

DECEMBER 21, 2020



**REPORT OF THE HENNEPIN COUNTY
ATTORNEY'S OFFICE REGARDING THE USE OF
DEADLY FORCE ON CHIASHER FONG VUE
ON DECEMBER 15, 2019**

INTRODUCTION

The evidence collected and analyzed in this investigation does not support the filing of criminal charges against Minneapolis Police Officers Troy Carlson, Donnell Crayton, Daniel Ledman, Kyle Pond, Andrew Reed, Travis Williams, Jason Wolff, Aaron Womble and Toua Yang. At the time he was shot, Mr. Vue was armed with and firing a semi-automatic rifle at police. He had used the gun earlier to threaten his family members.

The officers fired to protect themselves and each other, acting out of fear of an objectively apparent threat of great bodily harm or death. Under the totality of the circumstances, their use of deadly force was necessary, proportional to the threat, and objectively reasonable.

STATEMENT OF RELEVANT FACTS

At 3:07 a.m. on December 15, 2019, Chiasher Vue's adult son called 911 and said his dad was intoxicated and shooting a gun inside their house at 3114 Thomas Avenue North, Minneapolis, Hennepin County. The son said his father "just opened fire," fired three or four shots, and he and his siblings were very scared. The son also said the other family members were outside in a car but he was unable to get his grandmother (Mr. Vue's mother who was confined to a wheelchair) out of the house. The police dispatcher told the son to drive to Lowry and Thomas Avenues and meet Minneapolis Police Department (MPD) officers there.

Numerous officers were responding to the scene including officers who spoke Hmong. Officers met the Vue siblings at Lowry and Thomas Avenues and they told the officers that there were long guns in the house. Officers also requested a negotiator come to the scene and asked an ambulance to respond and stand by at Lowry and Xerxes Avenues, about five blocks from the house. Mr. Vue's daughter called Mr. Vue on his cell phone and a Hmong-speaking officer also spoke with Mr. Vue.

Mr. Vue told the officers that he would come to the door with his hands up. Instead, he came to the door and suddenly went back inside. He came back to the door seconds later holding a rifle with the barrel pointed down. He raised the barrel in the direction of police officers. Nine police officers fired shots, and Mr. Vue also fired shots during this encounter. It is not possible to state conclusively who fired first. Mr. Vue fell to the floor but then sat up and raised the rifle a second time. There was more gunfire. Mr. Vue fell again and the shooting stopped.

The officers were wearing and had activated their body-worn cameras (BWCs). The video is very limited in what it captures because the officers were taking cover from incoming fire behind cars and trees, but it shows Mr. Vue came to the front door with a long gun. The nine named officers fired shots at Mr. Vue. ShotSpotter technology in the area identified 6 shots fired at 3:47:12 and 56 rounds fired at 3:47:14 for the next 16 seconds.

Mr. Vue was transported to North Memorial Medical Center where he died from his injuries.

MPD Chief Medaria Arradondo asked the Minnesota Bureau of Criminal Apprehension (BCA) to investigate the use of force by the nine police officers and refer its investigative findings to the Hennepin County Attorney's Office to determine whether the officers' use of force was objectively reasonable and whether any or all of the officers committed a crime by shooting Mr. Vue.

ACCOUNTS OF THE OFFICERS

Sergeant Troy Carlson

Minneapolis Police Sergeant Troy Carlson had been employed by the Minneapolis Police Department for 16 years at the time of this incident. He was the Fourth Precinct Patrol Supervisor on the overnight shift and is trained in SWAT procedures. Personnel and training records obtained as part of this investigation show that Sergeant Carlson was a properly trained and competent police officer.¹ Sergeant Carlson was in his Fourth Precinct office with his lieutenant when they heard dispatch air that a 911 caller had left his house because his father fired shots inside their house.

Sergeant Carlson got on the air and said to have the callers come out and meet officers. Carlson learned there was a 50 to 60-year-old man in the house. He went to Thomas and Lowry and spoke with the officers and family members and learned the gun had been fired after the family members left the house. He learned also there were three long guns in the house and that a 70-year-old grandmother was still inside. Sergeant Carlson called the Watch Commander and requested a negotiator to come to the scene. The Watch Commander began that process. He also arranged for an ambulance to stage in the area in case any citizens or police became injured.

Sergeant Carlson told Officers Peng Moua and Ty Yang, who speak Hmong, to use the public address system and make contact with the man inside the house, who was identified as Mr. Chiasher Fong Vue. Officer Moua spoke with Mr. Vue by cell phone and said that Mr. Vue was going to come out of the house with his hands up.

Sergeant Carlson was concerned about the situation because he knew there were guns in the house and events were happening very quickly. Sergeant Carlson knew these types of situations can escalate and he was concerned about having officers approach the house, as well as the safety of any citizens who might be in danger if Mr. Vue came out of the house with a gun. Almost simultaneously with Officer Moua saying Mr. Vue was going to come out, Mr. Vue appeared at the door. Officers Moua and Yang went toward him and were yelling in Hmong.

