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DOLAL IDD CHARGING DECISION

I. Introduction

As described fully below, Minneapolis Police Officers Paul Huyhn, Darcy Klund and Jason Schmitt used deadly force during an incident that resulted in the death of Dolal Idd. The Minnesota Bureau of Criminal Apprehension ("BCA") was the lead investigative agency for this case. At the request of the Hennepin County Attorney's Office,[1] the Dakota County Attorney's Office reviewed the BCA investigation and the lawfulness of the actions of the above-named officers who discharged a firearm during the course of the incident. On June 28, 2021, the Dakota County Attorney's Office received the full investigative file from the BCA. The following is a summary of the BCA investigative file and the charging determination based on the evidence presented.

II. Case Summary

A. Summary of Facts.

Dolal Idd was under criminal investigation by the Minneapolis First Precinct Community Response Team ("CRT") for the illegal sale of firearms. Sergeant Darcy Klund was the supervisor of the CRT. Using a confidential informant, the CRT arranged to purchase a MAC-10 high speed capacity pistol from Mr. Idd on December 30, 2020, at the Holiday Station Store ("Holiday Station") located at 3550 Cedar Ave. S., in Minneapolis. Through the communications between the CI and Mr. Idd, the CRT learned that Mr. Idd would be arriving at the Holiday Station in a white Chevy.

The Holiday Station site consists of a store on the south side of the site, a separate carwash building on the north side of the site and several gas pumps between the two buildings. After the firearm sale was arranged, Officer Jason Schmitt from the Weapons Investigation Unit of the Minneapolis Police Department was assigned to conduct surveillance of the Holiday Station parking lot. Officer Schmitt was driving an unmarked Chrysler Pacifica minivan and was the sole occupant of the vehicle. Officer Schmitt arrived at the Holiday Station at approximately 5:40 p.m. to 5:45 p.m. He backed his vehicle into a parking spot located near the carwash to obtain a view of the entire parking lot. Meanwhile members of the CRT were in three separate squad cars parked near the alley off of East 36th Street waiting for the arrival of Mr. Idd. Officers Paul Huyhn and John Pobuda were in a fully marked squad car – Officer Huyhn was the driver (i.e., squad #180). Officers Joe Brown ("Brown") and Elizabeth Arashiba were in a fully marked squad car – Officer Brown was the driver (i.e., squad #181). Sergeant Klund and Officers Souphaphone Daoheuang and Marcus Ottney were in an

[1] The Dakota County Attorney's Office reviewed the incident at the request of the Hennepin County Attorney's Office pursuant to an agreement entered into by the County Attorneys of Anoka, Dakota, Hennepin, Ramsey, and Washington that was in effect at the time of this incident. Under the agreement, the respective County Attorneys agreed that in any cases arising within their jurisdiction, they would ask another prosecutor to undertake review and potential prosecution of the case.

unmarked black Ford Explorer ("unmarked squad car") – Sergeant Klund was the driver, Officer Ottney was seated in the front passenger seat and Officer Daoheuang was seated in the back seat.

At approximately 6:13 p.m., Mr. Idd arrived at the arranged location in a white Chevrolet Cobalt ("Cobalt"). Officer Schmitt relayed this information to the CRT response team. Mr. Idd was the driver of the Cobalt and there was one passenger in the vehicle seated in the front passenger seat. The passenger was an adult female. ("Witness 1"). Upon arriving at the Holiday Station, Mr. Idd parked on the north side of the parking lot with the front of the vehicle facing north towards the building housing the carwash. The Cobalt was parked approximately two parking spots away from Officer Schmitt's vehicle. There was a red pickup parked on the opposite side of the Cobalt. Shortly after Mr. Idd's arrival, Officer Huyhn entered the parking lot from the south entrance. Officer Huyhn activated his siren and emergency lights. He positioned his squad car directly behind the Cobalt, with the squad's front bumper to the back bumper of the Cobalt. Both Officers Huyhn and Pobuda exited the squad car. Simultaneously, Sergeant Klund entered the north entrance to the parking lot with his emergency lights activated and positioned his unmarked squad car near the rear passenger side of the Cobalt in an attempt to box it in. When Sergeant Klund stopped his vehicle, Officer Ottney exited the front passenger side of the vehicle.

After the officers positioned their squad cars behind the Cobalt, Mr. Idd attempted to maneuver the Cobalt around them. As he was doing so, Officer Huyhn approached the Cobalt with his duty firearm drawn. He pointed his weapon towards the Cobalt and yelled directives to Mr. Idd to, "Stop the car! Stop the car! Stop the car! Stop your car!" While Officer Huyhn was attempting to stop Mr. Idd, Officer Schmitt exited his vehicle. Officer Schmitt approached the Cobalt holding his duty firearm pointed towards the Cobalt and yelled, "Hands up! Hands up!" Mr. Idd did not follow the directives and instead continued to maneuver his vehicle in an attempt to leave.

