

JANUARY 3, 2019



**REPORT OF THE HENNEPIN COUNTY
ATTORNEY'S OFFICE REGARDING THE
SHOOTING OF TRAVIS MATTHEW JORDAN ON
NOVEMBER 9, 2018**

STATEMENT OF RELEVANT FACTS

At 1:58 p.m., on November 9, 2018, a known adult female called 911 to report that her friend, Travis Matthew Jordan, was threatening to commit suicide at his home at 3731 Morgan Avenue North, Minneapolis, Hennepin County. She said that she was not at that address, but at 1:05 p.m. Mr. Jordan texted her a music video of a person committing suicide. At 1:45 p.m., she spoke to Mr. Jordan and he said he wanted to die. She also said Mr. Jordan had said something in recent days about getting a gun. She told Mr. Jordan she was going to call the police and he said he would speak with them when they got there. Minneapolis Police Department (MPD) Officers Ryan Keyes and Neal Walsh were working MPD squad 410 and were assigned to respond to the known adult female's 911 call.

Officers Keyes and Walsh activated their body worn cameras (BWCs) in the car on their way to the call and their cameras captured the entire incident. They knocked on the front door and tried to make contact with Mr. Jordan, who did not answer. Officer Keyes's BWC footage shows that Keyes went from the front to the rear side of the house, looking in the windows. He saw someone through a back window and then returned to the front of the house to tell Officer Walsh he saw someone inside. Keyes returned to the rear side of the house where Mr. Jordan opened the window, yelled profanities at Keyes and Walsh, and slammed the window. Officer Keyes returned to the front yard and Officer Walsh is seen stepping back into the street to call their sergeant. After a brief conversation with a neighbor, Officer Keyes returned to the rear side of the house, this time going around the corner to the back of the house. Mr. Jordan can be heard yelling inside the house. Officer Keyes returned to the front area of the house and announced to Officer Walsh, who was now in the front yard, that Mr. Jordan was "right here," meaning that he was coming to the enclosed front porch of the house. Mr. Jordan repeatedly yelled, "Let's do this," and "Just do it," as the officers responded by saying "No" and "Do what?" Officer Keyes is then heard yelling to Officer Walsh, who was facing the front door, "He's got a knife." Both officers told Mr. Jordan to drop the knife several times. They told him not to come out the front door. Mr. Jordan did not drop the knife and came out of the front door. A very large silver, black-handled, knife was in Jordan's right hand and he carried it as he walked quickly toward Officer Walsh and shouted at him. As Jordan continued to approach the officers, the officers fired.



Officer Walsh's BWC footage shows the same events, but also shows that he contacted dispatch by radio when they first made contact with Jordan while he was inside the house. The dispatcher told Officer Walsh that she was going to send Emergency Medical Services (EMS) to the scene. Officer Walsh returned to the squad car to get his cell phone and called Sergeant Michael Grahn. Walsh told Grahn that they were outside the house on an EDP (emotionally disturbed person) call and that the person was drunk or on drugs. Walsh also reported that the man was angry and crying and that it sounded like he was throwing things inside the house. Officer Walsh said, "He's at the door right now so I'll let you go." Walsh radioed to dispatch that the person had a knife and that he was coming outside. Officer Walsh is heard repeatedly saying, "Put the knife down," "Do not come outside," "Drop the knife," and "I do not want to do this" as Mr. Jordan continued to quickly approach him with the knife.

At 2:11 p.m., while the officers were at Mr. Jordan's house, the known adult female called 911 again. She said that Mr. Jordan had called her since her first 911 call and said that he was going to have knives when the police arrived. Mr. Jordan told her that the cops were there and he could see them. The known adult female told the 911 operator that Mr. Jordan said he "was going to go down today." She also said that Mr. Jordan said something about a note.¹

¹ The first 911 call was from 1:58:33 to 2:05:23 p.m. The second 911 call was from 2:11:56 to 2:16:52 p.m. The computer dispatch shows the officers announced shots fired at 2:12:25 p.m. The 911 call taker was getting information about the knife/knives from the 911 caller as the shooting was happening. Officers did not receive the information about the knife/knives until after the incident was over.

