Tschida brings his firearm up and points it directly at Mr. Keys. Mr. Keys is seen reaching back with his left hand towards the area of his waistband. As Officer Tschida gives commands to Mr. Keys to get on the ground, Officer Tschida advances towards Mr. Keys' location. Officer Keys simultaneously says "Ohh fuck." as he brings his left hand up to meet his right hand, the hand that is holding his firearm. Officer Tschida and Mr. Keys are within about 10 feet of each other. Several shots can be heard being fired.

2:17:33 The driver's side window of Mr. Keys' blue Impala is shot out. Mr. Keys is seen standing and holding a gun and squarely aiming it at Officer Tschida. Officer Tschida winces and makes an audible sound after being hit by gun fire.





2:17:34 There is a clear view of Mr. Keys, and he is now behind the trunk of the Impala. Officer Tschida is moving to the right. Mr. Keys is still aiming and pointing a gun at Officer Tschida. Several shots can be heard being fired. Mr. Keys is seen disappearing from view behind the trunk of the Impala.

2:17:44 Officer Tschida retreats to the rear passenger side of his squad. He grabs his portable radio and airs that shots have been fired and tells dispatch he has been hit. The victim (K.L.D.) drives the silver minivan towards Officer Tschida's squad and turns into the Minnoco gas station parking lot.

2:17:52 -- 2:19:59 Officer Tschida is at the back of his squad; he is walking side to side looking towards the Impala with his gun still drawn. He is trying to determine Mr. Keys' location. He then begins to approach the Impala. The driver of the minivan (K.L.D.), runs from the parking lot to Mr. Keys' location. Mr. Keys can be seen lying on the ground behind the bumper of the Impala. Officer Tschida is heard yelling commands to K.L.D. to get out of the way and move away from Mr. Keys. K.L.D. continues to scream and not listen to Officer Tschida's commands. Officer Tschida is seen limping towards Mr. Keys. When he gets to Mr. Keys, he bends down and grabs a black handgun that is next to Mr. Keys' left foot. Officer Tschida grabs the gun and hobbles back towards the center of the roadway and places the black handgun down on the ground. The gun is now about 10 feet away from Mr. Keys. K.L.D. is still screaming and now crying. Officer Tschida airs over the radio that he has gotten the gun away from Mr. Keys. Officer Tschida then screams towards Officer Porter to come towards him. Officer Porter can be seen running up to Officer Tschida. Officer Tschida and Officer Porter move K.L.D. away from Mr. Keys. Mr. Keys has blood running down the side of his face and appears to be dead. The two officers turn Mr. Keys over and handcuff him as more officers arrive to the scene. Officer Tschida moves from Mr. Keys' location and retrieves Mr. Keys' gun from the roadway, handing it off to Officer Porter and telling him to secure the gun. A third officer can be seen approaching Mr. Keys; the officer is putting on latex gloves preparing to provide medical treatment to Mr. Keys. Officer Tschida then radios for a squad car to come pick him up saying he needs to go to Regions Hospital.

At 2:20:09 -- 2:26:18 Officer Tschida gets into the passenger side of a squad car. He is driven to Regions Hospital. Along the way, he applies a tourniquet to his leg. He then airs over the radio that there are no other suspects and that he shot at the suspect about four times. He airs that he was hit in the leg. The camera is turned off when he arrives at the parking lot of Regions Hospital.

Officer Jonah Porter

Date December 7, 2024, Duration of the Footage is 16 minutes and 6 seconds.