Officer Huyhn quickly returned to his squad car and Officer Pobuda, who was still outside the vehicle, yelled out "to block him in." At this point, Mr. Idd was able to maneuver the Cobalt into a position where the front of the Cobalt was now faced in the opposite direction. Officer Brown drove his squad car to the left of Officer Huyhn's squad car and together they formed a "V" with their vehicles to prevent Mr. Idd from leaving. Mr. Idd made contact with the squad cars and then backed up. As he was backing up, Officer Pobuda yelled out that there was a front passenger in the Cobalt. As Mr. Idd continued to back up, Officer Pobuda yelled to the other officers to "watch the crossfire." While this was occurring, Sergeant Klund began repositioning his unmarked squad car. As he was doing so, Officer Ottney got back into the front passenger seat of the unmarked squad car. Sergeant Klund positioned his unmarked squad car at a 90ºangle against the driver side of the Cobalt pinning it up against the red pickup.

Within moments after being pinned in, Mr. Idd discharged a firearm through the driver's side window of the Cobalt striking the hood of the unmarked squad car driven by Sergeant Klund. Thereafter, three officers – Officer Huyhn, Sergeant Klund and Officer Schmitt – returned fire, striking Mr. Idd and killing him. Witness 1 was not injured. What each of those officers observed prior to discharging his duty firearm is detailed below. Officer Ottney radioed dispatch at 6:15 p.m. reporting that shots had been fired and that officers were in need of help.

Following the shooting, officers approached the Cobalt and observed Mr. Idd slumped over in the driver's seat with obvious gunshot wounds, including at least one to his head. Officers observed a handgun located in the front console area of the vehicle and a cartridge case on the driver side floorboard. EMS personnel arrived at the scene and determined that Mr. Idd was deceased.

Witness 1 was transported from the scene and taken to the Minneapolis City Hall. An interview was conducted of Witness 1 later that evening by BCA Special Agents Scott Mueller and Michelle Frascone. During the interview, Witness 1 related the following facts. Witness 1 did not know Mr. Idd's name and only knew him as "Bird." She had known "Bird" for approximately two months. On the date of the incident, she and "Bird" were staying at a hotel in Bloomington. While at the hotel, "Bird" told Witness 1 he needed to "meet up with someone" and asked to borrow her car. Witness 1 consented and the two of them drove to the Holiday Station. "Bird" did not tell Witness 1 the purpose of the trip to that location. Upon reaching the Holiday Station parking lot, several police cars blocked them in. "Bird" attempted to drive away but was unsuccessful. "Bird" told Witness 1 he didn't want to go to "jail this year." "Bird" started shooting after which "they [officers] killed him." She believed Mr. Idd shot out the driver's side window. Witness 1 described the gun used by "Bird" as a black Luger. She saw "Bird" with the same gun a couple of days prior to the shooting.

Officer Daoheuang provided a statement in which she reported the following facts. Officer Daoheuang arrived at the scene in an unmarked squad car with Sergeant Klund and Officer Ottney. She was seated in the middle of the back seat so she could see out the windshield. After Sergeant Klund pinned the Cobalt against the red pickup, she saw the driver of the Cobalt (i.e., Mr. Idd) look into the unmarked squad car and point a dark colored handgun barrel directly towards her. With no other option, Officer Daoheuang laid on her back on the back seat to take cover and conceal herself. While in that position, she heard a sound she immediately recognized as a gunshot. After the first gunshot, she heard additional sounds she immediately recognized as gunfire.

Officer Ottney provided a statement in which he reported the following facts. Officer Ottney arrived at the scene in an unmarked squad car with Sergeant Klund and Officer Daoheuang. He was seated in the front passenger seat. After Sergeant Klund pinned the Cobalt against the red pickup, Officer Ottney observed the driver of the Cobalt (i.e., Mr. Idd) quickly look down to the center console area of the Cobalt and immediately come back holding a handgun. It appeared to Officer Ottney that Mr. Idd had the gun pointed directly at him (i.e. Officer Ottney). Officer Ottney could clearly see the muzzle of the handgun and it appeared to him that he was "looking right down the barrel of the firearm." At this point, Officer Ottney believed he would be killed if he did not immediately seek cover. Officer Ottney quickly exited the vehicle through the front passenger door to take cover behind the engine block. Officer Ottney next heard shots going off after which he aired over the radio that shots had been fired and that officers needed help.

A BCA crime scene team arrived at the Holiday Station at approximately 8:40 p.m. After obtaining a search warrant, the crime scene team began processing the scene for evidence. While processing the scene, a large crowd began to form on the exterior of the crime scene. Members of the crowd were yelling profanities directed at peace officers and began throwing items at peace officers who were trying to protect the integrity of the crime scene. At approximately 10:30 p.m., the decision was made to remove the involved vehicles and collectible evidence from the scene in an expeditious fashion due to the volatility of the crowd and concern about preserving the evidence. The three squad cars and the Cobalt were transported from the scene. The three squad cars were transported directly to BCA headquarters in St. Paul. The Cobalt still contained the body of Mr. Idd so was initially transported to the Hennepin County Medical Examiner's Office where his body was removed and turned over to that office for autopsy. Thereafter the Cobalt was transported to BCA headquarters in St. Paul.

B. Summary of Statement of Sergeant Darcy Klund.

Sergeant Klund has been a peace officer with the city of Minneapolis for approximately 33 years. At the time of the incident, he was the supervisor of the CRT, a position he accepted in September 2017. While at the

scene of the incident, Sergeant Klund provided a brief public safety statement to Lieutenant Gomez[2] of the Minneapolis Police Department. Sergeant Klund did not discuss any details of the incident with other peace officers who were directly involved in the incident prior to providing his statement. At the time of the incident, Sergeant Klund was equipped with a body worn camera. He did not review his body worn camera video prior to giving his statement to BCA investigators;[3] however, he did view the short body worn camera video clip that was released publicly by the Minneapolis Police Department shortly after the incident.[4] According to Sergeant Klund, watching the video clip had "zero effect" on his recollection of the events and it did not assist him in clarifying any of the facts because his vantage point was from within the confines of his squad car.

