

JULY 29, 2018



**REPORT OF THE HENNEPIN COUNTY
ATTORNEY'S OFFICE REGARDING THE
SHOOTING DEATH OF THURMAN BLEVINS ON
JUNE 23, 2018**

I. LEGAL STANDARD

In order to bring charges against a peace officer for using deadly force in the line of duty the State must be able to prove beyond a reasonable doubt that the use of force was not authorized.¹ Minnesota law provides that a peace officer may use deadly force when necessary “to protect the peace officer or another from apparent death or great bodily harm.”² The intentional discharge of a firearm constitutes deadly force.³

The United States Supreme Court has recognized the use of deadly force by a peace officer is permitted where the officer has “probable cause to believe that the suspect pose[s] a threat of serious bodily harm either to the officer or to others.”⁴ The Court also addressed the use of force by a peace officer in its 1989 decision, *Graham v. Connor*.⁵ *Graham* held an objective reasonableness standard should be utilized to evaluate an officer’s use of force. The assessment of reasonableness requires “careful attention to the facts and circumstances of each particular case.” The Court then outlined a non-exhaustive list of factors determining whether the use of deadly force was reasonable: 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 he is actively resisting arrest or attempting to evade arrest by flight.” *Graham* 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 stated allowance must 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.⁶

Minn. Stat. § 609.66 and the constitutional standard, taken together, establish that if the officer’s use of deadly force was objectively reasonable in the face of the danger of death or great bodily harm, no criminal charges against any such officer is supported.

¹ *State v. Basting*, 572 N.W.2d 281, 286 (Minn. 1997); HCAO charging policies provide that charges should only be filed “when credible admissible evidence creates a reasonable probability of obtaining a conviction at trial. This is similar to the NDAA Charging Standard 4-2.2 (“a prosecutor should file charges that...[the prosecutor] reasonably believes can be sustained by admissible evidence at trial”) and the US Attorney Manual § 9-27.220 (a federal prosecution should be commenced only when “the admissible evidence will probably be sufficient to sustain a conviction”).

² Minn. Stat. § 609.066, subd. 2.

³ Minn. Stat. § 609.066, subd. 1.

⁴ *Tennessee v. Garner*, 471 U.S. 1,11 (1985).

⁵ *Graham v. Conner*, 490 U.S. 386 (1989).

⁶ *Graham* at 396-397.

II. STATEMENT OF RELEVANT FACTS

A. The 911 Call

On Saturday, June 23, 2018, at 5:26 p.m., Minneapolis Emergency Communications Center (MECC) received a 911 call reporting a person with a gun. The caller stated he was in the area of 46th and Lyndale North. He reported that there was a man who looked intoxicated walking around shooting off his gun. The caller said the man had fired one shot in the air and one shot in the ground and that it is “just not safe around here”. The caller said the man with the gun was in the area of 46th and Bryant, walking back and forth to Lyndale.

The caller described the gun as a silver 9 millimeter, “chrome at the top”. He described the man shooting the gun as: six feet tall; 180 pounds; 35-36 years old; light skinned; bald head taper with designs; no facial hair. He reported that the man was wearing a white or gray tank top, was carrying a black backpack, and had a big bottle of Amsterdam alcohol and a cup of green Four Loko alcohol.⁷

MECC classifies 911 calls as Priority 0 (the highest possible priority), Priority 1, Priority 2, and Priority 3. A “person with a gun” call, such as this one, is classified as Priority 1, the second highest priority assignment. Calls classified as Priority 1 include situations where an imminent threat to personal safety, or the loss or damage to property exists and conditions at the scene of the call are unstable. The MECC objective is to have a squad en route to a Priority 1 event within 70 seconds of receipt by the dispatcher.⁸

B. Response to 911 Call by Officer Ryan Kelly and Officer Justin Schmidt

Officer Ryan Kelly and Officer Justin Schmidt were on routine patrol in the 4th Precinct in Squad Car 420 at the time dispatch aired the information in the 911 call. The officers activated the emergency equipment of their squad car and began to drive to the area where the man with the gun was reported last seen. Both officers activated their body worn cameras at this time.⁹ Their body worn cameras captured all of the subsequent events.

