

MEMORANDUM

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DATE: May 29, 2017

TO: James C. Backstrom, Dakota County Attorney

FROM: Phillip Prokopowicz, Chief Deputy Dakota County Attorney 

SUBJECT: In Regards to the Death of Jaime Joseph Lewis (D.O.B. 10/25/67)
BCA #2016-613
Burnsville PD #16-006173

Introduction

Jaime Joseph Lewis (D.O.B. 10/25/67) died from gunshot wounds he received during an incident involving Burnsville police officers that occurred on September 26, 2017 at 9:29 p.m. Earlier in the evening the Burnsville Police Department had received information that Lewis was suicidal and had left his Burnsville apartment with a handgun. A "KOPS Alert" had been issued to law enforcement to locate Lewis to check on his welfare. Burnsville Police Sergeant Steven Stoler and Burnsville Police Officer Brett Levin, with the assistance of a Minnesota State Patrol helicopter, located Lewis lying along the side of business building. Officers observed a handgun in Lewis' hand. Officers repeatedly yelled to Lewis to drop the gun. Lewis did not comply with the officers commands. Stoler reported that he observed Lewis sit up and point the gun in his direction. Stoler stated that under the belief that he or others were about to be shot, he responded by discharging his department issued rifle multiple times. Lewis was struck three times and died as a result of the gunshot wounds. No other officers reported discharging a firearm during the incident.

At the request of the Burnsville Police Department, the Minnesota Bureau of Criminal Apprehension (BCA) became the lead investigative agency for the incident. On May 9, 2017 the BCA delivered its case file to the Dakota County Attorney Office, which included the following investigative documents:

- 911 Call and CAD notes;
- Hennepin County Medical Examiner's autopsy report;
- Burnsville Police Department Axon Body Camera Videos from responding officers;

- Burnsville Fire Department reports;
- BCA forensic lab reports and results of forensic analysis performed by the lab;
- Recordings and transcriptions of statements taken from officers Stoler, Levin, Hasselman; Carlson, and Nacey;
- Burnsville Police Department incident and supplemental reports related to the incident;
- Scene photographs;
- Search warrants and inventories of items seized during the search;
- Minnesota State Patrol reports and helicopter video; and
- Training records for Sgt. Stoler.

The following is a summary of the investigative file forwarded to our office by the Minnesota Bureau of Investigation.

Case Summary

A. Initial Report

On September 26, 2016, at approximately 8:22 p.m., officers with the Burnsville Police Department were dispatched to a reported “crisis call” from an apartment located at 1605 Cliff Road East in Burnsville. The dispatcher advised officers that the reporting person's ex-boyfriend, identified as Jamie Lewis (DOB: 10-25-1967), had just left the apartment on foot, was carrying a gun, and was planning to kill himself.

Burnsville police officers went to the apartment and spoke with a person who identified herself as Lewis' former girlfriend (hereinafter identified as “C.H.”). C.H. told officers that she had recently ended her relationship with Lewis and that he had been extremely upset over the breakup. According to C.H., over the past four days Lewis had been making numerous suicidal comments and seemed extremely unstable. C.H. stated that earlier in the day she had returned home at approximately 2:45 p.m. and began discussing relationship issues with Lewis. She stated that at approximately 6:30 p.m., Lewis's adult son came over to the apartment and she informed the son that she was breaking up with Lewis and that he was feeling suicidal. She stated that Lewis' son talked with Lewis briefly and left the apartment at approximately 7:30 p.m. C.H. told officers that after the son left she continued to speak with Lewis and he continued to make suicidal comments. She stated that she saw him leave the apartment with a handgun. C.H. told officers that Lewis had a history of severe depression, but was not currently on any medication. She also stated Lewis was a convicted felon and that he had previously expressed feelings that he couldn't do anything with his life because of that. She stated that he told her he would do ten years in prison if he got caught with a gun and that he would rather die than go back to prison. Officers relayed this information to Dakota County Communications Center (DCC).

