



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

TO: John Choi, Ramsey County Attorney

FROM: John Kelly, First Assistant Ramsey County Attorney  
Hao Nguyen, Trial Division Director *AK*  
*HQN*

DATE: December 16, 2024

RE: In the Matter of the Non-Fatal Shooting of B.F.  
RCAO File No. 062-0571164  
BCA File No. 2024-14

**I. INTRODUCTION**

On January 6, 2024, Officer Joshua Needham of the Saint Paul Police Department (“SPPD”), while acting in his professional capacity as a licensed peace officer and responding to a 911 call, fired three gunshots at B.F., age 31, with one shot striking B.F. in his upper left arm resulting in him sustaining a non-life-threatening injury.

The Minnesota Bureau of Criminal Apprehension (“BCA”) conducted the investigation of Officer Needham’s use of deadly force against B.F. The BCA presented the evidence that it gathered to the Ramsey County Attorney’s Office (“RCAO”), for us to review and determine whether Officer Needham’s use of deadly force against B.F. was justified under Minnesota Statutes, Section 609.066.

This Memorandum identifies the relevant evidence gathered by the BCA, including statements taken from witnesses during interviews conducted by BCA agents; physical evidence, including DNA and ballistics evidence; audio and video taken from law enforcement in-car cameras (“ICCs”), and the Axon-manufactured body worn cameras (“BWCs”) worn by the officers who were most directly involved in the incident, including Officer Needham and his partner, SPPD Officer Ryley Reschke. Although Officers Needham and Reschke declined to participate in the interviews conducted by BCA investigators, each officer provided their own written statement to the BCA.

Based on our review of the above-referenced evidence presented to this office by the BCA, and for the reasons explained in this Memorandum, it is our opinion that the use of deadly force by Officer Needham against B.F. was justified under Minn. Stat. § 609.066, subd.

2(a)(1)(i-iii), (2) and (b). Accordingly, we recommend that no criminal charges be brought against Officer Needham related to this incident.

## II. CASE SUMMARY

### A. Summary of Facts

At 12:22:01 A.M., on January 6, 2024, a person who identified himself only as "Isaiah" called 911 from a four-plex, two-floor apartment building at 464 Thomas Avenue West, in Saint Paul, to report that he heard a woman screaming in Apartment No. 1 of that building that she was being sexually assaulted by a man with a gun. Isaiah told the 911 dispatcher that he lives in the building one floor above Apartment No. 1. He said that apartment was supposed to be vacant of any tenants or other occupants, but that he had seen a "white male" with a "buzz cut" dressed in dark clothing, together with a "white female" with "long, blonde hair" and wearing a tank top, in that apartment.

Isaiah further told the 911 dispatcher that he had seen the male beating the female and that he could hear the female screaming that the male was also sexually assaulting her. Isaiah also told the dispatcher that he had seen the male with a black gun approximately 5-10 minutes before he called 911. At the point, Isaiah terminated the call.

Officers Needham and Reschke were on a joint patrol that night sharing a visibly marked SPPD squad vehicle. Both officers were dressed in a dark blue SPPD uniforms, with visible, identifying badges and patches, typically worn by patrol officers, and their respective BWCs were activated throughout the entirety of this incident. Officer Needham was driving the vehicle, and Officer Reschke was in the front passenger seat. For dispatch and other internal communication purposes, the squad number assigned to Officers Needham and Reschke was designated as Unit No. 181.

The Incident Detail Report shows that Officers Needham and Reschke were assigned to respond to the incident at approximately 12:23:03 AM. In addition to receiving verbal radio information regarding the details of the reported incident, Officers Needham and Reschke were also provided the following Computer Aided Dispatch ("CAD") text information to their in-car computer:

- At 12:22:01 AM – "HEARS MALE BEATING FEMALE – SAYS HE'S SEXUALLY ASLTNG HER – NO ONE IS SUPPOSED TO BE THERE – WM, DRK CLOTHING, WF, LONG HAIR BLOND, TANK TOP"
- At 12:22:15 AM – "SAYS THE MALE HAS A BLK HANDGUN"
- At 12:22:34 AM – "CAN'T MAKE OUT WHAT SHE'S SCREAMING ABOUT"
- At 12:22:47 AM – "COMP LIVES ABOVE THE UNIT AND CAN HEAR."
- At 12:23:31 AM – "NOW SCREAMING AT EACH OTHER – FE CRYING NOW – SCREAMING AGAIN"
- At 12:24:17 AM – "NO RP HX FOR CALLER, NO PREM HX FOR APT 1"

- At 12:24:30 AM – “SAW THE GUN 10-15 MINS AGO – AIMING THE GUN – CALLER HU.”
- At 12:25:36 AM – “NO ANSWER ON CALLBACK.”
- At 12:26:29 AM – “121 MALE TRYING TO GET OUT BACK WINDOW”
- At 12:26:35 AM – “121 MALE WENT BACK INSIDE”

The time stamps taken from their BWCs show that the Officers Needham and Reschke respectively activated their BWCs at 12:22:39 A.M. and 12:22:37 A.M. Although video images from Axon-manufactured BWCs are seen immediately upon activation, there is a 30 second delay before audible sounds can be heard. From the moment of activation, the video taken from their respective BWCs shows Officer Needham suddenly driving the vehicle at an accelerated rate of speed consistent with their response to the reported crime. The first audio heard from their BWCs involves a conversation between the two officers about how they may need to “kick in a door” upon their arrival at the apartment if necessary. While driving to the scene, Officer Reschke is seen and heard reading aloud the CAD messages and relaying that information to Officer Needham.

The respective written voluntary statements provided to BCA investigators by Officers Needham and Reschke also state that each officer knew that they were responding to a call where the complainant said that he could hear a man beating and sexually assaulting a female in Unit No. 1. Both officers also wrote that they were told that a white male, with short hair and wearing dark clothing had a black handgun. They were further told that the female victim was white, with long blonde hair and was wearing a tank top. Officer Needham wrote that because he and Officer Reschke were only seven blocks away from the apartment building when they received the call, that he believed that they would be the first officers to arrive on the scene.

Video taken from their ICC and respective BWCs show that Officers Needham and Reschke were the first officers to arrive at 464 Thomas Ave. West, arriving at 12:24:11 A.M. The officers parked their squad car on the street in front of the apartment building. Upon exiting the vehicle, video from their BWCs shows the large uncovered front garden-level window of Apt. No. 1 and that the front room of that unit was internally illuminated by a purple and pink colored light.

As Officer Needham moved closer to the building, someone is heard saying “Ya, they’re both in there. He’s leaving.” Officer Needham then tells Officer Reschke, “I’m gonna’ go to the back” and he proceeded to quickly move toward the rear of the building. At the same time, Officer Reschke is seen walking up to the front apartment window and looking inside.

In their respective statements, both officers wrote that they saw two “dark shadowy” figures quickly move from the front of the apartment towards its rear. Officer Needham wrote that he believed the two figures were the female victim and the male suspect who were described in the radio and CAD dispatches. Officer Needham also wrote that he

believed that the male suspect saw the two officers arrive and “was forcing the female to a different area of the apartment where they would be less visible” to the officers. Officer Needham further wrote that he “thought that the male suspect was potentially forcing the female out the rear of the apartment building.”

Video taken from Officer Needham’s BWC showed Officer Needham approaching the rear of the building and the garden-level window of Apt. No. 1. According to his written statement, Officer Needham wrote that he did this to prevent the male suspect from escaping with the female victim. He also wrote that after looking into the rear window of the apartment, he could see the purple light from the front room, which confirmed for him that was the same apartment where he initially saw the two figures move from the front room to the rear. Officer Needham also wrote that because the rear room was poorly lit when he looked through the rear window, he did not immediately see anyone in the apartment.