¹ The Hennepin County Attorney's Police Use of Deadly Force Protocol requires investigating agencies to acquire complete and comprehensive officer personnel and training records for every officer who used deadly force. In this case, the Minneapolis Police Department first provided incomplete and redacted records for all of the officers who fired shots at Mr. Vue. The BCA was unable to acquire full and unredacted records from the Minneapolis Police Department. The Hennepin County Grand Jury issued a subpoena for the Minneapolis Police Department to turn over complete and comprehensive training records on June 18, 2020. The Minneapolis Police Department complied with the subpoena and provided complete records.

Mr. Vue almost immediately went back inside. Sergeant Carlson's plan was to have Officers Moua and Yang be the sole communicators with Mr. Vue and have Mr. Vue come out to the sidewalk and get on his knees. He was very concerned for the safety of the grandmother inside the home. Suddenly he heard officers yell, "He's got a gun! He's got a rifle!" He heard another officer yell, "Orange Orange Orange!" which is code for firing less-lethal ammunition. From his position behind a parked car, Sergeant Carlson saw Mr. Vue come back to the glass door and hold it open with his shoulder. After hearing the less-lethal round being deployed, Sergeant Carlson saw the barrel of a rifle move up from the ground in the direction of officers. He then heard the sounds of handguns and a rifle being fired. Through a porch window, Sergeant Carlson could see the outline of a person standing and fired twice. He heard other officers yelling and then heard, "Cease fire!" Sergeant Carlson heard Officer Andrew Reed air on his radio that he had a clear view of the suspect and he was not moving.

Sergeant Carlson began organizing a response for this critical incident and directed Officer Donnell Crayton to send his K9 officer in with his team to see if the suspect posed a further threat to the officers and the elderly woman. Carlson and the team moved in and moved Mr. Vue away from his rifle, which lay beside him. Mr. Vue had been shot but was still breathing; Carlson, other MPD officers, and paramedics got him to the waiting ambulance. Numerous other MPD personnel arrived and took control of critical incident command procedures.

Sergeant Carlson gave a voluntary statement to BCA investigators on December 17, 2019. He did not watch video from his BWC prior to his interview.²

Officer Donnell Crayton

Minneapolis Police Officer Donnell Crayton had been employed by the Minneapolis Police Department for seven-and-a-half years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Crayton was a properly trained and competent police officer. Officer Crayton was assigned to the K9 unit and had citywide responsibilities that night with his partner, a two-year-old German Shepherd named Jett. Officer Crayton was in northeast Minneapolis when he heard dispatch air a domestic incident where a suspect fired twice inside his house. He drove toward the scene and learned on the way that family members left the house and were at Lowry and Thomas Avenues with police.

When he arrived, Officer Crayton went to the back of the house and learned that Hmong-speaking MPD officers spoke with the man inside the residence, Mr. Vue, and that Mr. Vue would be coming out the front door peacefully. Officer Crayton also learned Sergeant Carlson had requested a negotiator. Officer Crayton got Jett out of the car hoping to use Jett as a deterrent from Mr. Vue either running from or fighting with police. Officer Crayton and Jett ran through a yard to get to the front of the house, and officers informed him that Mr. Vue had already come to the door and gone back inside.

² The Minneapolis Police Department allows an officer involved in a deadly force incident to review video evidence from the event prior to giving a voluntary statement. The BCA, the investigating agency, defers to the policies of the originating agencies on whether an officer can watch video evidence prior to giving a statement.

Officer Crayton and Jett went behind a parked minivan. Sergeant Carlson was to Officer Crayton's left. Crayton asked whether he should put Jett back in the car in case he barked and scared the suspect. Sergeant Carlson said no, another officer was trying to call Mr. Vue and have him come out again and surrender. Officer Crayton saw the front door open but from his vantage point and because of fog on the glass, he could not see a person but saw the barrel of a rifle come out the door in the "low ready" position, meaning that it was pointed at the ground. Officer Crayton and other officers yelled, "Rifle!" as the barrel of the rifle started to rise. Fearing Mr. Vue was going to shoot him or other officers, Officer Crayton fired his gun. He realized Mr. Vue was shooting back and yelled, "He's shooting!" Officer Crayton observed that the rifle was of such a caliber that its' rounds would penetrate the officers' vests if they were shot.

Officer Crayton saw Mr. Vue recede from view and, believing Mr. Vue had not been hit, yelled, "Okay, he went back!" Officer Crayton believed Mr. Vue went in to take cover or reload. Not knowing how many shots he fired and what was left in his gun, Officer Crayton did a tactical reload of his gun behind the minivan. Officer Crayton saw Mr. Vue's foot on the floor as if he was laying down and other officers said, "He's down!"

Officer Crayton and Jett, who was leashed and held by Officer Crayton the whole time, approached the house with other officers and determined that Mr. Vue no longer presented a threat to them or anyone else.