Almost immediately after the shooting Officer Scott Creighton arrived, as did EMS/paramedics. Officers Keyes and Walsh handcuffed Mr. Jordan and tried to render medical assistance. The knife lay in the snow where it fell when Mr. Jordan fell to the ground. EMS took Mr. Jordan to North Memorial Medical Center where he died.

In accordance with MPD policy, the Minnesota Bureau of Criminal Apprehension (BCA) conducted the investigation in the case. They executed a search warrant for the home. On the second floor was a bedroom where Mr. Jordan had been living. On the floor in the bedroom was a notebook and on the top page was written, "Paul I'm so sorry this happened at your house." Investigation determined that Paul was one of the owners of the home where Mr. Jordan had been recently living.

Officer Ryan Keyes gave a voluntary interview to the BCA on November 15, 2018, after reviewing the video from his BWC.² Officer Keyes had been with MPD eleven months at the time of the shooting and had no other law enforcement experience. Officer Keyes said that on the way to the house they were given the name of the man who was reportedly suicidal and Officer Walsh looked him up on the squad computer so that they would know what he looked like when they saw him. Officer Keyes said that when he walked to the rear side of the house he could see a man in the kitchen. Keyes tapped on the screen and motioned to the front door of the house. He said that in his experience people usually go to the front door when they see the police are there. When the man did not come to the front, Keyes walked back to the rear of the house and looked in the window again. This time, Keyes could see an open door to an adjacent room where the man was standing and appeared to be talking on a smart phone with headphones. To get the man's attention, Keyes shined his flashlight into the house. The man walked toward the window, stopped in the kitchen and raised his middle finger at Officer Keyes. The man then said something Officer Keyes couldn't make out.

Officer Keyes motioned to the man to come closer and the man opened the window and said, "F--- you" and gave him the finger again. He slammed the window shut. The man, who Officer Keyes recognized from the driver's license photo they pulled up in the car, was slurring his words and may have been intoxicated. Officer Keyes went back to the front of the house and Officer Walsh called their sergeant to see if they should attempt a forced entry to try to prevent the man from committing suicide. While Officer Walsh was on the phone, Officer Keyes went back to the rear of the house but did not see the man through any windows or doors.

Officer Keyes returned to the front of the house and stayed in a spot near a front corner of the porch because he was aware that there was a possibility of a gun in the house and he felt the man inside would not see where he (Keyes) was standing. Officer Keyes could hear the man yelling inside. Officer Keyes saw that the door leading from the porch into the house was ajar and he told Officer Walsh that the man was "over here." Keyes heard the man say, "Let's do

² MPD policy permits an officer to review the video from his or her BWC before giving an interview under these circumstances.

this.” Keyes asked the man what he wanted to do and the man came onto the porch yelling. Officer Keyes saw the blade of a knife in the man’s right hand, pointing down.

Officer Keyes said the man was “ramping up really quickly” and kept repeating, “Let’s do this.” Officer Keyes told Officer Walsh, “He’s got a knife.” Keyes drew his gun, pointed it at the man, and commanded him to drop the knife. The man continued to yell and moved the knife in an overhand manner from his side to his chest. Keyes said that he hoped he could get to the front door of the house and keep it closed so that the man could not stab anyone with the large knife. If he could do that, he could de-escalate the situation.

As quickly as Keyes developed the plan to approach and close the door, the man “whipped the door open” and was standing in the outer doorway. Keyes tried to back up behind a tree. The man brought the knife up and leaned at the officers like he was trying to force them to react. Officer Keyes said, “I felt like he, at any second he could run at me and stab me with that giant knife. Um, but I didn’t shoot him. Um, I backed up and we continued to try to give him verbal commands.” Officer Keyes’s training told him to separate from his partner so that together they did not create one target and the man would be forced to choose one of them to attack.

Both officers backed up and as they continued to command the man to drop the knife the distance between them closed very quickly. As the man got closer to Officer Walsh, Officer Keyes believed the man would kill one or both of them and he decided to use deadly force and fire his gun. As Officer Keyes pulled his trigger, Officer Walsh also began to fire. The man fell to the ground and the knife dropped from his hand. Officer Keyes said the man was no longer a threat to the officers’ safety so he re-holstered his gun, put the man in handcuffs, and began to render aid.