At the same time, video from Officer Reschke’s BWC showed him entering the front door to the building. From the initial common entryway, he could see a six-step flight of stairs leading up to the second floor of the building and six-step flight of stairs leading down to the first, or garden level of the building. He described the common landing area of the first floor as “small,” measuring “approximately four (4’) feet deep by six (6’) feet wide.” At the base of the stairs on the left was the door to Apt. 1.

Officer Reschke observed a woman with short blonde hair, later identified as A.C., standing outside Apt. No. 1. A.C. told Officer Reschke that she was not the complainant. When Officer Reschke asked her if she heard anything going on in the building, she pointed to the door of Apt. No. 1. A.C. also stated that the front door to Apt. No. 1 was the only point of ingress and egress to the apartment. While Officer Reschke was directing SPPD Officer Bee Lor to remain outside and cover the northeast corner of the building, A.C. walked into the common utility room of the building.

Simultaneously, Officer Needham’s BWC showed him walking back and forth between the rear door of the apartment building and the rear window of Apt. No. 1. He is seen attempting to open the rear door but was unable to do so because it was locked. He then is seen and heard knocking on the rear door before returning to the rear window and using his flashlight to see inside the apartment. A.C. then opened the rear door, said “Hi” and allowed Officer Needham to enter the building. Because A.C. was alone and did not appear to be upset or distressed, Officer Needham wrote that he assumed that A.C. was not the female victim of the reported sexual assault.

Officer Needham is seen entering the building, then is heard saying, “Thank you” to A.C. and asking her “Where is their apartment?” A.C. is seen directing him to Apt. No. 1. Officer Needham is then seen walking through a lower-level utility and common laundry room with his department issued handgun drawn, towards the front of the building, where he sees Officer Reschke at the top of a short flight of stairs that are located to the right of

the utility room door. Because of where each officer was positioned, Officer Reschke could see the only door to Apt. No. 1, but Officer Needham could not. Officer Reschke is seen and heard telling Officer Needham that, "There is only the windows and this door," as he points to the apartment door.

Officer Needham is then seen exiting the utility room and when he turns to his right, he sees the door to Apt. No. 1 approximately three feet away. While at the top of the flight of stairs Officer Reschke is heard informing Officer Needham that "We saw a few people." Officer Needham is then seen and heard loudly knocking on the lower portion of the metal door with his foot, while loudly and clearly announcing "Saint Paul Police! Open the door!" Officer Reschke wrote that knocking by kicking the lower part of the door is a common police tactic when officers have their handguns drawn.

At this point, Officer Needham took a few steps backwards from the door and moved to the threshold between the utility room and the hallway outside of Apt. No. 1. Officer Reschke, also holding his drawn handgun in a low-ready position, moved down the stairs to the second step, placing him approximately one foot away from the apartment door. Approximately six seconds later, a fully clothed, brown-haired woman, later identified as H.S., opened the door.

Because he was the only officer with a direct line of sight into the apartment and thus was the first officer able to see H.S., Officer Reschke loudly issued orders to "Show your hands!" and told H.S. three times, to "Come on out." When Officer Needham first observed H.S. he described her as "distressed."

As H.S. grabbed some belongings before exiting the apartment, she is heard quietly sobbing on the audio taken from the BWCs of both officers. Officer Reschke took a step backwards to allow H.S. to exit in front of him and she then proceeded up the stairs. Because they were both focused on who else was in the apartment, neither Officer Reschke nor Needham knew immediately where H.S. had gone.

Officer Reschke then stepped forward toward the apartment door, with his gun in a ready position. Officer Needham was standing almost under the doorway to the utility room with his gun also in a high ready position. Between the two officers, Officer Reschke had the most comprehensive line of sight into the apartment. Specifically, only Officer Reschke was able to see down the hallway that led to the rear of the apartment.

In his statement Officer Reschke wrote that he "made limited entry into the apartment by placing [his] upper torso inside the door threshold." He also wrote that from his vantage point, he observed a narrow 14 foot long, well-lit hallway leading to a backroom. He described the backroom door was open, but the room was dark. He further wrote that he did not know how many more people were inside the apartment and that he believed the suspect was in the back room of the apartment and attempting to escape. Officer Reschke stated that he was concerned a victim could still be inside the apartment.

Video from Officer Needham's BWC shows that after exiting the apartment, H.S. briefly places her hand on Officer Reschke's back. Officer Needham is heard asking H.S. if she "has any weapons?" Officer Reschke then loudly announced to anyone else that may be in the apartment "Saint Paul Police! Show your hands!" Officer Needham asked Officer Reschke "Do you see him?" and Officer Reschke responded, "No."

At approximately 12:26:28 A.M., Officer Reschke again loudly announced, "Saint Paul Police! Show your hands and slowly walk out of the room! In his statement, Officer Reschke wrote that he could hear noises coming from the back room between his announcements. He described the noises as "quiet and sounded like small objects being moved in the room." He further wrote that after issuing "several loud and clear verbal" announcements to "show your hands" and slowly exit the apartment, the male suspect did not comply.

At the same time, SPPD Officer Edoh Ezekisoe, dressed in a clearly marked SPPD uniform, was standing outside the rear of the building looking into the garden level window of the back room of Apartment No. 1. Video and audio taken from Officer Ezekisoe's BWC shows that at approximately 12:26:33 A.M., he sees a white male wearing a black shirt and red pants in the back room of the apartment attempting to exit through the window, while Officer Reschke's voice can be heard in the background yelling "Show your hands!" Officer Ezekisoe, reported this to dispatch, and loudly ordered the man to, "Let me see your hands!" The man then suddenly turned away from Officer Ezekisoe and fled down a hallway towards the front apartment door.

At approximately 12:26:33 A.M., a male voice inside the apartment is heard yelling on the audio taken from the BWCs of Officers Needham and Reschke. Officer Reschke said the "male suspect yelled something unintelligible" to him, while Officer Needham wrote that the male yelled, "Fuck!"

Officer Reschke's statement said that the male suspect then "sprinted out of the back room at an angle running into the wall in the hallway...and was facing directly at me. [He] was holding an object in his right hand...that was being held like a handgun and brought up toward his face as if he were aiming it at me. I focused on the object it appeared to be black and had a narrow profile. I felt the object was too thin to be a handgun. However, I was not able to discern exactly what the object was. At that time, I felt the suspect was attempting to get me to use deadly force against him based on his behavior."

Because of where he was positioned, Officer Needham could not see what Officer Reschke was able to see inside the apartment. In his statement, Officer Needham said that "within a fraction of a second" after he heard the male suspect yelling "Fuck!", he observed that Officer Reschke's "demeanor changed very rapidly, and he began moving backwards out of the apartment doorway while loudly yelling "Show me your hands!" and "Hey!"

Officer Needham also wrote that “[i]t was evident to him that Officer Reschke was now seeing the male suspect inside of the apartment...and that [his] voice became increasingly forceful, critical, and fearful sounding as if whatever he was seeing was becoming more serious and desperate by the fraction of a second. Officer Needham further wrote that, “Officer Reschke appeared to be in fear for his safety and was trying to quickly move away from a threat.”

Two seconds later, at approximately 12:26:35 A.M., video and audio taken from Officer Needham’s BWC show Officer Reschke quickly retreating from the apartment doorway towards the adjacent utility room, forcing Officer Needham, who was standing behind him, to move backwards towards the closed door of the apartment unit across the small common hallway from Apartment No. 1. Less than one second later, a white male wearing a black jacket and red pants quickly emerges from the door and charges toward Officer Needham, as Officer Reschke loudly yells, “Fuck! He’s got something!”

At approximately 12:26:36 A.M., video taken from Officer Needham’s BWC show B.F. emerging from the apartment with a metallic object in his left hand. As he ran out of the apartment into the hallway, B.F. charged at Officer Needham with his left arm extended towards the officer with his right hand concealed behind his body. Officer Needham’s had no room to retreat because his back was up against the door of Apartment No. 2, as B.F. advanced against him and was less than an arm’s length away from the officer. A fraction of a second later, Officer Needham rapidly fired three shots, striking B.F. once in the left arm causing him to fall to the floor of the hallway.