During his career with the Minneapolis Police Department, Sergeant Klund has developed several confidential contacts/informants who provide him with information. He has worked with one such informant for over 20 years who has consistently provided him with reliable information over the course of that time. On approximately December 21, 2020, this particular confidential informant ("CI") advised Sergeant Klund of an individual trying to sell an AR-15 rifle. The CI provided Sergeant Klund with the cell phone number of the seller. In researching the cell phone number, it was determined that whoever was using the cell phone number was communicating on a daily basis with an inmate in the Hennepin County Jail identified as Mohamed Idd. On December 22, 2020, the CI contacted Sergeant Klund and advised him that the AR-15 rifle had been sold to some unknown person, so no further investigation was conducted at that time.

On December 28, 2020, the CI contacted Sergeant Klund and advised him that the same person who sold the AR-15 rifle may be in possession of a MAC-10. On December 30, 2020, at approximately 4:00 p.m., the CI advised Sergeant Klund that he was in phone contact with the person and that the person was actively trying to sell the MAC-10. The CI knew the seller by the street name of "Bird." The CI reported that "Bird" was in Hopkins and wanted to meet the CI at the Holiday Station located at 35th and Cedar in Minneapolis.

Further investigation was conducted to determine the identity of "Bird." Officer Ottney, a member of the CRT, identified "Bird" as Dolal Idd. Officer Ottney reviewed Mr. Idd's criminal history and determined Mr. Idd was prohibited from possessing firearms.[5] A picture of Mr. Idd was obtained and shown to the CI who confirmed that Mr. Idd was the person he knew as "Bird."

The CI continued to communicate with Mr. Idd by phone and conveyed pertinent information to Sergeant Klund. At one point, the CI reported to Sergeant Klund that Mr. Idd was in Eden Prairie and had picked up the MAC-10. The CI was able to confirm this because Mr. Idd provided the CI with a live stream of the gun via his cell phone as Mr. Idd was driving to the Holiday Station. During their continued communications, the CI obtained updates on Mr. Idd's location and conveyed that information to Sergeant Klund. At the request of Sergeant Klund, the CI asked Mr. Idd to identify the vehicle he was driving. Mr. Idd told the CI he was driving a white Chevy.

The CRT developed a plan to apprehend Mr. Idd at the Holiday Station. Officer Schmitt from the Minneapolis Police Department's Weapons Investigation Unit agreed to assist and was tasked with conducting surveillance

[2] Lieutenant Gomez's first name is "Jose."
[3] Effective June 30, 2020, the Minneapolis Police Department's Body Worn Camera Policy (Policy #4-223) and Critical Incidents Policy (Policy #7-810) were amended to provide that involved and witness officers in critical incidents are prohibited from reviewing body worn camera data prior to making their initial report or statement in the police report.
[4] The publicly released video clip was from Officer Schmitt's body worn camera.
[5] A review of Mr. Idd's criminal history shows that at the time of the incident, he was prohibited from possessing firearms under Minn. Stat. § 609.165, subd. 1a as a result of a conviction for a fifth degree controlled substance crime in Hennepin County Court File No. 27-CR-17-31937. At the time of the incident, Mr. Idd was also prohibited from possessing firearms as a condition of his probation for felony theft in Ramsey County Court File No. 62-CR-17-8931.

of the parking lot of the Holiday Station in his unmarked vehicle. As part of the plan, the CI was not going to be present at the Holiday Station for the gun sale. Instead, at Sergeant Klund's direction, the CI set up a sale between Mr. Idd and an unknown person. The CI told Mr. Idd that the buyer would be in a vehicle matching the description of Officer Schmitt's unmarked vehicle.

Officer Schmitt drove to the Holiday Station, parked on the north side of the parking lot near the car wash and began surveilling for the arrival of a white Chevy. In the meantime, Mr. Idd communicated to the CI that he had arrived at the Holiday Station and was driving a white Chevy sedan. Contemporaneous to this communication, Officer Schmitt called out the arrival of the vehicle and advised that the vehicle was parked "nose in" near the car wash.

Members of the CRT were in three separate vehicles parked near the alley off of East 36th Street waiting for the arrival of the white Chevy. Officers Huyhn and Pobuda were in a fully marked squad car (squad #180). Officers Brown and Arashiba were also in a fully marked squad car (squad #181). Sergeant Klund, Officer Daoheuang and Officer Ottney were in a "low profile squad" described as a black Ford Explorer equipped with emergency lights and siren, but no police decals. Sergeant Klund was the driver, Officer Ottney was seated in the front passenger seat and Officer Daoheuang was seated in the back seat.

Upon receiving word from Officer Schmitt that the white Chevy had arrived, the CRT proceeded to the Holiday Station. Officer Huyhn entered the parking lot from the south entrance (entrance closest to the store) with his lights activated. Officer Huyhn positioned his squad car behind the white Chevy. Sergeant Klund drove his vehicle into the parking lot with the lights activated and positioned his vehicle at a 45º angle to the white Chevy. The white Chevy was parked next to a red pickup. Sergeant Klund did not see the third squad car at this point.