As can be seen on the officers’ body worn cameras, when they were in the area of 48th Avenue North and Camden Avenue North, a man was sitting on the sidewalk,

⁷ Audio and transcript of 911 call

⁸ Minneapolis Police & Procedure Manual; 7-103 Priority Call Code Numbers and Procedures

⁹ Body Worn Cameras of Officer Schmidt and Officer Kelly; Squad Video, Squad 420

by a black backpack, with a bottle in his hand. The man, later identified as Thurman Blevins, matched the physical description of the person with the gun.¹⁰

The body worn cameras captured Officer Schmidt's immediate response as he yelled "he's got a gun". The video shows the gun at Mr. Blevins' waist. Both officers got out of the squad car with their guns drawn. They ordered Mr. Blevins to drop his gun and put his hands up; similar orders were repeated throughout the subsequent pursuit.¹¹

Thurman Blevins did not comply with the officers' orders and instead got up and ran, carrying the bottle in his hand. The video from the body worn cameras captured the pursuit as the two officers chased Mr. Blevins as he ran down 48th Avenue North, with Officer Schmidt slightly ahead of Officer Kelly. Officer Kelly used his radio to notify police dispatch of their pursuit of the person with a gun and of their location. The audio from the officers' body worn cameras documents their repeated orders to Mr. Blevins to stop, drop his gun and put his hands up, as well as their threats to shoot if he did not comply. Mr. Blevins refused to comply with the officers' orders and, as can be seen in the videos, frequently looked back over his shoulder at the officers during the pursuit.¹²

As he crossed Aldrich Avenue, Mr. Blevins dropped his liquor bottle on the street. Mr. Blevins continued to run down 48th Avenue, with the officers in pursuit. Mr. Blevins then turned into the alley between Aldrich and Bryant Avenues and 48th and 47th Avenues.¹³

The body worn cameras show Mr. Blevins take his gun from his pocket with his right hand and turn toward his left in the direction of Officer Schmidt and Officer Kelly. Officer Schmidt moved to the right and fired his gun at Mr. Blevins. Officer Kelly, who was further back in the alley, also fired his gun at Mr. Blevins.

Mr. Blevins was struck by bullets from both officers' guns and he fell to the ground. The gun he was holding dropped from his hand after he fell.¹⁴ Officer Kelly immediately radioed that shots had been fired and requested emergency medial responders to the scene.¹⁵

¹⁰ Body Worn Cameras of Officer Schmidt and Officer Kelly

¹¹ Id

¹² Id

¹³ id

¹⁴ Id.

¹⁵ Id.

Multiple Minneapolis Police squads quickly responded to the scene after Officer Kelly notified dispatch that they were in pursuit of a person with a gun and, subsequently, that shots had been fired. The gun was near Mr. Blevins' hand as he lay on the ground and, initially, officers were unable to determine if he was still a threat to use his gun. As can be seen from the body worn cameras, several officers maintained their distance from Mr. Blevins with their guns drawn, while Officer William Gregory approached Mr. Blevins and kicked his gun some distance away.

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C. Minneapolis Police Initial Response

In the moments following the shooting, the responding Minneapolis Police officers called for medical assistance, maintained the integrity of the scene, located potential witnesses, conducted public safety statements with the officers and called in the BCA to investigate.

1. The call for medical assistance.

The officers immediately called for emergency medical personnel.¹⁷ EMS from North Memorial Medical Center responded to the scene and determined that Mr. Blevins had passed away. Employees of the Office of the Hennepin County Medical Examiner arrived at the scene later and took custody of Mr. Blevins' body for purposes of an autopsy.

2. Integrity of Scene Maintained

Several officers continued to stay near the body of Mr. Blevins to ensure the integrity of the shooting scene until BCA crime scene investigators arrived. In addition, officers immediately began to put up crime scene tape to keep civilians away from the scene. Ultimately, the perimeter of the crime scene included the blocks of Camden, Aldrich, Bryant and Colfax and 47th and 49th Avenues. The initial responding officers also moved garbage cans to the inner perimeter of the scene to prevent onlookers from viewing Mr. Blevins' body.¹⁸

3. Potential Evidence Marked and Potential Witnesses Located

Minneapolis Police officers observed multiple cartridge casings in the alley where the shooting took place. Officer Andrew Reed saw a brass colored cartridge case

¹⁶ Body Worn Camera of Officer Gregory; Follow-up Report MP49, June 24, 2018; Transcript of Interview of Chris Case, June 26, 2018

¹⁷ MPD Incident Detail Report, 18-208015

¹⁸ Body Worn Cameras of Officer Reed and Officer Chaput

near the gun by the body of Mr. Blevins.¹⁹ Officers also observed multiple silver colored cartridge cases at two other locations in the alley. All identified cartridge cases were marked with MPD evidence cards.²⁰

Officers also identified two other objects of potential relevance: a liquor bottle on 48th Avenue, near Aldrich Avenue and a cup of green liquid on the corner of 48th Avenue and Camden Avenue.²¹

Officers conducted an initial canvass of the streets immediately surrounding the shooting to identify potential witnesses and surveillance videos.