Officers Needham and Reschke placed handcuffs on B.F., and then Officer Needham left the building as other SPPD officers entered and began securing the scene while other officers began performing life-saving emergency first aid measures on B.F. until Saint Paul Fire and Emergency Medical Services (“EMS”) professionals arrived on the scene. B.F. was transported to Regions Hospital where he was treated for a non-life-threatening gunshot wound to his left bicep.

In his written statement, Officer Needham described B.F. as having “aggressively charged out of the apartment towards” him and then “swung his left fist in a stabbing motion towards me.” Officer Needham also stated that he believed that the object in B.F.’s left hand was a knife, and that further believed that B.F. was concealing another weapon in his right hand.

Officer Needham further stated that he believed that B.F. was trying to kill him and that he fired his handgun three times in his direction to stop the threat he posed. Officer Needham noted that at the time he fired his handgun, B.F. “was so close to me, and was still continuing to charge closer, that I was unable to fully extend my right arm forward and maintain a two-handed grip on my firearm.”

Both H.S. and B.F. were separately interviewed by BCA agents after the incident. Both said that they had been dating each other for a few months. H.S. said that B.F. became upset with her because she had received a message from a former boyfriend on one her cell phones. H.S. said B.F. then shoved her and smashed two of her cell phones against the ground and that she then physically attacked him. H.S. did not say that she had been sexually assaulted. Both H.S. and B.F. said that they began screaming and yelling at one another which they both believe prompted the 911 call made by a neighboring tenant. B.F. also said that he and H.S. had been smoking methamphetamine and fentanyl throughout the day.

B.F. also told investigators that he was first became aware that police had been called when he saw officers outside of the apartment looking inside the windows with flashlights. He also acknowledged that he heard the repeated orders from Officer Reschke to slowly exit the apartment with his "hands up," but that he instead chose to hide in a closet, because he was the subject of an outstanding warrant issued in Anoka County.

B.F. said that after seeing police officers shine their flashlight inside the apartment, he yelled "Fuck you!" to the officers, and then ran out of the apartment door towards Officer Needham. Although he denied having a weapon, he admitted having a cell phone in his left hand. B.F. said that after he exited the apartment into the "crowded" hallway space, he was shot by a "younger looking" police officer. B.F. told investigators that he was a "dumbass" for charging at Officer Needham and that the officer was "completely justified to shoot" him. B.F. said that Officer Needham likely "felt threatened for his life" because he could not have known that he (meaning B.F.) did not have a gun when he charged at the officer.

A black Apple iPhone SE and a clear baggie containing methamphetamine was found next to B.F.'s body. Testing conducted by the BCA on the phone and baggie found next to B.F.'s body, determined that his DNA was found on the baggie. No accessible weapon was found near B.F.'s body.

Three spent shell casings and two projectiles and a bullet fragment were recovered at the scene by the BCA and were identified by a BCA forensic scientist as having been fired from Officer Needham's Glock Model 17 Gen5 9mm Luger caliber pistol.

## **II. SUMMARY OF RELEVANT EVIDENCE**

### **A. 911 Call**

#### 911 Call of I.M.

*January 6, 2024, 12:18:40 A.M.*

*The call duration is about 5 minutes and 31 seconds long.*

"911 what is the emergency?" 911 Dispatcher



"Yeah I'm at umm 464 Thomas Avenue West, there's this man in this apartment raping this woman and they not supposed to be there." I.M.

"What apartment is that?" 911 Dispatcher

"Apartment one." I.M.

"So someone in apartment one, what is your name?" 911 Dispatcher

"Yeah, Isaiah." I.M.

"Isaiah what?" 911 Dispatcher

"I can't tell you my last name." I.M.

"What's your phone number." 911 Dispatcher

"I can't tell you that either, I'm just letting you know." I.M.

"Well how do you know this?" 911 Dispatcher

"I seen them." I.M.

"You seen them, you have a description of the person?" 911 Dispatcher

"White male buzz cut." I.M.

"White male, what does he have on?" 911 Dispatcher

"I can't remember his description but yeah, I'm going to make sure the door is open." I.M.

"Okay so you see this is going on?" 911 Dispatcher

"Yeah he's been beating her." I.M.

"Okay, but how do you know he is sexually assaulting her?" 911 Dispatcher

"She was screaming." I.M.

"She was screaming that this was going on?" 911 Dispatcher

"Yes." I.M.

"So you're hearing the male and female downstairs?" 911 Dispatcher

"Yeah." I.M.

"And you hear him beating her?" 911 Dispatcher

"Yes, and they are not supposed to be there." I.M.

"How do you know they are not supposed to be there?" 911 Dispatcher

"He use to live here." I.M.

"And you said it's a white male, what does he have on?" 911 Dispatcher

"Black clothing." I.M.

"Do you know their name at all?" 911 Dispatcher

"No" I.M.

"So the couple use to live there?" 911 Dispatcher

"No" I.M.

"No? The couple didn't use to live there?" 911 Dispatcher

"No" I.M.

"Okay so nobody lives downstairs?" 911 Dispatcher

"Not at the moment" I.M.

"Okay so white male what about the female?" 911 Dispatcher

"White female" I.M.

"What does she have on, what color is her long hair?" 911 Dispatcher

"Tank top blonde." I.M.

"Any weapons?" 911 Dispatcher

"Gun." I.M.

"Who has the gun?" 911 Dispatcher

"Male" I.M.

"The male has the gun?" 911 Dispatcher

"Yes" I.M.

"What color is the gun?" 911 Dispatcher

"Black" I.M.

"She is screaming right now; she is screaming right now." I.M.

"What is she screaming, what is she saying?" 911 Dispatcher

"I can't make it out, I can't make it out." I.M.

"Okay and you live above this person, or above this unit?" 911 Dispatcher

"Above" I.M.

"But you saw this person, you saw this couple." 911 Dispatcher

"Yeah" I.M.

"And now you hear them?" 911 Dispatcher

"Yeah he's in the one below, yeah they don't belong here." I.M.

"Okay what is it that you're hearing now?" 911 Dispatcher

"They are screaming at each other, she is trying to tell him to get away, she is crying, now she is screaming again." I.M.

"Do you know which room in the downstairs unit they are, like the living room kitchen, bedroom?" 911 Dispatcher

"I cannot tell." I.M.

"Okay but you saw this gun though?" 911 Dispatcher

"Yes." I.M.

"How long ago did you see this gun?" 911 Dispatcher

"Maybe like ten to five minutes ago." I.M.

"Ten to five minutes ago? And what was he doing with the gun?" 911 Dispatcher

"Aiming it." I.M.

"Aiming it at who?" 911 Dispatcher

*Call abruptly ends.*

## **B. Relevant Training Records of Officer Needham**

Among the 728 hours of formal peace officer training Officer Needham has received beginning with his attendance at the SPPD Academy in the Fall of 2019, includes courses in 2021 on "Use of Force" and "Resistance and Aggression."

## **C. Toxicology Results of Officer Needham and B.F.**

Toxicology testing and analysis of Officer Needham's blood showed no presence of alcohol or drugs in his system. Toxicology testing and analysis of B.F.'s blood showed the presence of Fentanyl and Norfentanyl. Additionally amounts of Methamphetamine at (.70 mg/L) and Amphetamine at (.058 mg/L) were also located in B.F.'s blood.

## **D. DNA and Forensic Drug Analysis**

Forensic testing by the BCA of a yellow baggie containing crystalline material taken from B.F. during medical intervention showed the presence of Methamphetamine in the amount of .283 grams. Additional DNA testing of the yellow baggie confirmed and matched that of an already known DNA sample of B.F.