Sergeant Klund observed Officer Huyhn exit his squad car and could hear him yelling commands at the driver of the white Chevy. The driver did not comply with the commands and started moving the car out of its parked position. At this point, Sergeant Klund could see Officer Schmitt off to his right and heard him yelling commands to the driver to stop the car. The driver did not comply and continued to drive the car, crashing into the squad cars as he did so. The driver was able to maneuver the car into a position where the nose of the car was now faced in the opposite direction (i.e., the car was now facing south towards the store instead of north towards the carwash). To mitigate the movement of the car, Sergeant Klund positioned his squad at a 90º angle against the driver side door. Sergeant Klund looked at the driver and could see that the driver was "deliberately looking" at Sergeant Klund's squad car. As Sergeant Klund was still seated in the driver's seat, Mr. Idd raised a handgun, pointed it in Sergeant Klund's direction and fired. Sergeant Klund did not have his duty firearm out at this point. Sergeant Klund believed the driver was shooting at him. Sergeant Klund exited his squad car, unholstered his firearm and fired into the driver's side compartment of the white Chevy. Sergeant Klund did not know how many shots he fired. He discharged his weapon to defend himself, the other officers at the scene and customers in the parking lot.

After the shooting stopped, Sergeant Klund observed a female sitting in the front passenger seat of the white Chevy. There was no movement in the driver's seat, so he believed the driver was no longer a threat. He approached the car and observed a handgun in the center console area. He also observed what he believed to be a cartridge casing on the left side of the driver side floorboard. Sergeant Klund observed that the driver had sustained a "catastrophic headwound" and it was obvious to him the driver was deceased. This was confirmed by EMS personnel who arrived on scene shortly thereafter.

C. Summary of Statement of Officer Paul Huyhn.

Officer Huyhn has been a peace officer with the city of Minneapolis since March 2014. At the time of the incident, he was assigned to the CRT, a position he accepted in November 2017. While at the scene of the incident, Officer Huyhn provided a brief public safety statement to Lieutenant Gomez of the Minneapolis Police Department. He did not discuss any details of the incident with other peace officers who were directly involved in the incident prior to providing his statement. At the time of the incident, he was equipped with a body worn camera. He did not review his body worn camera video prior to giving his statement to BCA investigators; however, he did view the short body worn camera video clip that was released publicly by the Minneapolis Police Department shortly after the incident. According to Officer Huyhn, watching the video clip confirmed his recollection of the incident.

Officer Huyhn was on duty on December 30, 2020. At approximately 4:15 p.m. to 4:30 p.m., Sergeant Klund received information related to a person wanting to sell a firearm who was prohibited from possessing firearms. Sergeant Klund provided details of the situation as he received information from a confidential informant. Officer Huyhn was tasked with assisting in the arrest of the suspect at the Holiday Station. On that date, Officer Huyhn was partnered with Officer Pobuda and was assigned a marked squad car (squad car #180). Prior to responding to the Holiday Station, Officer Huyhn was shown a photograph of the suspect and was informed of the suspect's name (i.e., Mr. Idd).

Officers Huyhn and Pobuda drove to the area of the Holiday Station and waited on 18th Avenue South for the suspect vehicle to arrive. Officer Huyhn was driving the squad car. Sergeant Klund updated the participating officers that the suspect vehicle, a 2-door white sedan, would soon be arriving at the Holiday Station. Officer Schmitt was already parked in an unmarked vehicle in the Holiday Station parking lot. Officer Schmitt radioed that a white 2-door sedan had entered the parking lot and was parked two spots to the left (as you face north) of his unmarked vehicle. Officer Huyhn was instructed to pull into the parking lot. Officer Huyhn entered from the south entrance and observed the suspect vehicle parked at the location described by Officer Schmitt. Officer Huyhn activated his emergency lights so the occupants of the vehicle would know they were police officers. Without touching the suspect vehicle, Officer Huyhn positioned his squad car directly behind the suspect vehicle, with his front bumper to the back bumper of the suspect vehicle.

Officer Huyhn also observed a black Altima containing three individuals parked next to the suspect vehicle. After positioning his squad car behind the suspect vehicle, Officer Huyhn exited his vehicle. He heard the black Altima's engine running and saw it start driving away. Officer Huyhn yelled at the driver to stop, but the driver ignored the commands and drove away.

Officer Huyhn approached the suspect vehicle and saw the driver. He also saw a passenger in the front seat; however, he did not know the gender of the person at that point. Officer Huyhn observed that the driver appeared to be the same person in the photograph he was shown earlier (i.e., Mr. Idd). The driver began moving the vehicle and Officer Huyhn yelled directives at the driver.[6] The driver did not comply with the directives and instead continued to move the vehicle. Officer Huyhn returned to his squad car and positioned it so as to pin in the suspect vehicle. Squad car number 181 driven by Officer Brown, drove to the left of Officer Huyhn's squad car and together they formed a "V" with their squads to prevent the suspect vehicle from leaving. The driver backed the suspect vehicle out of the "V" formation at which point Officer Huyhn saw Sergeant Klund's unmarked squad car come into the right of his squad car and pin the suspect vehicle from that direction (i.e., against the driver's side door of the suspect vehicle).