Officer Neal Walsh also gave a voluntary interview to the BCA on November 15, 2018, after reviewing the footage from his BWC. Officer Walsh had been with MPD for 15 months at that time and had previous work experience with the Anoka Police Department as a non-sworn officer. When arriving at the house on Morgan Avenue, Officer Keyes went to the back and Officer Walsh went to the front door where there was a package on the front stoop, which could have meant that no one was home. Officer Walsh said he knocked on the front door (on the outside of the enclosed porch) about 15 times. Getting no answer, Officer Walsh approached a neighbor who was outside clearing snow from his car and received some limited information about the residents of the house.

Officer Walsh said that when he was talking to the neighbor he could see Officer Keyes talking to someone through the rear side window. Walsh went over to the window where he heard the man they were looking for say “F--- you” to Keyes several times and slam the window shut. Walsh said the man was slurring his words and was “super aggressive and he appeared to be very angry.” Officer Walsh went to the front of the house and to the squad to get his work phone to call a supervisor to ask whether he and Officer Keyes should try to get inside the house. The sergeant told Officer Walsh that they should not force entry if they believed there was no one else in the house to whom the man could pose a threat. The sergeant suggested that Officer

Walsh call the 911 caller back to see if she could come and try to talk him out of the house peacefully.

As Officer Walsh was telling the sergeant he would call the 911 caller, Walsh heard Officer Keyes say that the man was coming to the front. Walsh hung up his phone and approached the front. Walsh heard Keyes say the man had a knife. The man threw the door from the house to the porch open and Walsh immediately noticed the “huge knife” in the man’s hand pointing toward the ground. The man came outside and said, “Let’s f---ing do this, let’s do this, let’s go.” Officer Walsh said that he and Officer Keyes told the man several times to drop the knife and he did not. The man then opened the front door to the outside and stood on the top of three steps.

The man continued to yell, “Let’s do this” and flailed his arms aggressively. Officer Walsh told the man not to come outside. The man quickly rushed down the steps and came toward Walsh. Walsh backed up and told him again to drop the knife and said, “Drop the knife,” and “I don’t want to do this.” Walsh could hear Keyes giving similar commands. The man ignored them both and started walking straight toward Walsh, who was backing up and could feel himself step from the boulevard grass onto the concrete of the curb. Officer Walsh said he stopped because if he continued to back up he might slip and fall, which would give the man approaching a chance to run at him and get on top of him. While stopped, Walsh continued to tell the man to drop the knife. When he did not, and then took a “super aggressive step” towards him, Walsh fired. Once the man was on the ground and stopped resisting, Officer Walsh started to handcuff him.

The BCA Crime Lab processed the scene and conducted a number of tests, including taking scene measurements with their TruView system. The approximate distance from where Mr. Jordan was initially standing in the front door of the house to where Officer Walsh was standing at the time was 21-22 feet. The approximate distance between Mr. Jordan and Officer Walsh when Officer Walsh fired his first shot was 11-12 feet.

The number of rounds missing from the officers’ guns when they were collected after the incident shows that Officer Keyes fired once and Officer Walsh fired seven times. The BCA collected seven discharged cartridge casings at the scene, all of which came from Officer Walsh’s gun. Testing showed that three bullets collected by the Medical Examiner from Mr. Jordan’s body came from Officer Walsh’s gun. Neither the bullet nor the discharged casing from Officer Keyes’s gun were recovered.

MPD ShotSpotter technology in the area detected the first gunshot at 2:11:58 p.m.

HENNEPIN COUNTY ATTORNEY’S OFFICE REVIEW

On March 16, 2016, Hennepin County Attorney Mike Freeman announced that officer involved use of deadly force cases reviewed by the Hennepin County Attorney’s Office 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 reviewed the case with a senior prosecutor, and on January 3, 2019, issued this report.

LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

The evidence detailed above does not support the filing of criminal charges against either Officer Ryan Keyes or Officer Neal Walsh for the fatal shooting of Travis Jordan. At the time he was shot, Mr. Jordan was wielding a very large knife he had been refusing to drop despite numerous clear commands to do so. Told not to come out of the house or toward the officers while he was holding the knife, Mr. Jordan did the opposite, aggressively approaching the officers, particularly Officer Walsh. As he approached Officer Walsh, BWC video shows that Mr. Jordan neither retreated nor complied with the officers' commands and instead presented the officers with an immediate threat of death or great bodily harm. Officers Keyes and Walsh fired to protect themselves and each other, acted out of fear of great bodily harm or death, and their use of deadly force was justified.