Officer Crayton gave a voluntary statement to BCA investigators on December 18, 2019. He and his attorney watched video from his BWC prior to his interview.

Officer Daniel Ledman

Minneapolis Police Officer Daniel Ledman had been employed by the Minneapolis Police Department for nearly 13 years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Ledman was a properly trained and competent police officer. Officer Ledman was working with his partner Officer Jason Wolff. They were at the Fourth Precinct when they heard dispatch air there was a domestic call with shots fired inside a house. Other officers asked the occupants of the house to get out and Ledman and Wolff were to meet them outside.

Officers Ledman and Wolff arrived at Lowry and Thomas Avenues and saw three men and a woman approaching. Other officers were directing the people to come to them on their intercom. Officer Ledman had two of the men, who were brothers, sit in his squad to get information. The older brother said his dad was drunk and got into an argument with him and another brother. He said his dad had long guns and that his dad fired his gun after he and his siblings left the house. The other brother was reluctant to give information and wanted to return to the house to talk to his dad but Officer Ledman told him that since there was a gun involved it was unsafe.

While other officers arrived, Officer Ledman tried to identify the family members and the man in the house with the gun. He learned there was an elderly woman still inside the house. A

Hmong-speaking officer made contact with the man, Mr. Vue, by phone, and Officer Ledman understood Mr. Vue was going to come out of the front door of the house.

Officer Ledman moved closer and positioned himself behind a tree in a yard two houses north of 3114 Thomas. He saw Mr. Vue come to the front door, heard Hmong-speaking officers trying to talk to Mr. Vue, and then saw Mr. Vue go back inside. About a minute passed, then Mr. Vue came back to the door, and another officer said that Mr. Vue had a rifle. From behind the tree Officer Ledman could see at first only something dark next to Mr. Vue and then he saw the barrel of a rifle come up. Officer Ledman thought this was “crazy” because the man knew the police were there and trying to speak to him in Hmong and then he went inside and came back with a gun. Knowing he had partners on the side and at the front of the house, Officer Ledman started firing his handgun. He saw Mr. Vue fall to the floor inside the front porch. Officer Ledman moved one house closer and saw Mr. Vue sit up. Fearing Mr. Vue would shoot again if he had not done so already, Ledman fired again until his gun ran out of ammunition. He reloaded his gun and moved in closer near Officers Yang and Wolff. At one point during the event Officer Ledman believed he heard an officer signal that he was going to use less-lethal ammunition.

Officer Ledman approached the house and Mr. Vue with other officers and saw the rifle where Mr. Vue was laying and no longer moving. While clearing the house he noticed spent rifle casings on the stairs between the first and second floors.

About one week earlier, Officer Ledman had been at 3114 Thomas for a call of a mental health crisis for a family member who was not present on the night of December 15th. Officer Ledman had brief incidental contact with Mr. Vue at that time and more involved contact with the son who gave him information on the 15th.

Officer Ledman gave a voluntary statement to BCA investigators on December 18, 2019. He watched video from his BWC with his attorney prior to his interview and watched one portion twice.

Officer Peng Moua

Minneapolis Police Officer Peng Moua had been employed by the Minneapolis Police Department for nearly five years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Moua was a properly trained and competent police officer. Officer Moua was working with his partner, Officer Toua Yang, on another call when they heard the dispatch of an Asian male firing rounds in his house. Within the previous week, Officer Moua had been to the same address on another call concerning a family member who was not present on December 15th. They decided to respond to the call and learned on the way there that family members were asking for a Hmong officer, which Officer Moua is.

When they arrived, Officer Moua spoke with the daughter of the man inside and she said her dad fired rounds in the house and they took off and called the police. She said her father had been building up aggression lately and had been drinking throughout the night. She said he went

upstairs and fired rounds from his gun. She said she did not think her dad meant to hit anyone and that he was still in the house and did not speak English. Officer Moua told the daughter to keep trying to reach her dad on her cell phone.

Officer Moua got on the PA system to try to make contact with Mr. Vue but he did not respond. Eventually the daughter reached Mr. Vue on the phone and Officer Moua spoke to him. Mr. Vue was very angry and was yelling. He said he had an argument with his sons which led to him shooting rounds in his house. Officer Moua responded by telling Mr. Vue, "Everything is going to be okay . . . we are here to help you out . . . I just want to talk to you." Mr. Vue replied that if he came outside he knew the police would take him to jail. Officer Moua decided to change his approach and told Mr. Vue they would get him the treatment he needs and take him to the hospital.

Mr. Vue continued to yell and said he was going to hurt somebody. Officer Moua did not know whether Mr. Vue meant Mr. Vue was going to hurt family members or police officers. Officer Moua let Mr. Vue "vent," and then asked Mr. Vue if he would come outside so Officer Moua could talk to him. Officer Moua said they would not take him to jail and he (Mr. Vue) should come out with his hands up. Mr. Vue's tone changed and he agreed to come out.