[6] During the interview, Huyhn was unable to recall exactly what he stated. In the video from Huyhn's body worn camera, he can clearly be heard yelling: "Stop the car! Stop the car! Stop the car! Stop your car!"

Shortly thereafter, Officer Huyhn heard the muffled sound of a gunshot coming from inside the suspect vehicle and saw glass breaking outwards from the driver's side window. The driver of the suspect vehicle fired towards the officers located to Officer Huyhn's right. Officer Huyhn drew his firearm and exited his vehicle. Officer Huyhn took aim on the suspect vehicle. He observed movement in the driver's seat of the suspect vehicle and fired his weapon into the lower right area of the windshield until he saw the movement stop. When the driver fired, Officer Huyhn believed he was trying to kill his partners or already had. Officer Huyhn believed he fired 2 or 3 times but later determined that he fired 4 times.[7]

D. Summary of Statement of Officer Jason Schmitt.

Officer Schmitt has been a peace officer with the city of Minneapolis since 1997. At the time of the incident, he was assigned to the Gun Investigation Unit, a position he has held since the unit's creation in June 2020. While at the scene of the incident, Officer Schmitt provided a brief public safety statement to Lieutenant Gomez of the Minneapolis Police Department. He did not discuss any details of the incident with other peace officers who were directly involved in the incident prior to providing his statement. At the time of the incident, he was equipped with a body worn camera. He did not review his body worn camera video prior to giving his statement to BCA investigators; however, he did see the short body worn camera video clip that was released publicly by the Minneapolis Police Department shortly after the incident. The publicly released clip was from Officer Schmitt's body worn camera video.

Officer Schmitt was on duty on December 30, 2020. He was conducting surveillance in an unrelated matter in the area of 36th Street and 5th Avenue South. As he cleared from that scene at approximately 5:20 p.m., he received a text message that Sergeant Klund was seeking assistance for surveillance. Officer Schmitt responded that he was available to assist and was instructed by Sergeant Klund to respond to the Holiday Station. Sergeant Klund advised Officer Schmitt that he was conducting a gun investigation and that a CI was going to meet someone to purchase a "MAC." Officer Schmitt was assigned to conduct surveillance of the parking lot.

Officer Schmitt was driving an unmarked Chrysler Pacifica minivan. He was the sole occupant of the vehicle. He drove to the Holiday Station arriving at approximately 5:40 p.m. to 5:45 p.m. He backed his vehicle into a parking spot located near the carwash to obtain a view of the entire parking lot. He positioned himself in the middle seat of the van to conduct surveillance. While conducting surveillance, someone sent a photograph of the possible suspect to his phone. Thereafter, Officer Schmitt was provided updated information related to the potential sale of the MAC. He was advised that the target of the investigation was driving a white Chevy. Officer Schmitt saw a small white Chevy sedan pull into the parking lot and park a couple of parking spots away from him, nose in towards the carwash. He could see that there were two occupants in the vehicle but could not identify them. Officer Schmitt relayed this information to Sergeant Klund and Sergeant Klund's team. It was radioed over the air that the white Chevy was the correct vehicle and that the team was going to move in.

Shortly thereafter, Officer Schmitt observed a squad car drive through the parking lot and approach the suspect vehicle from the rear. Officer Schmitt exited his van through the side slider door and approached the suspect vehicle on foot with his weapon drawn. Officer Schmitt walked towards the passenger side of the suspect vehicle and yelled commands at the occupants of the vehicle.[8] The suspect vehicle went into motion and as it did so, two other squads arrived on scene. The suspect vehicle continued to move and was able to maneuver

[7] Huyhn determined he fired 4 times when counting rounds while turning his firearm over to the BCA as part of the investigation.
[8] During the interview, Officer Schmitt was unable to recall exactly what he stated. In the video from Officer Schmitt's body worn camera, he can clearly be heard yelling, "Hands up! Hands up!" as he initially approached the suspect vehicle.

180º from its original position (i.e., now facing south away from the carwash). Officer Schmitt was certain that the driver of the suspect vehicle was attempting to flee.

The drivers of the three squad cars maneuvered their vehicles into position to prevent the suspect vehicle from leaving. Two squad cars were positioned at the front of the suspect vehicle. The driver of the third squad car positioned the front bumper on the driver's door. There was a red pickup truck located on the passenger side of the suspect vehicle.

After the suspect vehicle was pinned in by the squad cars, Officer Schmitt again approached the suspect vehicle on foot. He walked towards the back bumper of the suspect vehicle and yelled commands at the occupants of the vehicle.[9] Officer Schmitt saw the driver of the suspect vehicle turn his head and look over his left shoulder at Officer Schmitt. Officer Schmitt could see the driver's eyes. Officer Schmitt next saw the driver's right hand move across his body and saw he was holding a firearm. The driver fired the weapon towards Officer Schmitt and the officers in the squad car to Officer Schmitt's left (i.e., unmarked squad car driven by Sergeant Klund). Officer Schmitt fired his weapon at the suspect vehicle to stop the driver from either killing him or his partners. Officer Schmitt believed he fired twice, but later determined that he fired 5 times.[10]