Start Time 2:17 PM

The first thirty seconds of the footage has no sound. The camera shows Officer Porter driving to the scene. His squad car siren can be heard blaring as he drives to the scene. Dispatch is heard airing over the radio that shots have been fired. As he arrives, he parks his squad car and exits. At time stamp 2:19:08 PM he exits his squad car. He is facing west looking at the intersection of Cretin and Marshall Avenues. The Minnoco gas station is to his left. There is a clear view of Officer Tschida, who is kneeling with one knee on the ground. K.L.D. can be seen sitting on the ground in the middle of the intersection right behind the Impala. K.L.D. is holding Mr. Keys, and she is screaming. Officer Tschida screams at Officer Porter to come up to his location. Officer Porter runs up to Officer Tschida. He and Officer Tschida pull K.L.D. away from Mr. Keys. They roll Mr. Keys over onto his stomach and handcuff him. Officer Tschida walks to the middle of the roadway towards the gas station, stops and picks up Mr. Keys' handgun and gives it to Officer Porter. Officer Tschida tells Officer Porter to secure the gun. The gun is a black semiautomatic handgun. It has a black sock wrapped around the handle and grip. Officer Porter puts on gloves and clears the chamber of the gun. As he does so, a live round (bullet) can be seen ejecting from the gun. Officer Porter then releases the magazine from the gun. Live rounds can be seen in the magazine. There is a third officer who is standing above Mr. Keys, the officer is seen putting on blue latex gloves and begins to check for a pulse. Officer Porter and another officer roll Mr. Keys over onto his back. The other officer begins to open a medical kit and starts to provide medical aid to Mr. Keys. An officer begins CPR on Mr. Keys. Saint Paul Fire arrives to the scene and helps to provide medical treatment to Mr. Keys. The video ends at 2:33:06.

G. Firearms and Ballistics Evidence

The Bureau of Criminal Apprehension Crime Scene Team conducted a search of the scene. The team located a total of five cartridge cases. Two casings were located south of the vehicle driven by Officer Tschida and three cartridge cases were located behind Mr. Keys' Chevrolet Impala.

Mr. Keys was found with a Beretta Model 92FS 9-millimeter Luger caliber pistol bearing serial number A108749Z. He was the only one on scene with this type of handgun. A trace of the serial number of the firearm showed the firearm owner reported the gun stolen from a residence out of Vermillion, South Dakota on November 24, 2020.

One bullet was found inside the driver's side door of Officer Tschida's squad car. The item was ballistically tested and was identified as having been fired from Mr. Keys' handgun. Additional bullet fragments were also ballistically tested and were also identified to have been fired from Mr. Keys' handgun.

The Crime Scene Team located three 9-millimeter cartridge cases behind Mr. Keys' Chevrolet Impala. Trajectory analysis of the three cartridge cases located at the rear of the Impala show the bullets were fired from the rear of Mr. Keys' Impala towards Officer Tschida and his squad car. With one round striking Officer Tschida's squad car and penetrating the driver's side door panel.

Analysis of the Chevrolet Impala showed defects in the front driver's side door and window and one defect in the rear driver's door. The Beretta wielded by Mr. Keys was found to have one unfired 9-millimeter cartridge, which was unloaded by Officer Porter, and a full magazine containing twelve 9-millimeter cartridges. Additional analysis of the scene showed a marked squad car #2185, driven by Officer Tschida, parked on Marshall Avenue facing east. The front driver's side door was open, and one bullet defect was located on the front driver's side door. Two FC 9-millimeter Luger cartridge cases were collected from the ground just south of squad #2185. Two bullet fragments were collected from the area around Marshall and Cretin Avenues.

Officer Tschida was equipped with a department issued Smith and Wesson Model M&P9 M2.0 9-millimeter caliber Luger pistol. Trajectory analyses were also conducted on the two cartridges found south of Officer Tschida's squad car. This analysis showed bullet paths originating from an area south along the passenger side of Officer Tschida's squad car, one bullet entering the Chevrolet Impala's rear driver's door impacting the interior plastic door panel of the vehicle. The other bullet striking Mr. Keys.

IV. AUTOPSY

On December 8, 2023, Ramsey County Medical Examiner Kelly Mills, M.D., performed the autopsy on the body of Mr. Keys. Dr. Mills determined that Mr. Keys died because of a single gunshot wound to the head.

V. LEGAL ANALYSIS AND RECOMMENDATION

A. Applicable Law

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

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

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

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

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

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

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

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

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

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

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

“(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be

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

exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

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

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

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

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

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

The United States Supreme Court has recognized in the case of Tennessee v. Garner, 471 U.S. 1 (1985), that the use of deadly force by a peace officer is justified where the officer has probable cause to believe that the suspect poses a threat of serious bodily harm either

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

to the officer or to others. In Graham v. Connor, 490 U.S. 386 (1989), the Court further held that an objective reasonableness standard should be used to evaluate an officer's use of force. The determination of reasonableness requires "careful attention to the facts and circumstances of each particular case."