## **E. Interviews of Key Witnesses**

### Interview of K.W.

On January 6, 2024, K.W. said she went 464 Thomas Avenue West, to visit her friends. K.W. said she doesn't live at the apartment and is part of the homeless community. K.W. said she was there to help her friend move and clean out an apartment. She said B.F. does not live in the apartment building but tends to hang out in the laundry room. When K.W. was leaving to bring her friend home, she saw B.F. and a woman known to her as H.S., arguing and bickering in the hallway in front of Apartment No. 1.

K.W. said that H.S. was grabbing B.F.'s phone, threw it down on the ground and broke it. H.S. and B.F. then went outside and continued to argue. K.W. witnessed them arguing, there wasn't anything physical in terms of an all-out fight, but just pushing and bickering back and forth. K.W., said H.S. was pushing B.F. away from her. K.W. said she didn't

consider it an actual physical altercation, saying if she did think it was an actual physical fight she wouldn't have left to take her friend home.

#### Interview of D.K.

On January 6th, 2024, D.K. said she was at the apartment right before police arrived. She said she saw B.F. and his girlfriend, H.S., arguing. She saw B.F.'s girlfriend H.S. attacking him and fighting with him. She saw H.S. grab B.F. and believes the two were arguing over cell phones. D.K. said that B.F. was homeless and had been staying in the laundry room.

#### Interview of H.S.

On the day of January 5<sup>th</sup> to the morning of January 6th, 2024, H.S., said she was at 464 Thomas Avenue West in Saint Paul, with her boyfriend B.F. H.S. said she met B.F. about one year ago and started dating about six months earlier. She and B.F. hangout in the laundry from time to time. They had been hanging out at the building throughout the day and into the evening. Things were going well between them, but recently things had gone south with their relationship.

H.S., said another male sent her a message which upset B.F. The male was supposed to come pick her up as she wanted to leave. B.F. got upset and wouldn't let her leave. H.S., said she did not call 911 but others heard her and B.F. arguing and fighting. She estimated that she and B.F. verbally and physically pushed each other for about an hour. When asked if she was hurt, she said she wasn't physically hurt and described herself as the aggressor and if anyone was hurt it was probably B.F. since she was the one attacking him. H.S., said she was attacking him and not the other way around. H.S. said she was fighting him to get her phone back.

Once law enforcement got to the building, they got her out apartment number four. As she ran out, and as she was doing so, she saw that B.F. was surrendering. She ran past officers and was not in the building when she heard a gun shot being fired. Officers then held her at the scene against her will when all she wanted to do was leave. When asked if there was any drug use by her or B.F., she denied that they had used drugs during the day or that night.

#### Interview of R.T.

In the early morning hours of January 6, 2024, R.T. was over at his friend's apartment located at 464 Thomas Avenue West. R.T., said he did not see anything, nor did he know the people involved, but heard about four or five gunshots go off. He did not see who fired these shots but heard officers order people to come out of the house and heard officers say, "drop it."

#### Interview of B.F.

On January 5th, 2024, through the early morning hours of January 6<sup>th</sup>, 2024, B.F. said he was at 464 Thomas Avenue West, Saint Paul at a friend's apartment with his girlfriend H.S. B.F. said he and H.S., are homeless. B.F. said his friend lives in Apartment No. 3, and

that he knew that Apartment No. 1 was recently vacated so B.F. and H.S., went into that apartment. B.F. said that he and H.S. got into an argument inside Apartment No. 1.

B.F. and H.S. continued to argue while inside the apartment. They argued over drugs, specifically fentanyl. At one point a tall black male opened the apartment door. The male told B.F. that he was going to call the police on them. B.F. said he told the male to mind his own business and to stop being nosey. The male saw that H.S., was crying and upset, and said he would be calling the police and then left.

B.F. said he and H.S., continued to argue until police arrived. B.F. said he didn't want the tall black male to call the police because he had a warrant. Once law enforcement arrived to the building, he could see officers shining flashlights into the apartment. B.F. said he then heard officers banging on the apartment door announcing themselves. Saying the words "Saint Paul Police, Saint Paul Police come out with your hands up, come out with your hands up." At that point he was sure that it was the police.

B.F. saw H.S., answer the door for the officers, and he said he got scared of being arrested and ran to the back room to hide in the closet. Specifically, he knew that if he were arrested, he'd have to go through drug withdrawals which he described as having the flu but much worse. He then saw more flashlights shining into the back room and that's when he decided to run out of the bedroom and out of the apartment.

While he exited the apartment door B.F. said he saw about three officers, and then said, "Fuck you guys!" B.F. said he saw a young-looking officer, who had a scared expression on his face. B.F. said the officer's eyes were wide open and he had an "Oh shit!" look on his face. B.F. then heard shots go off. B.F. said the young officer fired at him.

B.F. said, the officer was "completely justified" in shooting him saying, "It was crowded I mean it was crowded, and I mean the guy was justified for it. I was a dumbass, I came out yelling, running at them like, he was clearly justified to shoot, I would have done the same shit too. I mean, he felt threatened for his life. He didn't know if I had a gun or not, I just popped out of a fucking room out of nowhere. I ran out and was holding my cellphone I think."

B.F. said after he got shot it felt like his left arm was on fire. He then lost consciousness and later was told he'd lost a lot of blood. When he regained consciousness, he was in an ambulance. During the incident he did not have a firearm or any other type of weapon. B.F. said he was high on fentanyl and methamphetamine and explained that he uses drugs every day and has been a drug user for the past thirteen years. B.F. said H.S., also used drugs as well and had been using fentanyl and methamphetamine throughout the day. B.F. said he's seen the 911 caller in the past, and that the caller has tried to fight him in the past. B.F. said the 911 caller use to live in the building and when the caller gets drunk, he tries to fight him. B.F. believes the caller called 911 because he hates him.

### Interview of A.C.

On the evening of January 5, 2024, through the early morning of January 6th, A.C., said that she was at 494 Thomas West to visit a friend. She was coming towards the apartment building from the back alley when she saw B.F.'s girlfriend "fake" crying. A.C., said B.F. and his girlfriend were both outside by the dumpsters and it appeared that the two were having an argument.

When A.C., walked up next to them B.F.'s girlfriend stopped crying and asked her for a cigarette. A.C., told her no, but the girlfriend asked her six more times for a cigarette. The girlfriend then continued to "fake" cry saying that B.F. was hurting her. A.C., said she was not convinced that the girlfriend was in any danger. A.C., said she is hypersensitive about domestic violence and would've helped her if she wasn't absolutely convinced that his girlfriend was faking and being dramatic.

A.C., did not see any injuries on the girlfriend nor did she see B.F. physically hurting her. A.C., saw B.F. trying to console his girlfriend and calm her down. Eventually both B.F. and his girlfriend entered the apartment building. B.F.'s girlfriend then asked him for drugs; however, she did not see B.F. give her any.

A.C. said that between the two of them, B.F. seemed to be the calm and collected one, while his girlfriend was the one who was escalating the situation and being overly dramatic. A.C., saw B.F. and his girlfriend enter a downstairs apartment, she was confused by this because she knew the apartment was recently vacated. A.C., said she spoke to B.F. and asked him if the apartment was his. A.C. said B.F. replied yes, but she was certain he was lying.

A.C. then heard her friend I.M., calling the police to report what was happening between B.F. and his girlfriend. A.C. said I.M., was extremely quiet while he spoke to the 911 operator, so she didn't know what I.M., was telling police. But A.C. was aware that I.M., asked for officers to be sent to the apartment.

A.C. said she was in the hallway, with a clear view from the hallway down to the laundry room, which was located directly next to the apartment where she saw B.F. and his girlfriend enter. A.C. said an officer arrived and asked her if she was the victim, and A.C. told him no. A.C. said she pointed the officer towards the apartment that B.F. and his girlfriend were in. A.C. said she stood behind the officer as he walked past her and saw officers pounding on the apartment door.