4. Involved Officers Provided Public Safety Statements, Removed From Scene, and Processed

Several MPD supervisors arrived at the scene a short time after the shooting to direct law enforcement activities until the scene was turned over to BCA investigators. Sgt. Robert Greer took a public safety statement from Officer Schmidt and Sgt. Kevin Angerhofer took a public safety statement from Officer Ryan.²² The purpose of a public safety statement is to determine whether there is a weapon missing or any other immediate safety concern relating to the use of force. The officers reported that the only weapon was the one by Mr. Blevins' body, that all shots they fired were in the direction of Mr. Blevins, and that there were no other suspects at large.²³

Officer Schmidt was assigned Sgt. Joel Pucely as his escort officer²⁴ and Officer Kelly was assigned Sgt. Vanessa Anderson as his escort officer²⁵. Both officers were removed from the scene and taken to MPD headquarters where they were later processed by BCA Special Agent Brent Petersen. Each officer was photographed, each officer provided a blood sample for drug and alcohol testing, their uniforms and equipment were acquired, and their weapons were collected for

¹⁹ Follow-up Report MP 40, June 24, 2018

²⁰ Follow-up Report MP 46, June 24, 2018; Body Worn Camera of Officer Chaput

²¹ Follow-up Report MP 2; Follow-up Report MP 21. Sgt. Anderson noted in her report and a later interview that as she was escorting Officer Kelly away from the scene she drove over the glass bottle that had not yet been protected. Transcript of Interview of Sgt. Vanessa Anderson, June 29, 2018.

²² Body Worn Cameras of Officer Schmidt and Sgt. Greer; Body Worn Cameras of Officer Kelly and Sgt. Angerhofer

²³ Id..

²⁴ Body Worn Cameras of Officer Schmidt and Sgt. Pucely

²⁵ Body Worn Cameras of Officer Kelly and Sgt. Anderson

forensic examination. In addition, video from their body worn cameras was obtained.²⁶

5. Minnesota Bureau of Criminal Apprehension Investigation Requested

The Minneapolis Police Department asked the Minnesota Bureau of Criminal Apprehension (BCA) to conduct the investigation. Special Agent in Charge Scott Mueller from the BCA, as well as their Crime Scene Team, arrived at the scene shortly after the shooting.

D. Minnesota Bureau of Criminal Apprehension (BCA) Investigation

1. Eyewitness Reports

Minneapolis Police officers identified several potential eyewitnesses in the minutes following the shooting. The BCA investigators questioned those witnesses and also canvassed the area for other potential witnesses.

Several civilians in the neighborhood reported that they saw and/or heard portions of the incident as it unfolded from the officers' arrival at 48th Avenue and Camden Avenue North to the shooting in the alley behind 4746 Bryant Avenue North. No witness was identified who reported seeing or hearing the entire sequence of events. The interviews from the following witnesses were determined to be the most relevant to the investigation.

a. Witnesses near 48th and Camden Area – initial encounter

i) Olya Weseman

Ms. Weseman is seen on the body worn cameras standing next to Mr. Blevins when the police arrive. Ms. Weseman said Thurman Blevins is the father of her older daughter. Ms. Weseman said she was with Mr. Blevins and her younger daughter, who was in a stroller, on the corner of 48th and Camden. According to Ms. Weseman, Mr. Blevins had a bottle of Amsterdam alcohol and also a cup of "Four Loko" liquor sitting on the sidewalk. Ms. Weseman said the officers jumped out of their car with their guns drawn. She said Mr. Blevins put his hands in the air and said he had nothing. Ms. Weseman said that Mr. Blevins then backed up and started running with the liquor bottle in his hand. According to Ms. Weseman the

²⁶ BCA Investigative Supplement 2018-457/3-7 and 35

officers chased Mr. Blevins and said they were going to shoot him. She said Mr. Blevins did not have a gun that day and she said she had never seen him with a gun. She did not see the shooting in the alley, but she heard three or four shots.²⁷

The body worn cameras show Mr. Blevins sitting near a backpack when the officers first encountered him. Several witnesses later reported that they saw Ms. Weseman throw a backpack over the fence at 4834 Camden.²⁸ Later attempts to find the backpack were unsuccessful.

ii) James Lark

Mr. Lark was at the corner of 48th and Camden when Squad 420 arrived. He saw the officers get out of the squad car and tell Mr. Blevins to get his hands up. Mr. Lark said he thought he heard Mr. Blevins initially get “tased” and heard gunshots as Mr. Blevins started to run.²⁹ He thought that Mr. Blevins was drunk. He did not see Mr. Blevins with a gun. He did not see the shooting in the alley.³⁰

iii) Latrice Young

Ms. Young saw Mr. Blevins on the corner of 48th and Camden with a woman and a baby. Ms. Young saw the police get out of the squad car with their guns drawn and told Mr. Blevins to get on the ground. She said that Mr. Blevins stood up, put his hands up, and then took off running with the police officers chasing him. “Ten seconds” later she heard gunshots. The only thing she saw in Mr. Blevins’ hands was a white towel. She did not see the shooting in the alley.³¹

iv) Leon Jackson

Mr. Jackson saw Mr. Blevins sitting on the curb, drinking. Mr. Jackson said that Mr. Blevins was by a woman, a baby in a stroller, and a guy with a sword in a case. Mr. Jackson said the officer got out of the squad car and used his taser on Mr. Blevins.³² Mr. Blevins ran and the officers chased him. Mr. Jackson said the officers had their guns out and told Mr. Blevins to stop and put his hands up. He heard gunshots but did not see the shooting in the alley.³³