E. Summary of Hennepin County Medical Examiner's Autopsy Report.

An autopsy of Mr. Idd was performed at the Hennepin County Medical Examiner's Office on December 31, 2020. It was determined that the cause of death was due to multiple gunshot wounds. The gunshot wounds in order as described in the autopsy report were as follows:

1. A gunshot wound of the left preauricular region of the head (i.e., area near left ear). A projectile was recovered from the posterior left parietal lobe of the brain. The projectile was turned over to the BCA and submitted to the BCA forensic laboratory as Item 76. Subsequent forensic firearm analysis determined the projectile was fired by Sergeant Klund's duty firearm (Item 60).
2. A gunshot wound of the head (left ear). A projectile was recovered from the anterior left parietal lobe of the brain and a fragment was recovered from the left ear. The projectile was turned over to the BCA and submitted to the BCA forensic laboratory as Item 74. Subsequent forensic firearm analysis determined the projectile was fired by Sergeant Klund's duty firearm (Item 60).
3. Gunshot wound of the proximal left arm. This was a perforating wound, so no projectile was recovered during the autopsy.
4. A gunshot wound of the posterior (back) left arm. A projectile and fragments were recovered from the left arm. The projectile was turned over to the BCA and submitted to the BCA forensic laboratory as Item 73. Subsequent forensic firearm analysis determined the projectile was fired by Officer Schmitt's duty firearm (Item 61).
5. A gunshot wound of the distal left arm. A projectile was recovered from the left sleeve of Mr. Idd's coat entangled in the batting of the coat. The projectile was turned over to the BCA and submitted to the BCA forensic laboratory as Item 70. It was determined that Item 70 had similar observable characteristics with Items 74 and 76, so no further comparison was

[9] During the interview, Officer Schmitt was unable to recall exactly what he stated as he approached the suspect vehicle a second time. In the video from Officer Schmitt's body worn camera, he can clearly be heard yelling, "Hands up! Police! Hands up!"
[10] Officer Schmitt determined he fired 5 times when counting rounds while turning his firearm over to the BCA as part of the investigation.

completed (i.e., the projectile was likely fired by BCA Item 60 - Sergeant Klund's duty firearm).

F. BCA Incident Scene Investigation and Forensic Analysis Summary.

A BCA Crime Scene Team arrived at the location of the incident at approximately 8:40 p.m. Upon arrival, a white 2-door Chevrolet Cobalt ("Cobalt") was observed parked on the south side of the car wash, facing south. The front driver window of the Cobalt was broken and a deceased male (i.e., Mr. Idd) was seated in the driver's seat. A red pickup truck was parked on the passenger side of the Cobalt; and three squad cars surrounded the front and driver's side of the Cobalt (i.e., Minneapolis Police Department squads 181 and 180 and an unmarked squad car).

The BCA Crime Scene Team collected the following items from the incident scene:

- Fourteen 9mm cartridge cases were collected from the parking lot and windshield of squad 180. All the cartridge cases were submitted to the BCA forensic laboratory for analysis.
    - Ten of the fourteen cartridge cases were located in the parking lot at the rear driver's side of the unmarked squad car (Items 1-8, 11, 14). Forensic firearm analysis determined that Item 1 was fired by Sergeant Klund's duty firearm (Item 60). It was further determined that Item 1 had similar class characteristics with Items 2 through 8, 11 and 14, so no further comparisons were completed (i.e., the cartridge cases were likely fired by Item 60 – Sergeant Klund's duty firearm).
    - Two of the fourteen cartridge cases were located on the windshield of squad car 180 (Items 9 and 10). Forensic firearm analysis determined that Item 9 was fired by Officer Huynh's duty firearm (Item 57). It was further determined that Item 9 and similar class characteristics with Item 10, so no further comparison was completed (i.e., Item 10 was likely fired by Item 57 – Officer Huynh's duty firearm).
    - Two of the fourteen cartridge cases were located in the parking lot on the passenger side of the unmarked squad car (Items 12 and 13). Forensic firearm analysis determined that Item 13 was fired by Officer Schmitt's duty firearm (Item 61). It was further determined that Item 13 had similar class characteristics with Item 12, so no further comparison was completed (i.e., Item 12 was likely fired by Item 61 – Officer Schmitt's duty firearm).
- A 45 caliber pistol was collected from the center console area of the Cobalt (Item 17) and a 45 caliber cartridge case was collected from the front passenger seat of the Cobalt (Item 16). Both the pistol and cartridge case were submitted to the BCA forensic laboratory for analysis. The firearm analysis determined that Item 16 was fired by Item 17.
- An additional 9mm cartridge case (Item 64) and bullet (Item 65) were collected from the parking lot by a BCA Agent and submitted to the Crime Scene Team at a later date. Forensic firearm analysis determined that Item 64 had similar class characteristics as Item 9, so no further comparison was completed (i.e., Item 64 was likely fired by Item 57 – Officer Huynh's duty firearm).
- A swab was taken of a red stain in the snow in the parking lot (BCA Item 15). Testing failed to indicate the presence of blood.
- A cell phone was collected from the front driver's area of the Cobalt (BCA Item 18); and two other cell phones were collected from a jacket worn by Mr. Idd (BCA Item 19 and 20).

G. BCA Search/Processing of Cobalt and Forensic Analysis Summary.

A search was conducted of the Cobalt by a BCA Crime Scene Team at BCA headquarters in St. Paul. During the search, the following items were observed, some of which were collected as evidence and submitted to the BCA forensic laboratory for analysis.