Officer Moua began to approach the house and got about one house away when he saw the front door open and Mr. Vue poke his head out for a second. Officers were yelling, "Show your hands!" and Mr. Vue went back inside. Officer Moua called Mr. Vue's name and when he did not respond, Officer Moua headed back to the squad car where Mr. Vue's daughter was. Mr. Vue's daughter was on the phone with Mr. Vue and Officer Moua told her to tell Mr. Vue they were there to help him and they did not want anything to happen. Mr. Vue's daughter was pleading with him.

Officer Moua heard an officer air on the radio, "He's got a long gun!" Officer Moua then heard gunshots. Officer Moua approached and by the time he got to his position nearer the house, the firing stopped. Officer Moua assisted other officers in getting Mr. Vue to the ambulance. Officer Moua did not fire his gun during this incident.

Officer Moua gave a voluntary statement to BCA investigators on December 23, 2019.

Officer Kyle Pond

Minneapolis Police Officer Kyle Pond had been employed by the Minneapolis Police Department for five years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Pond was a properly trained and competent police officer. Officer Pond was working with his partner, Officer Aaron Womble, when they heard dispatch air that a male shot a gun in a house. Officers Pond and Womble went to Lowry and Thomas Avenues, and Officer Pond asked dispatch to call the 911 callers back so they could speak to them and get more information. They saw three people in front of 3114 Thomas Avenue and yelled for them to come to the officers.

Officer Pond spoke to a woman who said her father, who spoke Hmong, shot a gun in the house and had some undiagnosed mental health issues. She said there were guns in the house. Because it was below zero and the situation was unsafe, the officers had the family members sit in their squad cars. Officer Peng Moua, who speaks Hmong, made contact with the man, Mr. Vue, on the phone, and Officer Moua said Mr. Vue was going to come out of the house.

The squad cars had turned their spotlights on the house so it was lit as if it were daytime. From the corner of Lowry and Thomas, Officer Pond saw the front door open, Mr. Vue peek out, and the door closed again. Suddenly the door opened again and Officer Pond saw Mr. Vue holding a long gun. Another officer yelled, "Rifle!" and Officer Pond heard what he recognized as the sound of a rifle firing. Fearing for his life, Officer Pond ducked behind a car for cover and tried to radio "shots fired" but did not know if he was successful. He then stood up and fired five to six rounds toward the house through the windshield of the car he was behind. Officer Pond believed from his training that this was the best position for cover as he fired. Officer Crayton was near Officer Pond and directed him to reload. The shooting stopped.

Along with other officers, Officer Pond approached the house and assisted in removing Mr. Vue from the front porch and into the ambulance.

Officer Pond gave a voluntary statement to BCA investigators on December 17, 2019. He watched video from his BWC prior to his interview.

Officer Andrew Reed

Minneapolis Police Officer Andrew Reed had been employed by the Minneapolis Police Department for five years at the time of this incident and had seven years of prior employment with the Savage Police Department. Personnel and training records obtained as part of this investigation show that Officer Reed was a properly trained and competent police officer.

Officer Reed was working his patrol shift with Officer Richard Brown. They were completing an assignment outside the Fourth Precinct when they heard dispatch air over the radio that there was a man who discharged a firearm in his house in the area where they normally work. On their way there they heard other requests for officers to respond to the house. They drove to Sheridan Avenue and approached from the back of the house where they encountered the ambulance and had it move for the paramedics' safety.

Officer Reed parked his squad car and met Officer Crayton and his K9 officer. Officer Reed, a certified less-lethal operator, grabbed his single shot breach action launcher and loaded a round. He radioed to the others that he was on scene and was armed with his less-lethal "40 mike-mike," slang for his less-lethal gun. Officer Reed, Officer Brown, and Officer Travis Williams stood behind a garage two houses south of 3114 Thomas.

Officer Reed then heard Sergeant Carlson radio for less-lethal to come to the intersection of Lowry and Thomas. Officer Reed cut through a yard and arrived at the front of 3114 Thomas. He saw a man, Mr. Vue, standing at the front door, and Officer Reed took cover behind a tree or telephone pole. Officer Reed understood that Mr. Vue had agreed to come out.

Mr. Vue, however, went back inside and Officer Travis Williams arrived and said he was providing lethal cover for Officer Reed.³ Officer Reed moved behind a parked SUV and used the hood to position his less-lethal rifle. As he was radioing for instruction on whether he should use lethal or less-lethal force if the man came back out, Mr. Vue came out the front door with an object in his right hand. Reed recognized the outline of the object as “either an SKS or AK type older [S]oviet era ... rifle” with the barrel pointed down. As Officer Reed was assessing how to engage Mr. Vue with the less-lethal round, Officer Williams said Mr. Vue had a gun.