A.C. said she saw B.F.'s girlfriend calmly walking out of the apartment and exit outside towards the front of the building. She said that two more officers arrived, all three officers were yelling towards the apartment door, telling B.F. to exit and to show his hands. A.C. heard officers say "drop it" in unison and then heard several shots go off. A.C. said she was not able to see if there was anything in B.F.'s hands. A.C. said she couldn't see B.F. until he fell to the ground.

A.C., believes she heard about three to five gunshots going off that she believed were fired by the officers. A.C. said she immediately started screaming and begging officers to stop shooting then bolted out of the back of the apartment building. A.C., said she does not know B.F. that well and only had a couple of brief interactions with him in the past. A.C. said B.F. was homeless and sleeping in the laundry room having turned it into a makeshift sleeping area. After the shooting she was escorted to a squad car and spoke with officers.

#### Interview of T.M.

T.M., said on the evening of January 5, 2024, his attention was drawn to B.F. because he overheard an argument that B.F. was having with a girl. T.M., doesn't know B.F.'s girlfriend but knows B.F. from having seen him in the apartment building in the past. T.M., has never seen B.F. with a gun and knows B.F. to be quiet. T.M., believes that B.F. is not on the lease for an apartment in the building but hangs around the apartment complex visiting friends.

When police arrived T.M., said he was in his apartment, he heard cops tell B.F. to drop it, to put it down and then heard a series of gun shots. T.M., said he lives in Apartment No. 2 and had a friend over. Once he heard the shots he dropped to the floor of his living room. T.M., described B.F. as a decent dude. T.M., did not witness the shooting and only heard officers telling B.F. to get down and drop it.

#### Interview of N.D.

On the evening of January 5, 2024, N.D., said she was visiting her friend T.M., and saw a girl trying to get away from B.F. It sounded like the two were arguing. Though she doesn't know him well, she has seen B.F. before sleeping in the laundry room of the apartment building.

N.D. said she did not know what the argument was about and did not know the cause of the argument. N.D. said she was outside having a cigarette when the girl came up to her saying that the B.F. was doing stuff to her and said B.F. had "stuff" on him. N.D. said she saw B.F. grabbing the girl and smacking her around. N.D. said the girl specifically said that B.F. was trying to rape her telling N.D., that B.F. had a gun and was waving it around at her. N.D., said she tried to talk to B.F., but he ignored her. N.D. saw that the male had an open backpack with what looked like a gun inside it. B.F. and the girl then went into the apartment and shut the door behind them. N.D. said she then went back to T.M.'s apartment to tell him what was happening.

When she got to T.M., she saw that he was already on the phone with 911 telling them to come to the scene. N.D. never witnessed the female actually being threatened with a firearm. N.D. said she could not make out any verbal threats being made once B.F. and the girl went into the apartment, all she was able to hear was an argument.



Written Statement of Saint Paul Police Joshua Needham

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

On January 5<sup>th</sup> of 2024 Officer Needham stated he was working his regularly scheduled shift from 4 PM to 2 AM. He was assigned to patrol the Western District of the City of Saint Paul. He works with an assigned partner who shares a squad car with him. On this particular day he was the driver of the squad car while his partner Officer Ryle Reschke was in the front passenger seat. Around 12:18 AM on January 6, 2024, dispatch radioed over the air that there was a criminal sexual assault in progress at the address of 464 Thomas Avenue. The initial information provided to him, and his partner was that a 911 caller could hear a male beating and sexually assaulting a female. The caller stated the sexual assault and beating was happening in apartment #1 of the building. The caller stated the male was armed with a black handgun. Additionally, the caller stated that apartment #1 was a vacant unit and that there wasn't supposed to be anyone in the unit. The caller could hear a female screaming and crying. The caller stated the male was white and wearing dark colored clothing. A description of the female was also provided, her being a white female, with blonde hair and wearing a tank top.

At this point, Officer Needham stated he radioed to dispatch that he and his partner would be enroute to the scene. Officer Needham stated that he and his partners were only a few blocks from the call and anticipated that they would be the first officers to arrive. As they drove to the scene to keep up to date with the most current set of events at the scene, his partner continued to read updates provided by dispatch from their in-squad computer. Officer Needham drove with the squad car emergency lights on but did not activate the audible siren. He stated he didn't turn on the siren because he did not want to alert any possible suspects of their impending approach. Officer Needham stated he activated his body worn camera while driving the scene.

Upon arrival he parked their squad car one address away from 464 Thomas West. As he and his partner approached the building, he could see directly into apartment #1. He noticed there was an unusual purple and pink light emanating from inside of the apartment. As he looked at the window, he could see two shadowy figures quickly move from the window and out of sight. Officer Needham stated he believed that they two figures in the window were the male and female that the 911 caller was talking about. Officer Needham stated he was worried that the male had seen him, and officer Reschke approaching the scene and was forcing the female to the backroom out of the sight of officers. Officer Needham at this point stated he was also worried the male was forcing the female out the rear entrance of the building.

As Officer Needham approached the unit, he quickly began to look into the window to see if he could locate the male and female. The room was poorly lit and it was extremely difficult to see into the apartment. He moved between the outside front apartment

window to the rear entrance door window to locate the female and male suspect. Officer Needham visually confirmed that apartment # 1 ran all the way from the front of the building to the rear of the building. Officer Needham stated he went to the back entrance of the building and found the door to be locked. As he stood near the back entrance to the building an unidentified female opened the door. The female was not in distressed and appeared unrelated to the incident he and his partner was investigating.

As he entered the building, he could see a set of stairs going down to what he later learned was the laundry room area. He ran towards the stairs and down them, once there he could see into the laundry room as well as the door to apartment # 1. He also could see stairs leading up towards the front door entrance to the building. As Officer Needham stood by apartment #1, he could see Officer Reschke standing at the top of the stairs leading towards the front of entrance. While he stood at the doorway to apartment # 1, he saw Officer Reschke, with his department issued handgun drawn he began to move down the stairs to join him. Officer Needham stated he then aggressively kicked the door of apartment # 1 at its base and clearly announced that he was the Saint Paul Police, giving commands to the male suspect and female to open the door. Based on the information he'd been given about the call, and the violent nature of the assault described by the 911 caller Officer Needham stated he was only going to make the announcement of Saint Paul Police Open the Door once or twice before he would immediately force the door open.

Shortly after kicking at the bottom of the door and making announcements, the door was opened by a distressed looking female party. Officer Reschke could be heard giving the female several commands to get out of the apartment. The female did not immediately listen and instead turned around going back into the apartment to grab what looked like a bag, backpack or purse off the ground before returning to the doorway and exiting up the front stairs towards the entrance of the building. Officer Needham stated he did not have any interactions with the female, nor did he see her later.

As he stood at the entrance to the apartment, he saw Officer Reschke make a slight entrance into the apartment while trying to maintain cover and concealment from the male suspect who was still inside the apartment. Officer Needham stated he and Officer Reschke were worried for their safety as the male suspect was said to be armed with a handgun. Just moments after the female party fled the apartment Officer Needham could hear Officer Reschke give loud and clear verbal commands into the apartment stating, "Saint Paul Police, show me your hands, and slowly walk out of the room." Officer Needham then heard a male voice from inside the apartment loudly yell, "Fuck!" within fractions of a second Officer Needham saw Officer Reschke's demeanor quickly change and there was now fear on his face. Officer Needham could not see inside the apartment but could only see Officer Reschke's responses. He saw Officer Reschke moving backwards out of the apartment doorway and he could hear him loudly saying "Show me your hands! Hey!" Officer Needham stated it was evident to him that Officer Reschke could see the male suspect that was inside the apartment. Officer Needham could hear

that Officer Reschke's voice was becoming more desperate and forceful. It was clear to him that Officer Reschke was in fear for his safety and was quickly trying to move away from a threat.