In Graham, the Court outlined a non-exhaustive list of factors for balancing an individual's rights versus an officer's rights. The Court identified several factors, including: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the suspect was actively resisting arrest or attempting to evade arrest by flight. The Court also made clear that whether an officer used reasonable force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Court held that allowance should be made for the fact the law enforcement officers are often required to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. See also, City and County of San Francisco v. Sheehan, 575 U.S. 600, 615, 135 S.Ct. 1775, 1776-77 (2015).

B. Analysis and Recommendation – The Use of Deadly Force by Officer Tschida Against Mr. Keys Was Justified Under Minnesota Law

After carefully considering the evidence in this case and the objective legal standard recognized by the U.S. Supreme Court and Minnesota law, we believe, for the following reasons, that the use of deadly force by Officer Tschida against Mr. Keys was objectively reasonable under each of the situations set forth in Minnesota Statutes, Section 609.066 subdivisions 2(a)(1)(i)-(iii) and (2).

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

Under this provision of Section 609.066, "the use of deadly force by a peace officer in the line of duty is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

- (1) to protect the peace officer or another from death or great bodily harm, provided that the threat:
 - (i) can be articulated with specificity.
 - (ii) is reasonably likely to occur absent action by the law enforcement officer; and
 - (iii) must be addressed through the use deadly force without unreasonable delay;"

Information Known to, and Observations Made by, Officer Tschida Before He Exited from His Vehicle

In his written statement, Officer Keys stated that before he exited his vehicle, he was aware of the following information and observations:

- "I overheard an OFP violation [Order for Protection] aired for the area of Cretin/Marshall."
- "The call comments were that the victim's ex-boyfriend was following her in a vehicle and that party was armed with a firearm."
- "While driving down the freeway, I was notified by dispatch that the suspect fled in a 'Blue Impala northbound on Cretin.' I was almost to the Cretin exit and began to scan the freeway entrance ramp."
- "When I was a few blocks away from Cretin/Marshall, I was notified that the suspect was now ramming the victim's vehicle in the area of Finn/Marshall. Seconds later the location was updated to Marshall/Cretin. I was now in the immediate area."
- "As I approached the intersection, to my left I saw a Blue Impala in the middle of the roadway facing westbound. The Blue Impala I would estimate was about 100-150 feet from the intersection. Directly behind the Blue Impala was silver van that had had a busted windshield near the passenger side. Standing next to the driver's side window of the van was the suspect. I could also see there was a female in the driver's seat of the van. I presumed based off the call comments that the female was the victim/protected party in the protection order. I noted that [Mr. Keys'] attention was drawn towards the female victim and had not yet noticed my presence."
- "I turned left (westbound) on Marshall, stopping about 30-40 feet from the front of the Impala. The vehicles were nose-to-nose, with spacing in between both of them. I would estimate that [Mr. Keys], the victim, and the van were about 60-70 feet away from me."
- "Based off the victim stating that [Mr. Keys] had a firearm, had rammed her vehicle, also recalling mention about busting windows, I wanted as much distance between both of us because I was alone, and also to allow myself more reaction in the event that [Mr. Keys] decides to rush towards me, and we have a physical struggle."

The above-referenced portion of Officer Keys' statement as to what he knew before he exited his vehicle is consistent with audio taken from his ICC and BWC. The verbal radio communications from the 911 dispatcher were clearly audible in his vehicle while he was driving to the intersection of Cretin and Marshall Avenues, and in some instances, were verbally acknowledged by Officer Tschida. Moreover, video taken from Officer Tschida's ICC also corroborates his written observations of what he saw from inside his vehicle when he first arrived at the scene and provides a reasonable explanation for why he wanted to give himself sufficient distance from the Impala based on those observations before he exited his vehicle.