Officer Reed yelled, “Orange!” loudly to alert the other officers of two things: the round that was about to be fired was less-lethal, not actual, gunfire and they should not get in the way. Just then, Mr. Vue lifted the barrel of his gun. Reed yelled, “Orange!” again, put the laser sight of his less-lethal gun on the mid-section of Mr. Vue’s body and fired. Officer Reed heard a “large volley of gunfire.” Believing he was faced with a suspect who either intended to shoot officers or was actively shooting at them, Officer Reed pulled out his handgun. He did not fire but heard more shots, including a gunshot near to his head which he believed was Officer Williams providing lethal cover for him.

Once Mr. Vue was removed from the entryway of the house, Officer Reed approached and saw the rifle with its detachable magazine lying on the floor where Mr. Vue had been laying. Reed went inside with other officers to clear the residence and saw discharged cartridge casings on the floor of the second level of the house. Officer Reed recognized these as steel case rifle rounds which are typical ammunition for Soviet-style weapons like the one he observed Mr. Vue holding at the door.

Officer Reed gave a voluntary statement to BCA investigators on December 17, 2019. He and his attorney watched video from his BWC prior to his interview. He fired one less-lethal round and never fired his handgun.

Officer Travis Williams

Minneapolis Police Officer Travis Williams had been employed by the Minneapolis Police Department for 14 years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Williams was a properly trained and competent police officer. Officer Williams was working with his partner Officer Sworski. The officers heard the dispatch of a domestic with weapons and drove to the location. On the way they learned there were several long guns in the house and that the family fled from the house and would meet police at Lowry and Thomas Avenues. The family members had been unable to get their grandmother out of the house.

Other officers directed Williams and Sworski to the rear of the house. Officer Williams got out of the car and took a position to observe the back of the house. When Hmong-speaking

³ MPD officers are trained that when one officer deploys less-lethal ammunition, another officer must provide lethal cover in case the less-lethal rounds are ineffective or a subject poses an immediate deadly threat which could prevent the less-lethal officer from effectively switching to lethal force.

officers were requested to move from the back of the house to the front, Officer Williams moved to the other side of the back of the house. Officer Reed approached with a non-lethal rifle and Officer Williams decided to provide lethal cover to Officer Reed and the two went to the front of the house. They had heard by radio that a man came to the front door and then went back inside.

Officers Williams and Reed took cover behind a parked car and Officer Williams saw a man appear in the front door with a rifle pointed down alongside his legs. The man raised the gun and pointed it toward other officers and Officer Williams heard gunshots. Officer Williams yelled, "Rifle!" and said he believed he fired two shots at the man with his handgun. The man fell to the floor and stopped moving.

Officer Williams gave a voluntary statement to BCA investigators on December 17, 2019. He watched video from his BWC prior to his interview with his attorney and watched certain segments more than once. In his interview with the BCA Officer Williams noted that when he watched his BWC video, he heard himself saying, "Dude" in disbelief that the man came to the door with a rifle.

Officer Jason Wolff

Minneapolis Police Officer Jason Wolff had been employed by the Minneapolis Police Department for nearly six years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Wolff was a properly trained and competent police officer. On December 15th he was working with his partner, Officer Ledman. They were at the Fourth Precinct offices when they heard dispatch air that shots had been fired inside 3114 Thomas Avenue. Knowing more than one squad needed to respond to this incident, they assisted and arrived at Lowry and Thomas Avenues just after the first squad.

Four people who were residents of the house came toward the officers with two of them going to another squad and two to Officers Ledman and Wolff. Officer Wolff learned from them that an elderly grandmother was still in the home with the father who fired the shots. A young man in the squad said there had been a confrontation in the house and his dad fired a gun to scare them. The younger man said he wanted to go and talk to his dad, but the officers said no to keep them safe. Officer Wolff called for a Hmong-speaking officer, and Officers Peng Moua and Ty Vang arrived. After several attempts, Officer Moua was able to reach Mr. Vue on the phone.

Officer Wolff had lit the house, which was about halfway down the block from where they were parked, with the squad car's spotlights. He saw Mr. Vue come to the front door more quickly than he expected. Three or four other officers went toward the house to tell Mr. Vue they wanted to talk to him. Mr. Vue went back inside.

Officers Wolff and Yang moved to a location where they could see directly into the glass storm door and stood across the street on a snowbank behind a parked car. Officer Wolff had his handgun drawn, and Mr. Vue came to the door. Officer Yang said either, "He has a rifle" or "He has a gun." Officer Wolff clearly saw Mr. Vue holding an assault rifle with one hand on the pistol grip and the other on the fore grip. Mr. Vue was saying something in Hmong. Mr. Vue raised the barrel of the rifle and it hit the metal railing on the stairs. He backed up and raised the

barrel again toward where Officers Reed and Williams were standing nearby. Officer Wolff started firing.