Officer Needham stated he could see as Officer Reschke retreated from the doorway of the apartment; a white male party immediately appeared in the center of the doorway. It looked as though the male was running towards Officer Reschke. While the male was running towards Officer Reschke, Officer Needham stated he heard Officer Reschke call out loudly, "He's got something!" Officer Needham saw the male suspect without delay in forward momentum aggressively charge out of the apartment directly towards him. As the male suspect charged at him the male had his left arm in front of him swing it violently. Officer Needham stated he could see a metallic object in the suspects left closed fist and believe the male had a knife in his hand. Officer Needham then saw the male suspect swing his left fist in a stabbing motion towards him and his partner as the male continued to charge at him. Officer Needham saw that the male suspect's right arm was positioned behind the male's body as if the male was concealing another weapon. Officer Needham stated he was instantly fearful that the suspect was going to stab him or his partner and was afraid that the suspect had a firearm in his right hand, the hand that was concealed behind his body. The suspect was within in arm's length away from him and his partner. Officer Needham stated at this point, he believed that the male suspect was trying to kill him and expected to be stabbed or shot by the male suspect.

Officer Needham stated he then fired his department issued handgun three times in the suspects direction. He fired at the suspect to stop the threat. As he fired the suspect's distance to him continued to close, so much so that Officer Needham stated he couldn't fully extend his right arm forward to maintain a two-handed grip on his handgun. After firing at the suspect, the male immediately fell to the ground and became motionless. The male laid facedown with is head facing towards the apartment door. Officer Needham gathered that he was not shot or stabbed and quickly holstered his handgun. He then bent down and handcuffed the male and as he did, so he saw a plastic bag of drugs fall out of the male's clothing. Immediately after handcuffing the suspect, he was approached by Officer Reschke who per department policy after a shooting escorted him out of the scene. As he exited the building he could hear and see officers providing medical aid to the suspect. After speaking with a sergeant, he per department policy turned off his body worn camera and was transported to Saint Paul Police Department Headquarters.

Written Statement of Saint Paul Police Officer Ryley Reschke

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

On January 5, 2024, he was working his patrol division shift which is normally scheduled from 4 P.M. to 2 A.M. He and his partner Officer Joshua Needham were assigned to patrol the Western District of the City of Saint Paul. Both he and his partner were driving a marked police squad and wearing police uniforms which included police badge and

patches. He was also equipped with a body worn camera and a duty weapon. At about 12:18 A.M. he and his partner responded to a sexual assault in progress involving a handgun call located at 464 Thomas Avenue West Apartment Unit #1. Officer Reschke stated he and his partner Officer Needham were only about 7 blocks from 464 Thomas Avenue when the call for help came out. Their squad car is equipped with a laptop where information can be sent to officers regarding calls for service. The system they use is called CAD (Computer Aided Dispatch). As they responded to the call, CAD notes state the complainant called 911 saying that they could hear a male beating a female and that the male was sexually assaulting the female. CAD comments also stated that the apartment was vacant and not supposed to be occupied. The comments gave a description of the male being white wearing dark colored clothing with the female party being described as white, with blonde hair and wearing a tank top. Additionally, CAD comments informed officers that the male was armed with a black handgun and that the female was continuing to scream.

As he and Officer Needham arrived at the scene, he could see that the building was a two-story-split level with the front of the building facing the street. The front of the building had an entrance door in the middle and two sets of lower windows with two sets of upper windows to the left and right of the entrance door. He saw Officer Needham run towards the rear of the building while he went to the front of the building. Once inside the front of the building he saw a u-shaped staircase, with half a flight going up and half a flight of stairs going down. At the bottom of the stairs, he could see a white female with short blonde hair. The female pointed towards apartment #1 and said she was not the 911 caller but told him that the unit was supposed to be vacant. He asked her if there were any other points of entry into the building and she told him there was a back door to the building. As he was talking to her, he saw that Saint Paul Officer Bee Lor had arrived at the scene. He saw Officer Bee Lor remained outside of the building covering the Northeast side. Officer Reschke stated it was at this point he called out for Officer Needham to come to his location. At about the same time the female he was speaking to, walked towards the rear entrance of the building. A short time later he saw Officer Needham approaching him from the rear entrance. Officer Needham then walked down towards the door of apartment #1 and kicked the bottom of the door with his boot several times in a knocking manner while announcing "Police" loudly. Kicking the bottom of the door is a common police tactic when officers have their guns drawn. This method is intended as a knock method and not a breach the door tactic. The area in front of the door is a "small," measuring "approximately four (4') feet deep by six (6') feet wide." At the base of the stairs on the left was the door to Apt. 1. As he watched Officer Needham do this, Officer Reschke had his gun drawn holding his weapon at the low ready position. He then walked down the stairs to the lower landing area. The area is a small and tight space.

Shortly after Officer Needham knocked on the door with his boot, Officer Reschke could see a white female standing just inside the doorway. He ordered the female to show her hand and commanded her to walk out towards officers. He saw the female was fully

clothed. As he was giving commands to the female, he heard over the radio that someone was trying to climb out of a rear window to apartment #1. The female then exited the apartment past him, he did not know where she went as he was still focused on the inside of apartment #1. At this time, he did not know how many people were still inside the apartment and believed that the male suspect was in the back room trying to escape. Officer Reschke stated at this point due to reports of the suspect having a gun, he was still concerned for the safety of others and didn't know if there were still more victims in the apartment. He decided to make a slight entry into the apartment to see if he could get a view of the backroom. As he looked down the hallway into the backroom he yelled loudly "Police" and repeated the announcement several times. He commanded the suspect to show his hands and to slowly walk out of the room. He gave these commands several times. Officer Reschke stated he then heard several quiet noises coming from the back room. It sounded like small objects were being moved in the back room. Officer Reschke then continued to give commands to the suspect. He then heard a male suspect screaming something unintelligible and saw the male suspect sprint directly towards his direction. He saw that the suspect was holding something in his right hand, the object was being held like one would hold a handgun and was being brought up towards the male's face as if the male were aiming a gun. Officer Reschke looked at the object in the male's hand and saw that it was narrow, too narrow to be a handgun, but he could not discern what the object was. Officer Reschke believed the male was trying to get him to shoot him.

Officer Reschke retreated out of the apartment, while the suspect continued to fully sprint charging at him. Once outside of the apartment and in the small area at the bottom of the stairs he could see Officer Needham was now standing to his right just at the bottom of the stairs leading towards the back entrance. The suspect continued to charge at him. It was at this point he yelled out to officer Needham, "He's got something." Officer Reschke then saw the suspect continue to charge now in the direction of officer Needham still with the object in his hand while violently waving his arms. Officer Reschke then saw Officer Needham fire three shots towards the suspect. The suspect immediately contorted his body and fell the ground with his head facing down and away from officers. Prior to falling to the ground, the suspect had made it within an arm's length of Officer Needham. Officer Needham then placed handcuffs on the suspect. He heard Officer Needham saw that he had blood on his hands from handcuffing the suspect. The suspect was not moving and appeared to be unconscious. Officer Reschke then escorted Officer Needham out of the building as several officers entered the building to provide medical aid to the suspect.

#### **F. Body Worn Camera Footage (BWC)**

Saint Paul Police Officer Joshua Needham BWC

*Body Worn Camera Footage Duration 13 mins and 37 Seconds*

*Begins on January 6, 2024, at 12:22:39 AM; Ends on January 6, 2024, at 12:36:16 AM*

12:22:39: Video began. Officer NEEDHAM seated in the driver's seat of vehicle in motion.

12:23:09: Audio began.

12:24:28: Officer NEEDHAM exited vehicle at the scene and approached the apartment building.

12:24:49: Officer NEEDHAM walked along the side of the apartment building towards the backyard.