Additionally, the written CAD communications provided by the 911 dispatcher to Officer Tschida and his other responding SPPD colleagues, included the following information, although it is unclear whether Officer Tschida read those messages:

- At 2:13:32 P.M – “Has OFP Against Child’s Father, Says He Has a Gun – A Glock. He’s Following Complainant”
- At 2:13:52 PM – “Complainant Trying to Drive Away. He’s Outside and Just Broke Her Vehicle Window”
- At 2:13:58 PM – “TC Can Hear Him Screaming Outside”
- At 2:14:48 PM – “Complainant No Longer Talking To TC. She’s Repeating ‘Let Me Go.’ She’s Driving Away.”
- At 2:15:12 PM – “He’s Fleeing in His Vehicle on Cretin Toward I94 In Vehicle/Blue Impala.”
- At 2:15:19 PM – “Complainant in Vehicle/Silver Van”
- At 2:16:17 PM – “Complainant at Marshall/Finn Now. Child’s Father Is Following Complainant Again.”
- At 2:16:24 PM – “Hit Complainant’s Vehicle with His Vehicle Again.”
- At 2:16:32 PM – “He’s Ramming Complainant Now.”
- At 2:16:47 PM – “Now Saying They Are Still at Marshall/Cretin.”
- At 2:17:17 PM – “She’s Still Pleading with Him. TC Hears Him Yelling in Background Again.”
- At 2:17:45 PM – “Secondary Location for 138: Marshall Avenue/Cretin Avenue N., St. Paul MN 5510”
- At 2:17:53 PM – “Complainant Saying Please Don’t Shoot”
- At 2:18:19 PM – “New Complainant at 21** Dayton Saying Male in Neighbor Yard Asking for Police”

The accuracy of the foregoing information that was provided to 911 has been corroborated by numerous eyewitnesses, who were interviewed by the BCA. K.L.D. said that she and her boyfriend, L.D.W., were driving together on December 7 in her van at approximately 2:00 PM, when they were spotted at a turn signal near the I-94 Cretin/Vandalia exit, by her ex-boyfriend, Mr. Keys. K.L.D. had previously been in a relationship with Mr. Keys, who was the father of her child. K.L.D. said that during their relationship, Mr. Keys had assaulted her. She said that she was afraid of him and had recently obtained an Order for Protection against Mr. Keys.

K.L.D. said that Mr. Keys then pursued her and L.D.W. throughout the Cretin/Marshall neighborhood and repeatedly tried to block her van with his Impala. L.D.W. said that Mr. Keys had previously harassed him and K.L.D. and that he knew that Mr. Keys had a gun, and at one of the times that he blocked their van, he saw Mr. Keys exit his Impala, pull out a black handgun and point it at L.D.W. L.D.W. said that he feared for his life and exited the van and fled on foot to a nearby home, where he asked the homeowner, N.D., to call 911.

K.L.D. said that Mr. Keys continued his pursuit of her throughout the neighborhood, telling both the 911 operator and later a BCA investigator, that he blocked her van in the middle of the street, exited his vehicle and smashed K.L.D.'s windshield with his fist. K.L.D. later tells the 911 operator that Mr. Keys is ramming her car. At this point during her 911 call, K.L.D. is also heard screaming, "He's gonna' kill me!" Other lay witnesses who observed Mr. Keys' car pursuit of K.L.D. and L.D.W. are B.D.P., A.E.P., and M.C.M.

Actions Taken by Officer Tschida After He Exited from His Vehicle

Officer Tschida was the first SPPD officer to arrive at the scene. In his written statement, Officer Tschida stated that as he exited his vehicle, he noted that Mr. Keys was wearing a hoodie over his head that prevented the officer from seeing any of Mr. Keys' facial expressions. Officer Tschida further stated Mr. Keys began to walk away from the van and towards the blue Impala and him. Officer Tschida said he was not sure if Mr. Keys was walking back to the Impala and then fleeing, or to speak to him and surrender, or to "do something else."

Because he knew that Mr. Keys was said to be in possession of a firearm, Officer Tschida stated that when he exited his vehicle, he removed his firearm from its holster and kept it at a "low ready" position where the muzzle was pointed towards the ground. As he advanced a few feet towards the front of his police vehicle, he stated that he saw Mr. Keys walking towards him. Video and audio from his ICC and BWC corroborate Officer Tschida's above-referenced statements. That same audio and video also show that Mr. Keys sees the officer, places his hands inside the front pouch of his hooded sweatshirt, and ducks behind the rear of the Impala while Officer Tschida gives three separate, loud verbal orders directing Mr. Keys to "Get on the ground!"