B. 911 and Dakota County Communications Center (DCC) call logs.

Dakota County Communications Center (DCC) 911 transmissions and call logs relating to the incident were collected by BCA investigators and reviewed. The following information was published by DCC to Burnsville police officers on September 26, 2016, beginning at 8:22 p.m.:

- Lewis' girlfriend had broken up with him, he had quit his job, he was suicidal, and had left the apartment approximately 5 minutes ago on foot in an unknown direction with a gun to kill himself;
- Lewis' name, date of birth and physical description;
- Lewis was a convicted felon and said that he would "go down fighting" and believed he would go to prison for 10 years if he gets caught with a gun;
- Lewis had been diagnosed with depression;
- Lewis had been planning to commit suicide for days;
- Lewis had been drinking beer and had taken some "No Doze";
- Lewis left the apartment without his cell phone; and
- Lewis had stated that he was going to go to some business to commit suicide so that his son would not find him.

At the request of the Burnsville Police Department request, a "KOPS Alert" was issued to law enforcement officers at 8:51 p.m. to locate Lewis and check on his welfare.

C. Minnesota State Patrol Helicopter Report and Video

Burnsville police requested the assistance of a Minnesota State Patrol helicopter with a FLIR (heat sensing device) to assist in the search for Lewis. The helicopter arrived and immediately began an aerial search of the area surrounding the apartment complex. At 9:28 p.m. the helicopter using its heat sensing "FLIR" technology, located a heat source later identified as Lewis lying prone on the ground on the east side of a commercial building that was adjacent to Lewis' apartment complex. The helicopter pilot notified Burnsville police officers and directed them to the location. The helicopter continued to monitor the location of the person using FLIR and video recorded the police response to the location and contacts with Lewis.

As part of the investigation a copy of the video recording was obtained and reviewed.¹ The following events are depicted on the video:

- 9:28:14: "heat object", later identified as Lewis, appears lying on the ground in a prone position along the side of the building. Ground

¹ It was subsequently determined by BCA investigators that the time stamps reported on the helicopter video are five minutes fast. The helicopter video times referenced in this memorandum reflect the actual time.

officers are directed to the location by helicopter personnel.

- 9:28:46: Ground officers (Levin and Stoler) arrive and park in entryway to the parking lot of the business.
- 9:29:12: A ground officer is heard making a request for a shield to be brought to scene.
- 9:29:30: Lewis continues to lie prone on the ground. He is observed in the video raising an object with his right hand to his head and lowering it back to his stomach area.
- 9:29:36: A ground officer is heard stating “gun in his hand”. Lewis is observed to again raise an object to his head and lower it to his stomach area. Lewis repeats this action again.
- 9:29:50: Lewis appears to sit up and hold the object in both hands.
- 9:29:52: Lewis falls over to his right side. The object appears to fall from one of his hands as he is falling over.
- 9:30:00: A ground officer reports “shots fired”.
- 9:30:48: Lewis is observed to be moving as he is lying on the ground.
- 9:40:22: A team of police officers and police canine are observed approaching and subsequently securing Lewis.

D. Summary of Sergeant Steve Stoler’s Statement

Burnsville Police Sergeant Steve Stoler provided a statement related to the incident to BCA Special Agents Michelle Francone and Scott Mueller on September 28, 2017. At his request, and per Burnsville Police Department policy, Stoler was allowed to view his Axon body cam video prior to providing the statement.

Stoler stated that he has worked for the Burnsville Police Department for 13 years. He has a four year college degree and completed a twelve to sixteen week skills course through Metropolitan State University. For the past four years he has been a patrol sergeant with the department and member of the department’s SWAT team. His past Burnsville Police Department assignments include patrol officer, street crimes officer, and drug task force officer. He successfully completed his firearm qualification requirements (subsequently verified through department training records). He also completed use of force training and, as a member of the

department's SWAT team, receives monthly firearms training (subsequently verified through department training records).

Stoler stated he was on duty as a patrol sergeant on the evening of September 26, 2017. He was in full uniform and equipped with an Axon body camera that was mounted on the left collar of this uniform shirt. That night he was driving an unmarked black police SUV squad car. Inside the squad was an H&K 416 .223 rifle with a Trijicon MRO optic sight with a Gemtech suppressor. The rifle carries 28 rounds in the magazine.

Stoler stated he responded to the area of 1601 East Cliff Road to assist other officers after receiving a dispatch that a male party had left an apartment with a handgun with ammunition and was suicidal. Upon arrival he received additional information from dispatch and other officers that a wife or a girlfriend had reported that the suicidal person, who was a convicted felon, had previously made comments that he was not going back to prison, and the police were not going to stop him. He was also advised that the person had stated he was going to go to some nearby businesses where others could not find him to commit suicide. Upon receiving the above information Stoler and other officers left the apartment complex in his squad to search for Lewis at nearby businesses and to secure the nearby area in order to protect the safety of potential bystanders.