²⁷ Transcript of Interview of Olya Weseman, June 23, 2018

²⁸ Follow up Report MP 19, June 24, 2018

²⁹ Officer Schmidt did not carry a taser. Officer Kelly did carry a taser, but it was not deployed on June 23rd. BCA Investigative Supplement 2018-457/50

³⁰ Transcript of Interview of James Lark, June 23, 2018

³¹ Transcript of Interview with Latrice Young, June 25, 2018

³² See Footnote 29

³³ Transcript of Interview of Leon Jackson, June 25, 2018

v) Taquinia Douglas

Ms. Douglas said that Leon Jackson is her boyfriend. She saw three people by the corner of 48th and Camden. Ms. Jackson saw a woman was standing up by a stroller, a man sitting down with a cup in front of him, and a boy with a machete. Ms. Douglas went into her house for a short time and she heard the gunshots. Leon Jackson told her what he had seen. Ms. Douglas then drove to 47th and Aldrich and saw Mr. Blevins in the alley with a gun near him. She did not see the shooting in the alley.³⁴

b. Witnesses in the alley between Bryant and Aldrich where the shooting occurred.

i) Chris Case

Mr. Case saw Mr. Blevins pull out a handgun just before the officers shot. Mr. Case was in the alley between Bryant and Aldrich standing outside of his red Malibu. Mr. Case was parked about mid-block approximately three or four garages down from where Mr. Blevins was shot.³⁵

Mr. Case saw a man, later identified as Mr. Blevins, running with two police officers behind him, saying, “stop, stop, stop.” Mr. Case saw Mr. Blevins pull a gun out from his waistband with his right hand. Mr. Case saw Mr. Blevins turn around to his left and the officers opened fire. Mr. Case did not see Mr. Blevins shoot his gun. Mr. Case’s Malibu was hit by gunfire.³⁶

ii) Robert Lang

Mr. Lang lives at 4746 Bryant and was in his backyard. Mr. Lang heard the police say “at least four maybe five times ‘drop the gun.’” Mr. Lang then heard gunshots. After the gunshots ended, Mr. Lang stepped out from behind his garage and saw a black male laying in the alley face up. He saw a handgun about a foot and a half from the black male. Mr. Lang said the officers had not yet gotten up to the black male when he saw the gun near the man. Mr. Lang then saw a tall officer approach the black male and kick the gun away.³⁷

³⁴ Transcript of Interview of Taquinia Douglas, June 25, 2018

³⁵ Video surveillance from 4738 Bryant Avenue

³⁶ Transcript of Interview of Chris Case, June 26, 2018

³⁷ Transcript of Interview of Robert Lang, June 23, 2018

2. Neighborhood Canvass

Beginning June 23rd and continuing through July 3rd, BCA conducted a comprehensive canvass of the neighborhoods in the area of the shooting to identify witnesses to the incident. The area canvassed included 424 addresses between the blocks 46th Avenue North to 49th Avenue North and Lyndale Avenue North to Dupont Avenue North. ³⁸

3. Interviews with Involved Officers

Each of the officers who shot Mr. Blevins was interviewed by BCA Special Agents Michelle Frascone and James Reyerson. Pursuant to MPD policy the officers were permitted to watch their body worn camera video prior to being interviewed.

a. *Officer Justin Schmidt*

Officer Schmidt has been a police officer with the Minneapolis Police Department since March of 2014. ³⁹ Officer Schmidt said that on June 23, 2018 he was wearing his body worn camera and that the squad camera was operational. On that evening he was assigned with his partner Officer Ryan Kelly to patrol in the 4th Precinct.

Officer Schmidt said they responded, with lights and sirens, to a call about a person with a gun near 46th and Lyndale. Officer Schmidt said he activated his body worn camera. There was a description of the person as a light skinned black male in his early 30s, wearing a tank top, carrying a backpack, with cropped hair. Officer Schmidt also recalled that the description included the man having a bottle of gin and a gun with a chrome top.

As they were driving to the area, Officer Schmidt said they stopped at a stop sign. Officer Schmidt recalled that there was a male and a female at the intersection. Officer Schmidt said he saw a light skinned black male wearing a tank top with cropped hair who appeared to be in his early 30s. Officer Schmidt said the man had a backpack in front of him and a large glass bottle of alcohol. Officer Schmidt said Officer Kelly drove around the man a little bit and the man did not appear to notice them right away.

Officer Schmidt said he saw the man, later identified as Mr. Blevins, wearing some sort of shorts. Officer Schmidt said he saw the handle of a firearm in Blevins' right

³⁸ Neighborhood Canvass Summary.