Officer Wolff estimated he was approximately 75 feet away and said that he knew his handgun was insufficient to defend himself and other officers from fire from Mr. Vue's rifle at that distance. Officer Wolff fired every round in the magazine and reloaded. He saw Mr. Vue rolling on the floor, and then Mr. Vue reached for his rifle again. Officer Wolff heard shots coming from the front door area and began firing again. Mr. Vue stopped moving.

Officer Wolff yelled, "Cease fire!" At the direction of Sergeant Carlson, Wolff and others approached the house where Officer Wolff saw the gun next to Mr. Vue. Officer Wolff saw discharged casings from a rifle on the stairs leading to the second floor and a magazine on a bed in an upstairs bedroom.

Officer Wolff gave a voluntary statement to BCA investigators on December 17, 2019. He did not watch video from his BWC prior to his interview.

Officer Aaron Womble

Minneapolis Police Officer Aaron Womble had been employed by the Minneapolis Police Department for four-and-a-half years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Womble was a properly trained and competent police officer. Officer Womble was with his partner, Officer Kyle Pond. They responded to assist another squad which had been dispatched to a call of a domestic dispute with weapons. The notes on their squad computer said the 911 caller's father shot or discharged a firearm in the house. The residents of the home had been told to get everyone out of the house.

Officers Womble and Pond were the first to arrive and saw a white car approaching them. Officer Womble turned his spotlight on the car, the car stopped, and people got out and told the officers they were family members who left the house. They said their father and elderly grandmother were still in the house.

Officer Pond attempted to speak with Mr. Vue by phone but they knew Mr. Vue only spoke Hmong and a Hmong-speaking officer was on the way. Another squad car arrived and turned its lights on the house. Because he was aware shots had been fired earlier, Officer Womble found a position on the outside of the perimeter and took cover behind a parked SUV. He saw Mr. Vue come to the glass front door and open it 45 degrees in Officer Womble's direction. Officer Moua, who speaks Hmong, ran toward Mr. Vue and was speaking to him to get him to come out peacefully.

Mr. Vue came out of the house, yelled something in Hmong, and suddenly went back inside. Officers Yang, Wolff, and Ledman were positioned nearby. Officer Womble hoped Mr. Vue would come out and surrender peacefully. The front door opened again and Officer Womble saw a rifle barrel emerge out of the door with a hand gripping the rifle as if preparing to shoot. Womble heard Officer Yang yell, "He's got a rifle!" The black rifle had a scope on it and

was pointed downwards but in the direction of the other officers. Officer Womble heard Yang and other officers yell, “Drop the gun!”

Officer Womble saw the barrel of the rifle and Mr. Vue’s hand raise to 90 degrees. He heard gunshots coming from the porch area and returned fire with his handgun until he did not see the rifle or hear gunshots from the porch anymore. He fired approximately 20 times and at one point re-loaded his firearm. Officer Womble believed Mr. Vue was firing at Officers Yang and Wolff. When the shooting stopped, Officer Womble went with other officers to clear the house and saw the assault rifle and discharged rifle casings in the area where Mr. Vue was.

Officer Womble gave a voluntary statement to BCA investigators on December 17, 2019. He watched video from his BWC prior to his interview with his attorney.

Officer Toua Yang

Minneapolis Police Officer Toua “Ty” Yang had been employed by the Minneapolis Police Department for seven years at the time of this incident. Personnel and training records obtained as part of this investigation show that Officer Yang was a properly trained and competent police officer. Officer Yang was with his partner, Officer Peng Moua, on a call when they received the notification that officers were needed to assist at 3114 Thomas Avenue. Officer Moua had responded to a previous call at that address and knew some of the residents of the home spoke Hmong.

Officer Yang drove their squad car to Lowry and Thomas Avenues. Officer Moua made several announcements on the PA system to Mr. Vue in Hmong and got no response. Officer Yang waited in the car while Officer Moua spoke to family members and saw Mr. Vue come out of the house. Officer Yang got out of his car and said twice in Hmong, “Chiasher, raise your hands! Come out! Let’s talk.” Mr. Vue came out and approached the sidewalk but turned back around and went inside. The officers moved their squad to the front of the house, and Officer Yang positioned himself behind a parked car. He could see the open front door behind a glass storm door.

Officer Yang saw Mr. Vue approach the glass storm door with a black rifle. He yelled out, “Gun!” “He’s got a gun!” “Rifle!” and “He’s got a rifle!” Officer Yang yelled twice in Hmong again, “Chiasher, throw away your gun! Get your hands up! Let’s talk!” Mr. Vue opened the storm door and stuck the rifle outside. Officer Yang said at that point he was in “shock that he . . . wasn’t complying with commands and he was gonna risk hurting everyone . . . as well as himself.” Mr. Vue brought the rifle to his shoulder and raised it. Officer Yang said he knew Mr. Vue was not listening to him and then Officer Yang heard shots. Officer Yang fired his handgun, believing he may have fired twelve shots. Officer Yang said that during the event he believed at least two officers deployed less-lethal rounds and it appeared to him that Mr. Vue was pointing his rifle at them.