Officer Tschida's written statement that he temporarily lost sight of Mr. Keys when he ducked behind the Impala is also corroborated by the video taken from his ICC and BWC in which Mr. Keys is no longer visible. In his statement, Officer Tschida stated that at that time, he "had no doubt the [Mr. Keys] did in fact have a firearm and that he was in the process of getting it out." Realizing this, Officer Tschida stated that he said "Oh, fuck!," and then moved his firearm to a "high ready" position as he began to move towards his right. He further stated that he moved to his right both to avoid placing K.L.D., who was still in the van, in the line of fire and to seek better protective cover for himself.

Video and audio from the ICC and BWC further show that approximately one second after ducking, Mr. Keys is seen popping up from behind the Impala holding a black firearm with a two-handed shooting grip. He immediately fires a shot at Officer

Tschida, who is positioned on the front driver's side of his police vehicle. Video and audio from Officer Tschida's ICC clearly capture a visible muzzle blast and an audible gunshot coming from Mr. Keys' firearm, before the officer had fired his gun.

In addition to video evidence showing that Mr. Keys fired first at Officer Tschida, three other witnesses, J.M., B.D.P., and B.P., also gave statements to BCA investigators stating that they saw or heard Mr. Keys initiate gunfire at the officer.

J.M. was at the adjacent Minnoco Gas Station speaking by cellphone with her mother, when she heard yelling and noticed a male pounding on the windshield of the van. J.M. estimated that she was approximately 30-40 feet away from the Impala and van, when she noticed a police vehicle arrive and an officer giving "hands up, hands up" orders to the male. J.M. said she then saw the male run towards the back of the Impala, lift-up his shirt, pull a gun from his waistband and then he fired at the officer. J.M. said she saw that the officer still had his gun drawn when the male decided to shoot at him. J.M. said that the male "did shoot at the officer first, that is a for sure fact."

B.D.P. and A.E.P. were driving westbound on Marshall Avenue when they saw what they described as a "road rage incident" involving the Impala and the van. B.D.P. said that he saw a male walk around the backside of the Impala, from where it looked to B.D.P that the male shot at the officer, and the officer shot back.

B.P. and his wife were also driving westbound on Marshall Avenue, when he saw what he described as "a road rage incident," involving a man who "was clearly upset with whoever was in the minivan." B.P. told investigators he saw a male behind an Impala who he thought was the shooter and that he was "pretty sure that I heard a gunshot go off before the officer shot."

Officer Tschida stated that he thought the first shot fired at him by Mr. Keys likely struck the driver's side door or front fender of his police vehicle. As he continued to move to his right and Mr. Keys continued to fire at him, Officer Tschida stated that he "felt a sudden pain in my right leg which went from my heel to upper thigh. I knew that I had been shot somewhere in my right leg." He further stated at that time he returned fire, firing three shots at Mr. Keys in rapid succession. He then noted that Mr. Keys had "disappeared, ducking, or falling behind the Impala, out of sight again."

Video and audio evidence taken from his ICC and BWC, as well as other evidence gathered at the scene, significantly corroborates the above statement of Officer Tschida. Three spent cartridge casings were found near the body of Mr. Keys, while only two spent cartridge casings were found near the police vehicle, both of which were later identified as having been fired from Officer Tschida's firearm.

Forensic investigators from the BCA Crime Scene Team, found a bullet defect on the open driver's door of Officer Tschida's vehicle, consistent with his belief as to the direction of the first gunshot taken at him by Mr. Keys. ICC and BWC video shows what appears to be the third gunshot fired by Mr. Keys striking the window of open driver's door of the Impala. Officer Tschida is then heard wincing, indicating that this was likely the shot that struck him in the ankle. Officer Tschida returns fire and Mr. Keys disappears from the views of the ICC and BWC.

We believe the above-referenced evidence shows that Officer Tschida's use of deadly force against Mr. Keys was necessary, and thus just justified, under Minn. Stat. 609.066, subd. 2(a)(1)(i-iii).

Prior to exiting his vehicle, Officer Tschida knew that a man in a blue Impala was pursuing his ex-girlfriend, who was driving a minivan in the vicinity of the intersection of Marshall and Cretin Avenues. He also knew that the male was armed with a firearm and had smashed his ex-girlfriend's windshield. Shortly before arriving on the scene, he was also informed that the male was "ramming" his ex-girlfriend's van with his car. While waiting to turn left onto Marshall Avenue, Officer Tschida identified a blue Impala parked in the middle of Marshall Avenue, and a male standing next to a minivan with a smashed windshield, also parked in the middle of the street, a few feet away from the Impala.