³⁹ Transcript of Interview of Officer Schmidt, June 25, 2018

pocket – the handle was black with grooves for the fingers. Officer Schmidt said he quickly yelled out to Officer Kelly that “this guy’s got a gun,” drew his own firearm, got out of the squad, and yelled “put your fucking hands up.” Officer Schmidt said Mr. Blevins looked surprised, grabbed the bottle in front of him and took off running.

Officer Schmidt said they got into a foot chase. Officer Schmidt said he kept yelling for Mr. Blevins to put his hands in the air. Mr. Blevins dropped the bottle and Officer Schmidt said that as soon as he dropped the bottle, Mr. Blevins reached into his pocket. Officer Schmidt said he threatened to use deadly force. Officer Schmidt recalled Mr. Blevins saying something like “I didn’t do anything wrong” and Officer Schmidt replying “You have a gun.”

Officer Schmidt said that as they turned into the alley running southbound he could see Mr. Blevins’ left hand but couldn’t see his right hand because it was in his pocket. Officer Schmidt said he saw a car in the alley with someone standing next to it. According to Officer Schmidt, at that point he decided to “blade” off to the right in case he had to use deadly force so he wouldn’t hit the other person in the alley.

Officer Schmidt said that about one-third of the way down the alley he could see Mr. Blevins’ firearm in Mr. Blevins’ hand and clearing his pocket. Officer Schmidt said that “when the gun came out I feared for my life. I feared for my partner’s life.” At that point, Officer Schmidt said he stopped, planted, aimed at “center mass,” and fired multiple rounds until Mr. Blevins fell. Officer Schmidt said he saw the gun lying next to Mr. Blevins’ right hand.

b. *Officer Ryan Kelly*

Officer Kelly has been a police officer with the Minneapolis Police Department since October of 2013. Officer Kelly said that on June 23rd, he and Officer Schmidt were on routine patrol when they received a call about a person with a gun near 47th and Lyndale and the person was “firing a gun into the air and shooting down on the ground.” Officer Kelly remembered that the caller gave a “very good” description of the person shooting the gun - short tapered haircut, tank top, carrying a liquor bottle in his hand. Officer Kelly, who was driving the SUV squad, said he activated the lights and sirens and activated his body worn camera as he sped up to get there quickly.

Officer Kelly remembered his partner updating him with a description saying black male, mid-thirties, tank top and gin bottle. Officer Kelly said they saw other squads in the area so they flooded the area attempting to locate the person. Officer Kelly said that as they stopped at 48th and Camden, he saw a man, later identified as Mr. Blevins, who matched the description. Officer Kelly said his partner yelled “he’s got a gun” and got out of the squad. Officer Kelly said that he slammed the squad in park, jumped out, and pulled his gun out because he could see the man had a gun in his pocket. Officer Kelly said he joined the chase with his partner ahead of him. Officer Kelly said he noticed that the man did not seem to be running in a dead sprint but instead kept turning around, looking over his left shoulder.

Officer Kelly said he thought every time the man turned around he was going to pull the gun out so Officer Kelly kept yelling for the man to stop or he would shoot. Officer Kelly slowed down as he radioed in the chase. Officer Kelly said he could see his partner a short distance behind the man.

Officer Kelly said he heard shots and then saw Mr. Blevins pointing the silver handgun at him. Officer Kelly said he remembers seeing the gun barrel pointed directly at him. Officer Kelly said he was “pretty sure” Mr. Blevins fired his gun. At that point, Officer Kelly said he shot, and the man went down. He didn’t know how many times he shot. Officer Kelly said he saw the gun come out of the man’s hand and yelled at Officer Schmidt to get back. Officer Kelly said he immediately radioed for EMS and fire code 3 and declared “shots fired.”

4. Scene Processing

The BCA Crime Scene Team processed the scene of the shooting. The scene was primarily limited to the alley where the shooting took place, although other items of evidence were recovered nearby.⁴⁰

- a. *46th and Bryant* (the location where the 911 caller reported Mr. Blevins fired his gun into the ground)
 - i) One cartridge case (later determined to have been fired by Mr. Blevins’ gun).