Mr. Vue fell down, and Officer Yang could no longer see him. The shooting stopped. Then Mr. Vue sat up again. From a seated position, Mr. Vue brought his rifle back to his

shoulder, and Officer Yang fired again. As he fired, Officer Yang could hear shots coming from inside the house, possibly three shots. Mr. Vue fell again and rolled onto his left side.

Officer Yang and other officers developed a plan to approach the house, Mr. Vue, and to get to the elderly woman inside.

Officer Yang gave a voluntary statement to BCA investigators on December 17, 2019. He watched video from his BWC prior to his interview.

EVIDENCE FROM THE SCENE AND THE INVESTIGATION

MPD Chief Medaria Arradondo asked the BCA to investigate this incident, and BCA investigators and Crime Lab personnel quickly arrived and were briefed on events. Crime Lab personnel found a Romarm Model GP WASR-10/63UF 7.62 x 39 mm caliber rifle, which is a Romanian-made semi-automatic rifle, where Mr. Vue had been laying. Numerous discharged 9mm cartridge casings, discharged 7.62 x 39 cartridge casings, bullet fragments, and bullets were recovered at the scene including from inside 3114 Thomas, inside nearby homes, from parked cars outside, in the street, and from Mr. Vue's body.⁴

The BCA Firearms Lab analyzed those recovered items as well as the officers' guns and determined that:

1. Mr. Vue fired 13 shots from his semiautomatic rifle, seven inside the house, five inside the front porch, and one outside.
2. Officer Crayton fired 13 shots.
3. Officer Ledman fired 19 shots.
4. Officer Womble fired 13 shots.
5. Officer Yang fired two shots.
6. Officer Moua fired zero shots.
7. Officer Reed fired zero shots.
8. Officer Carlson fired one shot.
9. Officer Pond fired seven shots.
10. Officer Williams fired zero shots.
11. Officer Wolff fired four shots.

The Hennepin County Medical Examiner conducted an autopsy on Mr. Vue and found that he had 13 gunshot wounds and died as a result of those injuries. Toxicology testing revealed a blood alcohol content of 0.200 g/dl. For reference, 0.08 g/dl is the legal limit for driving.

In addition to giving voluntary statements to BCA investigators in the days after the incident, all nine officers agreed to voluntary toxicology testing the night of the shooting. Test results show that none of the officers was under the influence of any substances.

⁴ At a scene such as this where numerous shots are fired from different guns in different locations it is rare, if not impossible, to collect all bullets and casings, despite the best efforts by experienced crime lab personnel to do so.

PHOTO OF MR. VUE'S GUN



HENNEPIN COUNTY ATTORNEY'S OFFICE REVIEW

On March 16, 2016, Hennepin County Attorney Mike Freeman announced that police 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 of whether an officer's conduct in such an event constitutes a crime and whether charges are warranted. The Hennepin County Attorney reviewed the case with two senior prosecutors, and on December 21, 2020, issued this report.

LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

A. Legal Standard

In the United States, police officers are authorized to use deadly force in the line of duty to protect themselves and members of the public from death or great bodily harm. In 1985, the

United States Supreme Court recognized the use of deadly force by a police 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.”⁵ The Court also addressed the use of force by a police officer in its 1989 decision, *Graham v. Connor*,⁶ holding that an objective reasonableness standard should be used to evaluate the use of force (as a search or seizure under the Fourth Amendment) in a federal civil rights action involving a police officer. The assessment of reasonableness requires careful attention to the facts and circumstances of each case.

The *Graham* Court outlined a non-exhaustive list of factors for evaluating an officer’s decision to use force: 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 is actively resisting arrest or attempting to evade arrest by flight.⁷

The Minnesota use of deadly force statute, Minn. Stat. § 609.066, incorporates the factors the United States Supreme Court set forth in *Graham*, and provides that an officer’s use of deadly force, including the intentional discharge of a firearm,⁸ does not constitute a crime when the officer’s act is necessary:

- (1) to protect the officer or another from apparent death or great bodily harm;
- (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 if the person's apprehension is delayed.¹²

In addition to being necessary, the officer’s use of force must be proportional to the threat the officer faces and, therefore, not excessive. In Minnesota, the relevant language regarding proportionality is contained in the jury instructions for the affirmative defense that an officer’s use of deadly force does not constitute a crime. In April 2019, The Hennepin County District Court gave the following proportionality instruction in *State of Minnesota v. Mohamed Mohamed Noor*, a murder case involving the use of deadly force by a police officer and the first such case tried in Hennepin County:

[T]he kind and degree of force a peace officer may lawfully use is limited by what a reasonable peace officer in the same situation, without the benefit of hindsight, would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. To determine if the actions of the peace officer

⁵ *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).

⁶ *Graham v. Connor*, 490 U.S. 386 (1989).

⁷ *Graham*, 490 U.S. at 396.

⁸ Minn. Stat. § 609.066, subd. 1. ¹²Minn.