- The vehicle was cluttered with personal belongings.
- The trunk was full of women's clothing and shoes.
- A laundry basket was found in the back seat and a bullet was located therein (Item 33). Forensic firearm analysis determined that Item 33 was fired by Officer Huynh's duty firearm (Item 57).
- A black backpack was located on the front passenger floor (Item 43). The backpack was searched and was found to contain a Cobray Leinad PM-11 high-capacity pistol, similar to a MAC-10 (Item 40), ammunition and apparent drug paraphernalia (Item 42).
    - The gun and its magazine were swabbed for DNA. Forensic DNA analysis was completed on the swabs. Due to insufficient genetic information, no statement could be made regarding the source of the DNA mixture.
    - The backpack was swabbed for DNA and the swabs were analyzed. It was determined that a DNA sample obtained from the pull strap of the backpack was a mixture of three or more individuals with a major male DNA profile matching Mr. Idd. According to the lab report, this major male DNA profile would not be expected to occur more than once among unrelated individuals in the world population.
    - Item 42 underwent drug analysis and it was determined this item contained Fentanyl.
- Additional apparent drug paraphernalia was found in the front driver door pocket (Items 45 and 46). Items 45 and 46 underwent drug analysis. It was determined that Item 46 contained methamphetamine and cocaine. The results for Item 45 were inconclusive because of insufficient data to support an identification of a drug.
- A "Federal 45 Auto" cartridge case was collected from the front driver side floor (Item 36).[11] Forensic firearm analysis determined that Item 36 was fired by Item 17 (i.e., the gun seized from the front console area of the Cobalt at the scene of the incident).
- A bullet was recovered from the dash of the vehicle (Item 52). Forensic firearm analysis determined that Item 52 had similar class characteristics as Items 74 and 76, so no further comparison was completed (i.e., Item 52 was likely fired by Item 60 – Sergeant Klund's duty firearm).
- A second bullet was recovered from the dash of the vehicle (Item 63). Forensic firearm analysis determined that Item 63 had similar class characteristics as Item 33, so no further comparison was completed (i.e., Item 63 was likely fired by Item 57 – Officer Huynh's duty firearm).
- A bullet was recovered from inside of the driver's door (Item 49). Forensic firearm analysis determined that Item 49 had similar observable characteristics as Items 74 and 76, so no further comparison was completed (i.e., Item 52 was likely fired by Item 60 – Sergeant Klund's duty firearm).
- A bullet was recovered from the B-pillar of the vehicle (Item 39). Forensic firearm analysis determined that Item 39 had similar observable characteristics as with Item 73, so no further comparison was completed (i.e., Item 39 was likely fired by Item 61 – Officer Schmitt's duty firearm).
- A bullet was recovered from the exterior rear driver side quarter panel (Item 54). Forensic firearm analysis determined that Item 54 had similar observable characteristics as with Item 73, so no further comparison was completed (i.e., Item 54 was likely fired by Item 61 – Officer Schmitt's duty firearm).
- A bullet was recovered from the bottom molding of the rear driver's window (Item 51). Forensic firearm analysis determined that Item 51 had similar observable characteristics as with Item 73, so no further comparison was completed (i.e., Item 51 was likely fired by Item 61 – Officer Schmitt's duty firearm).

[11] This cartridge case is in addition to the cartridge case (Item 16) collected from the vehicle by the BCA at the scene of the incident.

H. BCA Search/Processing of Unmarked Squad Car.

A BCA Crime Scene Team processed the squad cars that were present at the scene. In processing the unmarked squad car, bullet defects were observed from the exterior hood to the windshield. No bullet defects were observed inside the vehicle. In conducting trajectory analysis, it was determined that a bullet entered the front hood of the unmarked squad car and was consistent with originating from the front of the squad car. The bullet perforated the hood of the unmarked squad car and impacted the area below the windshield. The windshield of the unmarked squad car was intact. Glass fragments were observed on the ground between the Cobalt and the unmarked squad car as well as on the hood of the unmarked squad car. No bullet was recovered. This is consistent with Mr. Idd having shot at the unmarked squad car through the driver's side window of the Cobalt.

I. Review of Body Worn Camera Video.

The peace officers who were present at the scene at the time of the shooting were each equipped with a body worn camera. The body worn cameras from the following officers were determined to be the most relevant to the investigation.