b. *48th and Camden*

⁴⁰ BCA Lab No. S18-08754, Report No. 9; BCA Investigative Supplement 2018-457/12

- i) Cup of green liquid (determined to be consistent with the cup of alcohol the 911 caller reporter was carried by Mr. Blevins).
- c. *Corner of 48th and Aldrich*
- i) Shattered New Amsterdam vodka bottle (determined to be consistent with the bottle the 911 caller reported was carried by Mr. Blevins)
- d. *Alley between Aldrich and Bryant* (Location of the shooting)
- i) 6 silver cartridge cases were recovered in the middle of the alley (later determined to have been fired by Officer Kelly's gun)
 - ii) 8 silver cartridge cases were recovered further south and on the west side of the alley (later determined to have been fired by Officer Schmidt's gun)
 - iii) 1 brass cartridge case was recovered near Mr. Blevins' body (later determined to have been fired by Mr. Blevins' gun)
 - iv) A Smith & Wesson pistol with one cartridge in the chamber and 11 cartridges in the magazine was recovered by Mr. Blevins' body
 - v) Wheel of garbage can
 - One fired bullet (later determined to have been fired by Officer Kelly's gun)
 - vi) Benjamin Franklin Plumbing truck parked behind 4738 Bryant:
 - Three fired bullets (later determined to have been fired by Officer Kelly's gun)
- e. *Chevrolet Malibu*, (owned by Chris Case and in alley at time of shooting)
- Three bullet fragments (one bullet fragment was later determined to have been fired by Officer Schmidt's gun; two fragments were unsuitable for comparison)

5. Other Officer Interviews

Minneapolis Police Officers, Minneapolis Park Police Officers and Hennepin County Sheriff's Office deputies, who responded to the scene following the shooting, prepared written reports for their departments. In addition to those written reports, 46 officers were interviewed by the BCA.

6. Analysis of Body Worn Camera Video

- a. *Body Cameras from Officers Schmidt and Kelly*

As part of the investigation of this case, the video from the body worn cameras of Officer Schmidt and Officer Kelly were submitted by the BCA to National Center for Audio and Video Forensics in California (NCAVF)⁴¹. NCAVF was asked to review and clarify video, audio, combine the enhanced audio back with the original video, to analyze video and audio to determine if the suspect was carrying a gun, when shots were fired and how many.

The two body worn cameras were first synchronized to each other and a uniform timer was added by NCAVF.⁴² The raw video evidence shakes significantly because the officers were running with their body cameras activated; therefore, NCAVF manually adjusted the video to reduce the shaky movements. Filters were applied to improve visibility and digital image zooming was used to enlarge details. Slow motion and freeze frames were used to allow the viewer to focus and identify detail. A time counter was also added as a reference.

NCAVF determined that when officers first arrived, video from the officer worn body cameras shows a weapon at the suspect's right waist. NCAVF used a red circle to mark this on the video. Later, at the time of the shooting, a weapon can be seen in the suspect's hands. This is also indicated with a red circle.

It is important to note that with the two body cameras, when audio is over a certain volume, the sound overwhelms the microphones creating audio distortion. NCAVF compared the sound of voice distortion to the sound of gunshot distortion and determined that the loud sounds at the initiation of the pursuit resulted from voice distortion and were not the result of gunshots.

Using both officer body camera recordings, the audio waveform for known single gunshots in this incident were compared to other gunshots in this incident. Due to the rapid overlapping gunfire and due to the audio over distortion, NCAVF determined that there are no less than 14 gunshots, but it is possible that additional gunshots are "hidden" within the sound of the known gunshots.

b. *Other relevant body cameras.*

In addition to the body worn cameras of Officer Schmidt and Officer Kelly, 62 body worn cameras of Minneapolis Police officers were recovered and reviewed

⁴¹ National Center for Audio & Video Forensics Report, dated July 23, 2108; Analyzed Body Worn Cameras of Officers Schmidt and Kelly.

⁴² Although the videos are in sync, the built in time stamps seen in the videos from each body camera are not in sync,

by BCA agents. The body worn cameras from the following officers were determined to be the most relevant to the investigation.

1) Officer William Gregory

One of the first officers to arrive after the “shots fired” call. Officer Gregory asked other officers to cover him and he approached Mr. Blevins and kicked the gun away from his body. He later made contact with the 911 caller, who declined to talk or identify himself, but agreed to talk later with an investigator.⁴³

2) Officer Benjamin Chaput

Officer Chaput was one of the first officers to arrive after the “shots fired” call. Officer Chaput used MPD blue evidence cards to mark cartridge cases. He maintained his position at the scene of the shooting until the BCA investigators took over the scene.⁴⁴

3) Officer Andrew Reed

Officer Reed was the partner of Officer Chaput and also maintained a position at the scene of the shooting.⁴⁵

4) Sgt. Kevin Angerhofer

Sgt. Angerhofer was one of the first supervisors to arrive. He took the public safety statement from Officer Kelly.⁴⁶

5) Sgt. Robert Greer

Sgt. Greer was one of the first supervisors to arrive. He took the public safety statement from Officer Schmidt.⁴⁷

6) Sgt. Vanessa Anderson

Sgt. Anderson was the escort officer for Officer Kelly.⁴⁸

7) Sgt. Joel Pucely

⁴³ Body Worn Camera of Officer Gregory

⁴⁴ Body Worn Camera of Officer Chaput

⁴⁵ Body Worn Camera of Officer Reed

⁴⁶ Body Worn Camera of Sgt. Angerhofer

⁴⁷ Body Worn Camera of Sgt. Greer

⁴⁸ Body Worn Camera of Sgt. Anderson

Sgt. Pucely was the escort officer for Officer Schmidt.⁴⁹

7. Squad Video

In addition to the squad video from Squad 420 (Officer Schmidt and Officer Kelly), 83 clips of squad videos from 23 squad cars were recovered and reviewed by BCA agents. None of these squad videos provided additional information relevant to the investigation.