Stat. § 609.066, subd. 2.

were reasonable, you must look at those facts known to the officer at the precise moment he acted with force. Giving due regard for the pressures faced by peace officers, you must decide whether the officer's actions were objectively reasonable in the light of the totality of the facts and circumstances confronting the officer, without regard to the officer's own state of mind, intention or motivation.⁹

“The facts known to the officer at the precise moment he acted with force” include any and all information the officer has prior to using the deadly force. This may include but is not limited to: (1) information the officer receives prior to arriving on scene from any source, including other officers and civilians; (2) things the officer experiences prior to arriving on the scene; (3) information learned at the scene; and (4) the officer's training and previous experience. Information unknown to the officer at the time he used deadly force but learned after the fact may well be relevant to the investigation as a whole but does not directly bear upon the objective reasonableness of the officer's decision to use deadly force.

If an officer's use of deadly force was necessary for one of the reasons specified in Minn. Stat. § 609.066, proportional to the threat facing the officer, and objectively reasonable considering the totality of the facts and circumstances, no criminal charges against any such officer is supported.

B. The Officers Were Authorized to Use Deadly Force Against Chiasher Fong Vue.

The nine officers involved in this incident fired a total of 59 shots at Mr. Vue, which caused 13 gunshot wounds and together fatally wounded Mr. Vue. Before any officers responded to the scene, Mr. Vue and his family had an early-morning domestic incident which resulted in Mr. Vue firing a gun inside the house. Mr. Vue's son called 911 and all of the family members except Mr. Vue's mother left the house.

All of the responding officers received information before arriving that the 911 caller reported that his father fired a gun inside the house and that the elderly grandmother, who was in a wheelchair, was still inside. Under the leadership of Sergeant Carlson, the officers made significant and appropriate efforts to prepare to resolve the situation peacefully, including locating Hmong-speaking officers to communicate with Mr. Vue, arranging for a negotiator to arrive on scene, having a K9 officer respond, and having an officer prepare to use less-lethal force if necessary.

One of Mr. Vue's children and Hmong-speaking officers spoke with Mr. Vue on the phone and urged him to come out of the house with his hands up. The events transpired very quickly from there, with Mr. Vue immediately coming to the door and opening it. Mr. Vue would have seen the large law enforcement presence as well as two officers approaching him and speaking to him in Hmong. Suddenly, Mr. Vue went back inside, signaling to the officers that at that point, he was not willing to surrender.

⁹ *Abraham v. Raso*, 183 F.3d 279 (1999); *See also* 10 MNPRAC CRIMJIG 7.11, Authorized Use of Deadly Force by Peace Officers. The court declined to give CRIMJIG 7.11 in *Noor*, choosing the language cited above instead.

Almost immediately thereafter, Mr. Vue appeared back at the glass door. This time the officers saw a rifle in Mr. Vue's hand that he had not been holding when he came to the door seconds earlier. This signified a change and dangerous acceleration in Mr. Vue's approach to the officers. He was clearly armed with a deadly weapon and several officers recognized that bullets fired from Mr. Vue's rifle could penetrate their bullet-proof vests. The officers saw Mr. Vue raise the barrel of the rifle toward certain police officers. Rather than coming out peacefully, which appeared possible the first time Mr. Vue came to the door, he now presented each of the officers with a clear threat of immediate great bodily harm or death.

Nine of the officers fired, as did Mr. Vue. Even before Mr. Vue fired, and regardless of whether he or any of the officers fired first, his actions of firing inside the occupied home, coming to the door unarmed and retuning armed with a semi-automatic rifle, and raising the rifle toward the officers presented an obvious and imminent threat of great bodily harm or death which justified the officers' using deadly force. Although one officer attempted to use less-lethal rounds, the use of firearms to respond to the threat Mr. Vue posed was certainly proportional and not excessive. The threat continued as Mr. Vue fired directly at the officers and existed until the officers approached and confirmed Mr. Vue no longer held the gun and was incapable of firing again.

The BCA's investigation obtained information that corroborates the officers' objectively reasonable belief that Mr. Vue posed an apparent threat of great bodily harm or death to the officers, and that the officers were in no way mistaken about the situation in which they found themselves. Mr. Vue's family members called 911 to report that Mr. Vue fired a gun inside the home while at least one other person was inside and that they were scared. There was evidence found in other areas of the home which confirmed Mr. Vue fired his gun in the house before police arrived. This was an extremely dangerous situation before police even arrived, and Mr. Vue's refusal to come out unarmed escalated the situation and clearly communicated his unwillingness to surrender. Only after being shot did he lose his grip on the rifle. Under Minnesota law, it is clear that Officers Carlson, Crayton, Ledman, Pond, Reed, Williams, Wolff, Womble, and Yang's use of deadly force was necessary, proportional, and objectively reasonable in the face of the apparent threat of death or great bodily harm, and no criminal charges are warranted.