12:25:38: Officer NEEDHAM entered the apartment building through the backdoor, walked down a set of stairs and continued down the hallway to the apartment.

12:25:48: The apartment door was closed. 12:25:53: Officer NEEDHAM knocked on the apartment door with his foot.

12:25:55: Officer NEEDHAM announced, "St Paul Police, open the door."

12:26:09: Female opened the apartment door. Officer RYLEY RESCHKE announced "Show your hands."

12:26:18: Officer RESCHKE leaned inside the apartment and announced "Show your hands."

12:26:22: Female exited apartment.

12:26:23: Officer RESCHKE announced "St Paul Police, show me your hands, show your hands."

12:26:31: Officer RESCHKE announced "St Paul Police, show your hands and slowly walk out of the room."

12:26:33: Officer RESCHKE yelled "show your hands" and quickly backed away from the apartment and down the hallway.

12:26:34: Officer NEEDHAM backed up and the male subject quickly came towards him.

12:26:35: Overheard "He's got something" as Officers moved.

12:26:36: Several gunshots heard.

12:26:38: Male subject fell to the ground.

12:26:53: Officer NEEDHAM handcuffed the male subject.

12:27:26: Officer NEEDHAM exited the apartment building while other Officers entered to provide medical care.

12:31:11: Ambulance on scene.

12:36:16: Video ended.

Saint Paul Police Officer Ryley Reschke BWC

*Body Worn Camera Footage Duration 18 mins and 9 Seconds*

*Begins on January 6, 2024, at 12:22:37 AM; Ends on January 6, 2024, at 12:40:46 AM*

12:22:37: Video began. Officer RESCHKE in the passenger seat of vehicle in motion.

12:23:07: Audio began.

12:24:28: Officer RESCHKE exited vehicle at the scene.

12:24:47: Officer RESCHKE approached the apartment building.

12:24:48: Officer RESCHKE entered the apartment building, unknown female observed at the bottom of the stairs. Apartment door is closed.

12:25:53: Officer NEEDHAM observed with his service weapon out, knocking on the apartment door at the bottom of the steps.

12:25:56: Officer NEEDHAM announced, "St Paul Police, open the door." Officer RESCHKE partially down the stairs, apartment door to his left.

12:26:07: Apartment door opened by a female.

12:26:18: Officer RESCHKE announced "Show your hands" as he stepped inside the apartment.

12:26:22: Female exited the apartment.

12:26:25: Officer RESCHKE again announced, "Show me your hands."

12:26:32: Officer RESCHKE announced "St Paul Police, show your hands and slowly walk out of the room."

12:26:34: Officer RESCHKE quickly backed up and said, "Show me your hands."

12:26:35: Male subject ran out of apartment towards Officers. Officer RESCHKE backed up down the hallway. Overheard "He's got something."

12:26:26: Several gunshots heard.

12:26:53: Male subject observed on the ground.

12:26:55: Male subject handcuffed.

12:27:31: Officer RESCHKE escorted Officer NEEDHAM out of the apartment building while other Officers entered to provide medical attention to the male subject.

12:27:46: Male subject observed on the ground. Medical care being provided. Male subject conscious and stated he was shot in the left arm.

12:28:42: Officer RESCHKE put a tourniquet on the male subject's arm. Medical care continued.

12:32:10: Medical personnel on scene.

12:33:20: Medical personnel carried the male subject out of the apartment building.

12:33:45: Officer RESCHKE exited apartment building.

12:39:50: Ambulance left the scene.

12:40:46: Video ended.

Saint Paul Police Officer Alex Lemon BWC

*Body Worn Camera Footage Duration 19 mins and 25 Seconds*

*Begins on January 6, 2024, at 12:22:36 AM, Ends on January 6, 2024, at 12:42:01 AM*

12:22:36: Video began. Officer LEMON seated in driver's seat of vehicle in motion.

12:23:06: Audio began.

12:26:21: Officer LEMON exited vehicle and approached the apartment building.

12:26:31: Overheard from inside the building "Show me your hands."

12:26:34: Officer LEMON approached the front door.

12:26:37: Several gunshots heard. Officer LEMON did not enter the building and took cover on the corner of the apartment building

12:27:21: Officer LEMON entered the building.

12:27:33: Officer LEMON and an unknown Officer searched the apartment. No one else inside.

12:27:51: Officer LEMON exited the apartment. Male subject on the ground, medical care being provided by other Officers.

12:28:06: Officer LEMON exited the building.



12:28:40: Officer LEMON reentered the building.

12:28:42: Male subject on the ground, unknown Officer put tourniquet on male subject's arm. Officer LEMON provided medical care.

12:32:06: Medical personnel on scene. Officer LEMON exited the building.

12:40:11: Fire personnel left the scene.

12:42:01: Video ended.

#### **G. Firearms and Ballistics Evidence**

The Bureau of Criminal Apprehension Crime Scene Team conducted a search of the scene and located a total of three cartridge casings. Two casings were in the hallway floor and a third casing was located in the utility room. Three fired projectiles were located, with one located in the hallway floor and two others located inside the living room of Apartment #1.

Officer Joshua Needham was equipped with a department issued Glock Model 17 Gen5 9 mm Luger Caliber pistol bearing serial # BXNY490. Ballistics testing of his firearm and case analysis of the recovered cartridges on scene showed that the three casings found on scene were fired from Officer Needham's firearm.

Officer Joshua Needham was the only person who discharged a firearm on scene. No dangerous weapon was found on or near B.F.

It should be noted that a replica handgun was located on scene, but the replica handgun was not owned or used by B.F. The replica and airsoft style gun were owned by witness A.C. and not known to have been used or involved in the incident.

#### **H. Medical Intervention and Treatment**

B.F. suffered a gunshot wound to his upper left bicep. B.F. was initially provided medical treatment on the scene by several Saint Paul Police officers, and eventually from paramedics with the Saint Paul Fire Department. B.F. was transported by paramedics to Regions Hospital where he was treated for his non-life-threatening gunshot wound.

#### IV. LEGAL ANALYSIS AND RECOMMENDATION

##### A. Applicable Law

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

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

(i) can be articulated with specificity by the law enforcement officer;<sup>2</sup>

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

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

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

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

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

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

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

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

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

“(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

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

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

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

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

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

The United States Supreme Court has recognized in the case of Tennessee v. Garner, 471 U.S. 1 (1985), that the use of deadly force by a peace officer is justified where the officer has probable cause to believe that the suspect poses a threat of serious bodily harm either to the officer or to others. In Graham v. Connor, 490 U.S. 386 (1989), the Court further held that an objective reasonableness standard should be used to evaluate an officer's use of force. The determination of reasonableness requires "careful attention to the facts and circumstances of each particular case."

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

#### **B. Analysis and Recommendation – The Use of Deadly Force by Officer Needham Against B.F. Was Justified Under Minnesota Law**

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

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

Under this provision of Section 609.066, "the use of deadly force by a peace officer in the line of duty is justified only if an objectively reasonable officer would believe,

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

based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

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

Section 264.00 of the SPPD Officer Use of Force policy, also sets forth the following elements that SPPD officers are trained on when evaluating deadly force situations:

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

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

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

*Relevant Information Known to, and Observations Made by, Officer Needham Before He Entered the Apartment Building*

In his written statement, Officer Needham stated that before he entered the apartment building, he was aware of the following relevant information and observations:

- That "...dispatch advised via the radio of an in-progress CSC (Criminal Sexual Conduct) that was occurring at the address of 464 Thomas Avenue."
- That "[t]he initial information provided by dispatch was that the complainant called 911 to report that they could hear a male beating and sexually assaulting a female. The complainant advised that they lived in the unit above unit 1, where the sexual assault was occurring. The caller indicated that no one was supposed to be in unit 1. The complainant advised that they could hear the female screaming unintelligibly and crying."
- That the complainant described the male as a "white male with dark clothing," and the alleged victim as a "white female ...having long blonde hair and a tank top."
- That "[t]he complainant also advised that the male was in possession of a black handgun."