8. Surveillance Video

Eleven surveillance videos were recovered from business and residential buildings in neighborhood; although a few of them captured either a small portion of the audio or visual aspects of the incident, they did not provide additional information relevant to the investigation, other than the one from 4738 Bryant Avenue, referenced in footnote 35.

Autopsy Report

An autopsy of Thurman Blevins was conducted by Assistant Hennepin County Medical Examiner Dr. Mitchel K. Morey on June 24, 2018. The cause of death was multiple gunshot wounds: Mr. Blevins was struck by four bullets.⁵⁰ Two fired bullets were recovered.

- One was recovered from the right chest wall (later determined to have been fired from Officer Schmidt's gun)
- One from his right arm (later determined to have been fired from Officer Kelly's gun)

9. Forensic Testing and Analysis

The BCA conducted fingerprint examination of the gun recovered by Mr. Blevins' body. The BCA also conducted DNA examination of the gun, the gun's magazine, cartridges and cartridge cases associated with the gun. As discussed below, these forensic examinations determined that Mr. Blevins' fingerprints were on the gun and his DNA was on the gun, as well as the magazine, cartridges and cartridge cases.

⁴⁹ Body Worn Camera of Sgt. Pucely

⁵⁰ BCA Investigative Supplement 2018-457/25

a. *Fingerprint Examination*⁵¹

The fingerprints of Thurmond Blevins were compared to the latent prints on the grip of the Smith and Wesson handgun recovered near his body. The prints were identified to the right palm of Mr. Blevins.

b. *DNA Examination*⁵²

DNA profiling was performed on the known DNA sample from Thurman Blevins and compared to the following items of evidence, with these results:

i) Cartridge case (with blood) found near body
Single source DNA, matches Thurman Blevins;
would not be expected to occur more than once
among unrelated individuals in the world population

ii) Cartridges unloaded from the Smith and Wesson
handgun recovered near his body

Single source DNA, matches Thurman Blevins;
would not be expected to occur more than once
among unrelated individuals in the world population

iii) Grip of same Smith and Wesson handgun

Mixture of three or more individuals; major male
DNA profile matches Thurman Blevins; the
probability of selecting an unrelated individual at
random from the general population having a DNA
profile that would match this major profile is
approximately 1 in 54 billion

iv) Slide of same Smith and Wesson handgun

Mixture of three or more individuals with a major
mixture of two or more individuals; Thurman Blevins
cannot be excluded from being a possible contributor

⁵¹ BCA Lab No. S18-08754, Report No. 8

⁵² BCA Lab No. S18-08754, Report No. 10

to the major mixture; it is estimated that 99.999999997% of the general population can be excluded from being contributors

v) Trigger of same Smith and Wesson handgun

Due to insufficient genetic information, no statement can be made regarding the source of the DNA mixture

vi) Bottom of magazine from same Smith and Wesson handgun

Mixture of three or more individuals; major male DNA profile matches Thurman Blevins; major male DNA profile would not be expected to occur more than once among unrelated individuals in the world population

*c. Firearms Examination*⁵³

The BCA conducted an examination of the gun recovered by Mr. Blevins's body, the gun fired by Officer Schmidt and the gun fired by Officer Kelly. All three handguns were test fired and all were found to be functional.

The cartridge cases and the fired bullets recovered during the investigation were then examined and compared to test fires from the three handguns, with the following results.

i) Smith & Wesson handgun recovered by Blevins' body

Fired the cartridge case by his body

Fired the cartridge case recovered from 46th and Bryant

ii) Smith & Wesson handgun fired by Officer Kelly

Fired the six cartridge cases recovered from the middle of alley

⁵³ BCA Lab No. S18-08754, Report No. 12

Fired bullet recovered from right arm of Mr. Blevins

Fired bullets recovered from garbage can and from truck

iii) Glock handgun fired by Officer Schmidt

Fired the eight cartridge cases recovered from south/west of alley

Fired bullet recovered from chest wall of Mr. Blevins

Fired bullet recovered from Malibu

III. LEGAL ANALYSIS

The BCA submitted the results of its investigation to the Hennepin County Attorney's Office for consideration of possible criminal charges.

On March 16, 2016, Hennepin County Attorney Mike Freeman announced that officer involved use of deadly force cases resulting in death would no longer be submitted to a grand jury. Instead, the County Attorney would make the charging determination as is done with all other criminal cases submitted to the office.