A. Legal Standard

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 justified.³ 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."⁴ The intentional discharge of a firearm constitutes deadly force.⁵

The United States Supreme Court has recognized the use of deadly force by a peace officer is justified 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."⁶ The Court also addressed the use of force by a peace officer in its 1989 decision, *Graham v. Connor*.⁷ 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 for balancing an individual's rights vs. an officer's: 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.⁸

³ *State v. Basting*, 572 N.W.2d 281, 286 (Minn. 1997).

⁴ Minn. Stat. § 609.066, subd. 2.

⁵ Minn. Stat. § 609.066, subd. 1.

⁶ *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).

⁷ *Graham v. Conner*, 490 U.S. 386 (1989).

⁸ *Graham* at 396-397.

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.

B. The Use of Deadly Force Against Travis Jordan Was Authorized.

Officer Keyes fired one shot at Mr. Jordan and all indications are that the bullet missed Mr. Jordan. Officer Walsh fired seven times and shot Mr. Jordan at least three times, fatally wounding him.

The officers went to the home to investigate the call made by a known adult female. She called because Mr. Jordan made statements over the phone and sent a text that led her to believe he was suicidal. When the officers arrived, they tried to make contact with Mr. Jordan by knocking on the front door. When he did not answer, Officer Keyes walked around to the side of the house. Mr. Jordan came to the window and clearly communicated to Officer Keyes that he was not going to come out to speak with them.

Officer Walsh contacted his sergeant to see what they should do next. While he was on the phone, Officer Keyes remained on the side of the house. Keyes could see Mr. Jordan coming toward the front of the house and alerted Officer Walsh that Jordan had a knife. Jordan came onto the porch and then to the front door of the house. Mr. Jordan was agitated and aggressive and waving the knife. He repeatedly said, "Let's do this," which, under the circumstances, gave the impression that he wanted the police to engage with the use of force to resolve the situation.

Despite numerous and repeated requests and commands to stay where he was and drop the knife, Mr. Jordan refused and instead came aggressively toward the officers, closing the distance to only eleven feet between he and Officer Walsh. He waved the knife as he quickly approached and showed no desire to retreat or cooperate. At that point it was clear that the use of deadly force against Mr. Jordan was necessary to prevent harm or death to Officers Walsh and Keyes. Only when the officers fired did Mr. Jordan drop the knife.

Officers Walsh and Keyes's use of deadly force under these circumstances was reasonable as demonstrated by applying the *Graham* factors to this case.

1. The severity of the crime at issue: The officers were called to check on a suicidal individual. When they encountered Mr. Jordan they had cause to believe that the 911 caller's information was accurate and they were in a situation where Mr. Jordan could harm himself and/or anyone else who may have been in the house. The officers could not leave the scene until Mr. Jordan was safe and the situation was defused.
2. Whether the suspect poses an immediate threat to the safety of the officers or others: Mr. Jordan came at the officers with a very large knife that, in this situation, served no purpose other than to pose an ongoing, immediate threat to the officers.

3. Whether he is actively resisting arrest or attempting to evade arrest by flight: Mr. Jordan's words and actions clearly and unequivocally communicated to the officers that he would not cooperate or voluntarily end the conflict.

Judging, as *Graham* requires, whether the officer's use of force was reasonable from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight, compels the conclusion that Officers Walsh and Keyes acted reasonably. The conflict escalated very quickly and the officers were forced into an unexpected, dangerous, and reactive position. Mr. Jordan effectively and repeatedly communicated his refusal to cooperate. He approached and waved the knife at the officers, which escalated the conflict. Only after being shot did he lose his grip on the knife. The only way to stop the threat Mr. Jordan posed to the officers was to use deadly force.

Applying Minn. Stat. § 609.66 and the constitutional standard together, it is clear that Officers Walsh and Keyes's use of deadly force was objectively reasonable in the face of the danger of death or great bodily harm, and no criminal charges are supported.