Based on what he knew, Officer Tschida reasonably assessed a potentially dangerous situation before he exited his vehicle and took prudent measures to minimize that danger. For example, he made sure to park his vehicle in a way that gave him sufficient distance between him and the male standing next to the van and time to react if the male charged at him. As he exited his vehicle, Officer Tschida also removed his firearm and held it in a "low ready" position, with the muzzle pointed towards the ground.

After Officer Tschida exited his vehicle, Mr. Keys, who was wearing a hooded sweatshirt with the hood covering much of his head, first sees the officer. He quickly puts both hands in the front pouch of his sweatshirt and moves towards the back of the Impala, as Officer Tschida begins to issue the first of three commands for him to get on the ground. Mr. Keys did not comply with those commands and instead ducked behind the Impala and is not visible to Officer Tschida. In his written statement, Officer Tschida stated that was when he "had no doubt that Mr. Keys did in fact have a firearm, and that he was in the process of getting it out."

This informed and perceptive assessment resulted in Officer Tschida saying "Oh, fuck!" as he raised his firearm to a "high ready" position while he began to move to his right to seek more protective cover. Within approximately three seconds after Officer Tschida issued the first command, Mr. Keys popped up from the rear of the Impala and rapidly fired three gunshots at the officer, with one of those striking him in the right ankle.

Officer Tschida returned gunfire with two shots, with one shot striking Mr. Keys in the head, resulting in his death.

Section 264.00 of the SPPD Officer Use of Force policy, sets forth the following elements when evaluating deadly force situations:

“1. **Ability** - Ability exists when a person has the means or capability to cause grave injury, serious bodily harm or death to an officer or another. This may include, but is not limited to the person’s physical ability, size, age, strength, combative skill, level of aggression, and any weapons in their immediate control.

2. **Opportunity** - Opportunity exists when a person is in a position to effectively resist an officer’s control or to use force or violence upon the officer or another. Examples that may affect opportunity include relative distance to the officer or others, and physical barriers between the subject and the officer.

3. **Imminent Jeopardy** - Based upon all the facts and circumstances’ confronting the officer, the officer reasonably believes the individual poses an imminent threat to the life of the officer(s) or others and the officer must act immediately to prevent death or serious bodily injury.”

In this matter, we believe that Officer Tschida, as displayed through his above-referenced actions and words, properly evaluated the above three elements set forth in the SPPD policy before using deadly force. We further believe that Officer Tschida was objectively reasonable in his belief, based on the totality of the circumstances known to him at the time he used deadly force: 1) that Mr. Keys posed an imminent threat to his life and the lives of other bystanders as specifically articulated by the evidence presented to us, and that he had demonstrated both the ability and opportunity to fulfill that threat, which he did when he suddenly and without warning, shot at the officer; and 2) that absent his use of deadly force without unreasonable delay against Mr. Keys, he was reasonably likely to be killed, or suffer great bodily harm.

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

Officer Tschida responded to a 911 call of a man, Mr. Keys, with a firearm, engaged in a motor vehicle pursuit of his ex-girlfriend. He was informed that Mr. Keys had repeatedly blocked the minivan driven by his ex-girlfriend, had smashed her windshield, and was “ramming” her van with his car. When Officer Tschida confronted Mr. Keys and ordered him three times, to “Get on the ground!” Mr. Keys responded by shooting three times at the officer, striking him once in the right ankle.

The above-described conduct reflects a variety of violent felony crimes any of which would give Officer Tschida reasonable grounds to believe that Mr. Keys will cause death or great bodily harm to another person unless immediately apprehended. For these reasons, we also believe that the use of deadly force by Officer Tschida in this matter was also necessary and justified under Minn. Stat. Sec. 609.066, subd. 2(a)(2).

Finally, the decision by Officer Tschida to use deadly force against Mr. Keys was not based on any known, or reasonably observed, acts or statements reflecting a "danger posed to self" by Mr. Keys. Accordingly, we also believe that Minnesota Statue Section 609.066, subd. 2(b) is not implicated in this case.