The Hennepin County Attorney has carefully reviewed the investigation together with three senior prosecutors and issued this report.

Minnesota law permits a law enforcement officer to use deadly force when necessary "to protect the peace officer or another from apparent death or great bodily harm."⁵⁴ The officers in this case discharging their weapons constitutes the use of deadly force.

As stated above, in evaluating whether the use of deadly force was necessary, and therefore whether it was reasonable, the United States Supreme Court has outlined several non-exclusive factors to consider 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 he is actively resisting arrest or attempting to

⁵⁴ Minn. Stat. § 609.066, subd. 2.

evade arrest by flight." ⁵⁵ When those factors are considered in this case, it is clear that the use of deadly force was permitted by Minnesota Statute.

A. The Severity of the Crime at Issue

The 911 caller reported that a specifically described male was firing his gun in a residential neighborhood and that it was “just not safe around here”. Officers Schmidt and Kelly were responding to the “person with a gun” as a Priority 1 call - which includes situations where there is an imminent threat to person safety. The severity of the crime the officers were responding to makes this a more dangerous situation going in and weighs in favor of the reasonableness of the use of deadly force.

B. Mr. Blevins Posed An Immediate Threat To the Officers’ Safety

Evidence presented in this case demonstrates that Mr. Blevins’s possession of a loaded handgun and his decision to take that gun out of his pocket as he turned towards the officers posed an immediate threat to the safety of the officers.

The 911 caller provided MECC with a detailed physical description of Mr. Blevins, his handgun, his liquor bottle and his cup of liquor.⁵⁶ Mr. Blevins’ physical appearance matched the description and the gun found by his body matched the description provided by the caller. The cartridge case from the area where the caller saw Mr. Blevins fire his gun was determined to have been fired from the gun that was recovered near Mr. Blevins’ body.⁵⁷

Officer Schmidt said he saw the butt of a handgun in Mr. Blevins’ pocket or waistband as he was seated on the curb at 48th and Camden. Officer Schmidt immediately yelled “he’s got a gun”.⁵⁸ The butt of the gun is visible on the body worn camera video from Officer Schmidt’s camera.

Analysis of the body worn camera video shows the presence of the gun in Mr. Blevins’ waist area when he was on the corner of 48th and Camden and again in his hand when he was in the alley and turning towards the officers.⁵⁹

⁵⁵ *Graham v. Conner*, 490 U.S. 386 (1989).

⁵⁶ During a subsequent interview with BCA Agent Reyerson, the 911 caller also stated that he knew the person he saw firing the gun by Mr. Blevins’ nickname, “June”. BCA Investigative Supplement 2018-457/14

⁵⁷ BCA Lab No. S18-08754, Report No. 12

⁵⁸ Body Worn Camera of Officer Schmidt

⁵⁹ Body Worn Cameras of Officer Schmidt and Officer Kelly, as analyzed by NCAVF

There is eyewitness corroboration that Mr. Blevins had a gun in his hand and was turning toward the officers. Chris Case, a civilian standing next to his car in the alley, reported that he saw the two officers in pursuit of Mr. Blevins in the alley. He saw Mr. Blevins pull a gun out from his waistband with his right hand and turn to his left before the officers fired their weapons.⁶⁰

Likewise there is eyewitness testimony from civilian Robert Lang who saw the handgun on the ground, about a foot and a half from Mr. Blevins. Mr. Lang said that the officers had not yet gotten up to Mr. Blevins until a tall officer approached the black male and kicked the gun away.⁶¹ This is confirmed by the body worn camera video from the officers that shows Officer Gregory kicking the gun away immediately after the shooting.

There is also strong forensic evidence that Mr. Blevins possessed the gun including his fingerprints and his DNA. The DNA is not only on the gun but on the magazine and the cartridges.⁶²

C. Mr. Blevins Was Actively Evading Arrest

The other enumerated factor to be considered is whether the suspect was actively resisting or evading arrest. The body worn camera video makes it clear that Mr. Blevins began to flee almost immediately and refused to follow the commands of the officers to stop and show them his hands. By failing to follow the commands of the officers and running away with a loaded handgun in his pants, Mr. Blevins represented a greater danger to the officers and to the community.

D. Conclusion

When Mr. Blevins fled from the officers with a loaded handgun, refused to follow their commands for him to stop and show his hands, and then took the gun out of his pocket and turned toward the officers, Mr. Blevins represented a danger to the lives of Officer Schmidt and Officer Kelly. Their decision to use deadly force against Mr. Blevins under those circumstances was authorized by Minn. Stat. § 609.066 and as such there is no basis to issue criminal charges against either officer.

⁶⁰ Transcript of Interview of Chris Case, June 26, 2018

⁶¹ Transcript of Interview of Robert Lang, June 23, 2018

⁶² BCA Lab No. S18-08754, Report No. 10