1. Officer Jason Schmitt. At the 18:14:55 point of the video, Officer Schmitt exited his unmarked vehicle via the side sliding door and immediately began shouting commands at Mr. Idd to stop his car and for Mr. Idd to put his hands up. At the 18:15:15 point, Mr. Idd can be seen raising up what appears to be a gun and firing it through the closed driver's side window shattering the glass. At the 18:15:17 point, Officer Ottney can be seen outside the passenger side of the unmarked squad car and can be heard yelling "Fuck" presumably in reaction to the shot fired by Mr. Idd. At the 18:15:18 point, several gunshots can be heard being fired by officers.
2. Officer Paul Huyhn. At the 18:14:50 point of the video, Officer Huyhn exited the squad car he was driving. At the 18:14:54 point, Officer Huyhn approached the Cobalt and began shouting commands at Mr. Idd to stop the car. At the 18:15:03 point, Officer Huyhn got back in the driver's seat of the squad car and repositioned it to box the Cobalt in. At the 18:15:13 point, Officer Pobuda can be heard yelling to the other officers to "watch the crossfire." At the 18:15:16 point Officer Pobuda can be heard yelling that "he's got a gun." At the 18:15:17 point, one gunshot can be heard followed by several other gunshots.
3. Officer John Pobuda. At the 18:15:13 point of the video, Officer Pobuda is outside a squad car positioned near the red pickup. At this point, Officer Pobuda can be heard warning other officers "to watch the crossfire." At the 18:15:16 point, Officer Pobuda can be heard warning other officers that "he has a gun, get back, he's got a gun." At the 18:15:17 point, one gunshot can be heard, followed by several other gunshots.
4. Officer Elizabeth Arashiba. At the time of the shooting, the video shows Officer Arashiba sitting in the passenger side of a squad car. At the 18:14:56 point of the video, Officer Schmitt can be heard yelling commands at Mr. Idd to stop his car. At the 18:15:16 point, Officer Arashiba states, "crossfire." At the 18:15:17 point, one gunshot can be heard, followed by several other gunshots.
5. Officer Joseph Brown. At the time of the shooting, the video shows Officer Brown driving a squad car. At the 18:14:56 point of the video, Officer Schmitt can be heard yelling commands at Mr. Idd to stop his car. At the 18:15:16 point, Officer Arashiba can be heard saying "crossfire." At the 18:15:17 point, one gunshot can be heard, followed by several other gunshots.

J. Toxicology Results.

According to toxicology reports received from the BCA, analysis of blood samples drawn from Sergeant Klund, Officer Huyhn and Officer Schmitt failed to reveal the presence of ethyl alcohol or any controlled substances.

According to the toxicology report related to a blood sample drawn during the autopsy of Mr. Idd, he tested positive for Delta-9 THC, Fentanyl and Norfentanyl.

IV. LEGAL ANALYSIS AND DETERMINATION

A. Legal Standard.

Under the applicable Minnesota law at the time of this incident, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

(1) to protect the peace 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 peace 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 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 the use of force was not justified. The intentional discharge of a firearm constitutes deadly force.[13]

In evaluating the reasonableness of peace officer use of force, the proper inquiry "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the [suspect] is actively resisting arrest or attempting to evade arrest by flight."[14] The reasonableness of a particular peace officer use of force is to "be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight."[15] In making this determination, allowance must be made for the fact peace officers are often forced to make split-second decisions – under circumstances that are tense, uncertain and rapidly evolving – about the amount of force necessary in a particular situation.[16] The reasonableness inquiry is an objective one: the question is whether the peace officer's actions are "objectively reasonable" in light of the facts and circumstances confronting the peace officer without regard to the officer's underlying intent or motivation.[17]

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[12] Minn. Stat. § 609.066, subd. 2 (2020)
[13] Minn. Stat. § 609.066, subd. 1 (2020)
[14] *Graham v. Connor*, 490 U.S. 386, 396, 109 S.Ct. 1865, 1872 (1989) (citations omitted).
[15] *Id.*
[16] *Id.*, 490 U.S. at 396-97, 109 S.Ct. at 1872.
[17] *Id.*, 490 U.S. at 397, 109 S.Ct. at 1872 (citations omitted).

B. Determination as to the lawful use of deadly force by Minneapolis Police Officers Paul Huyhn, Darcy Klund and Jason Schmitt.

As outlined above, on December 30, 2020, the Minneapolis First Precinct Community Response Team attempted to effectuate the arrest of Mr. Idd at the Holiday Station for the illegal sale of firearms. While trying to arrest him, Mr. Idd attempted to leave the scene in the Chevrolet Cobalt he was driving and was subsequently surrounded by three squad cars. While seated in the Cobalt, Mr. Idd was in possession of a pistol and discharged it through the closed driver's side window towards the unmarked squad car occupied by Sergeant Klund, Officer Ottney and Officer Daoheuang. Officer Huyhn, Sergeant Klund and Officer Schmitt all described that they discharged their respective duty firearms at Mr. Idd because they believed Mr. Idd was either trying to kill them and/or the other peace officers at the scene. Sergeant Klund further described that he did so to defend customers located in the parking lot.

That Mr. Idd fired first is supported by: (1) body cam video; (2) the statement of Witness 1 who reported that Mr. Idd told her he didn't want to go to "jail that year" after which he fired his gun first followed by the return fire of the officers; (3) the statements of the peace officers present at the scene who did not discharge their duty firearms; (4) the statements of Sergeant Klund, Officer Huhyn and Officer Schmitt; (5) the forensic firearm analysis performed on the gun seized from the front console area of the Cobalt which was determined to have fired two cartridge cases located inside the Cobalt on the front passenger seat and driver side floor respectively; and (6) the determination that a bullet entered the front hood of the unmarked squad car consistent with having come from the direction of the driver's side of the Cobalt.

The use of deadly force by a peace officer is justified to protect the officer or another person from death or great bodily harm. It is my conclusion that given the facts and circumstances of this incident, it was objectively reasonable for the three peace officers to believe Mr. Idd posed a deadly threat to them and other officers at the scene at the time they fired their weapons. Accordingly, the officers were legally justified in using deadly force in this instance and there is no basis to issue criminal charges against any of them.