- That “[b]ased upon the location of our prior incident, I believed that Officer Reschke and I would be the first officers to arrive on scene.”
- That “immediately upon arrival, I was able to view into the unit due to the fact that the windows were not covered and saw that the unit was illuminated with an unusual purple/pink light.”
- That “I saw two dark shadowy figures inside the lower-level apartment through the windows who quickly moved from the front of the of the apartment to the rear of the apartment and out of my view.”
- That “I believed that that the two dark shadowy figures were the female victim and male suspect and that once the suspect observed Officer Reschke and I arrive on scene, he was forcing the female to a different area of the apartment where the two of them would not be visible to Officer Reschke and I. I also thought that the male suspect was potentially forcing the female out of the rear of the apartment building.”

The above-referenced portion of Officer Needham’s statement as to what he knew before he entered the apartment building are both consistent with and corroborated by the CAD messages sent to the officers’ in-squad car computer and video and audio taken from the ICC in their squad car and their respective BWCs. The apartment window observations of Officers Needham, Reschke, and Ezekisoe of B.F.’s evasive movements inside the apartment are also corroborated by B.F.’s statement to investigators.

The foregoing evidence shows that Officer Needham reasonably believed that he and Officer Reschke were likely to be the first officers to arrive on the scene of a reported in-process sexual assault being committed by a white male with a handgun against a blonde-haired white female inside of Apartment No. 1. This evidence is both relevant and necessary to show the totality of the exigent circumstances by which the officers were required to respond to this reported dangerous and rapidly developing situation with very little time for deliberation, and how Officer Needham’s knowledge of these circumstances reasonably informed his actions after he entered the apartment building.

*Actions Taken by Officer Needham After He Entered the Apartment Building*

Shortly after being admitted into the rear door of the apartment building by A.C., Officer Needham drew his department issued handgun as he proceeded to walk through the lower-level utility/laundry room towards the front of the building and Apartment No. 1. Officer Needham then observed Officer Reschke at the top of the stairs in the front of the building near Apartment No. 1 with his department issued firearm drawn.

Based on what they knew, Officers Needham and Reschke reasonably assessed a potentially dangerous situation as they arrived at the door to Apartment No. 1 and took prudent measures to minimize that danger.

For example, audio and video taken from Officer Needham's BWC show that immediately upon exiting from his squad car, he saw two persons inside the apartment retreating from the front of the apartment to the rear. Video and audio taken from Officer Ezekisoe's BWC also shows that B.F. had seen Officer Ezekisoe outside the rear apartment window and in response, he fled towards the front of the apartment. In his statement to BCA investigators, B.F. also acknowledged that he had seen police officers outside the apartment windows before he fled the apartment.

Both officers had then drawn their respective department issued handguns and held them in a ready position as Officer Needham used the tip of his shoe to loudly knock on the door approximately eight times. Simultaneously, Officer Needham loudly and clearly yelled, "Saint Paul Police! Open the door!" As H.S. opened the door, Officer Reschke calmly ordered H.S. to "Show your hands. Come on out. Come on out. Come on out," as an audibly distressed H.S. was gathering some of her belongings. Officer Needham asked her, "Do you have any weapons?" as Officer Reschke positioned himself slightly inside of the apartment door threshold.

Officer Needham was positioned in the exterior hallway a few feet in front of the door, with walls on either side of him, and the closed door of Apartment No. 2 behind him. Unlike Officer Reschke, Officer Needham had no meaningful line of sight inside the apartment and no ability to see any movements made therein by B.F.

With his line of sight from slightly inside the apartment oriented towards the rear of the apartment, Officer Reschke issued the first of two loud and clear commands for B.F., beginning with, "Saint Paul Police! Show your hands!", followed by "Saint Paul Police! Show your hands and slowly walk out of the room!" B.F. did not comply with those commands.

Instead, approximately only two seconds after the last command was issued, B.F. yelled "Fuck!" and ran out of the apartment door and charged at Officer Needham who was unable to safely retreat from the confined hallway area. As B.F. began running toward the door, Officer Reschke is seen quickly retreating to the adjacent utility room hallway and loudly warns Officer Needham, "Fuck! He's got something!"

It is clear from the video taken from Officer Needham's BWC, that B.F. suddenly emerged from the apartment and aggressively charged at him. This was the first time that Officer Needham had seen B.F. B.F. is seen holding a metallic object in his left hand and extending his left arm towards Officer Needham, who believed the object was a knife. B.F. also has his right hand behind his body thus preventing Officer Needham from seeing if he had another weapon in that hand. B.F. was so close to

Officer Needham, that the officer could not fully extend his right arm forward and maintain a two-handed grip on his firearm.

Officer Needham fired his handgun three time at B.F., with one shot striking him in the left bicep, resulting in non-life-threatening injuries.

In this matter, we are of the opinion that Officer Needham's account of the non-fatal shooting of B.F. as specifically articulated through his written statement is both consistent and corroborative with the other evidence reviewed by us and shows that at the time he used deadly force:

- That B.F. posed an imminent threat to his life and that of Officer Reschke as specifically articulated by the evidence presented to us, and that he had demonstrated both the ability and opportunity to fulfill that threat by suddenly and without provocation aggressively charging at him.
- That B.F. did this with knowing disregard that that police officers were outside of the apartment door and his refusal to comply with their repeated commands to slowly exit the apartment with both of his hands open and visible to the officers.
- That Officer Needham, who unlike Officer Reschke, did not have visual contact with B.F. while he was still inside the apartment, noticed that Officer Reschke's "voice became increasingly forceful, critical, and fearful sounding as it whatever he was seeing was becoming more serious and desperate by the fraction of a second...and that he appeared to be in fear for his safety and was trying to quickly move away from the threat."
- That Officer Needham saw Officer Reschke suddenly retreat to the utility room, while alerting Officer Needham, "Fuck! He's got something!"
- That B.F. suddenly exited the apartment and without warning, charged at Officer Needham at close quarters.
- That B.F. aggressively lunged toward Officer Needham with his left arm extended toward the officer while clenching a metallic object that the officer reasonably believed was a knife. Moreover, B.F.'s right hand was concealed behind his body in a manner that under the circumstances (i.e. a sexual assault in progress being committed by a white male with a handgun), the officer reasonably construed as possibly holding another weapon.
- That the video taken from Officer Needham's BWC shows B.F. moving his left arm towards the officer in a manner that supports the officer's description of that movement as being consistent with "a stabbing motion" and provided the officer with an objectively reasonable fear that B.F. was going to stab him or Officer Reschke.
- That because of where he was positioned in the constricted hallway space, Officer Needham had no place to safely retreat from the oncoming B.F.
- That B.F. was so close to Officer Needham, that he was not able to full extend his arms to grip his handgun with both hands before he fired three shots at him.



- That based on the totality of the above-described circumstances, Officer Needham was reasonable in his belief that his use of deadly force without unreasonable delay against B.F., was necessary to prevent being killed or suffering great bodily harm.
- That B.F. himself admitted that he was a “dumbass” for charging at Officer Needham, that the officer could not have known that he did not have a weapon, and that the officer was “completely justified to shoot” him.

For the foregoing reasons, we believe both that Officer Needham’s use of deadly force against B.F. was necessary, and thus justified, under Minn. Stat. 609.066, subd. 2(a)(1)(i-iii) and that Officer Needham also properly evaluated the above three elements set forth in the SPPD Use of Force policy before using that same deadly force.

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

Finally, the decision by Officer Needham to use deadly force against B.F. was not based on any known, or reasonably observed, acts or statements reflecting a “danger posed to self” displayed or made by B.F. Accordingly, we also believe that Minn. Stat. Sec. 609.066, subd. 2(b) is not implicated in this case.