Stoler stated that a state patrol helicopter arrived and they were advised that a heat signature had been located by the helicopter personnel along the side of a nearby business building (The building is adjacent to Lewis' apartment complex). Helicopter personnel directed him to the driveway of the parking lot of the business near the building. Stoler parked his squad on the right side of the driveway leading into the parking lot. Stoler recalled Officer Brett Levin parking his squad on the left side of the driveway. Stoler was informed by helicopter personnel that the heat signature was a human as they had observed it moving. Helicopter personnel reported that the person was in a prone position. Stoler became concerned that he and other officers may be ambushed as the person was allegedly suicidal, had left the apartment on hour earlier with a gun, and had not yet killed himself. Stoler was also concerned as it was reported that the person was in a prone position, which from his training he knows provides a stable shooting position.

Stoler stated that he exited his squad with his rifle. He could not see around the corner of the building and moved to a position near the driver's door of Officer Levin's squad car in order to get a better vantage point. Levin had pointed his driver's door squad spot light to the side of the building where the helicopter pilot had reported observing the person. Stoler took a position behind the driver's door of Levin's squad, right behind the spotlight. As he rested his rifle, he immediately saw a silhouette of a person and what he believed to be a handgun in the person's hand.² Stoler stated that he observed the person hold the gun to the side of his head. He immediately radioed to responding officers that he had a person at gunpoint, and that the person does have a gun. Stoler yelled to the person that they were Burnsville police officers and for the person to "drop the gun". Stoler recalled the person holding the gun to his head, bring it down, do something with the gun, and again bring it back to his head. He recalled:

"I was thinking, I got this apartment complex right next to it. These people that won't listen and go back in the business. I have a relatively busy road directly

² From the Axon body camera it appears Stoler was looking through the optic scope of his rifle at the time he made this observation.

behind me. I was getting very concerned at this point what, what the issue was here and what he was gonna do with this gun. Um, and then it, it seemed clear as day he sat up, turned and pointed it directly towards me. The gun. Um, the gun actually looked, at this time it looked larger than normal like it, I mean it, it, it looked like I was looking down the barrel of the gun. Um, I immediately thought he was gonna shoot me. I uh, I was extremely concerned. I was concerned for my partner. Um, as well as the traffic if he starts firing rounds off. This is, this is a real bad area especially with the, the apartments next to us. Um as soon as that gun pointed at me um I pulled the trigger. What seemed like four to five times.”

Stoler stated that after he pulled the trigger a couple of times nothing really seemed to happen other than the person started rolling towards the longer grass along the side of the building. He became concerned that the person was going to go into the nearby tall grass and that it would create an “extremely dangerous situation where we can’t see him. Um, and I didn’t know if my rounds initially were effective because he was still moving and rolling. And, so I, I continued to pull the trigger and then he stopped. So I stopped firing.”

Stoler stated he immediately reported on the radio that there were shots fired. He continued to observe the person through the optic scope of his rifle. Stoler indicated that he did not know for sure if any of his shots had hit the person and was concerned that the person may get up and start shooting at the officers. Stoler directed a team of officers to cautiously approach the person with a ballistic shield and a police canine. Stoler remained at Levin’s squad driver’s door with his rifle trained on the person as officers approached.

E. Summary of Officer Brett Levin’s Statement

Officer Brett Levin provided a statement to BCA Special Agents Michelle Francone and Brent Peterson September 27, 2017. Levin became a licensed peace officer in 2014 and had been working as a patrol officer with the Burnsville Police Department since April of 2016. At the time of the incident Levin had activated his Axon body camera, but did not view the recording prior to providing the statement to BCA investigators.

Levin’s stated he was working as a patrol officer the evening of September 26, 2016 when he responded to a call that a suicidal male had left an apartment complex with a handgun. He later learned that the male was “not going down without a fight, if the police were involved”. As he was responding, he heard Sgt. Stoler on the radio advising responding officers that they should pair up with another officer before conducting any searches for the person. Levin drove to Stoler’s location and paired up with him and began to search the surrounding area for the person and to secure the area to protect the safety of innocent bystanders.

Levin recalled the helicopter arriving and directing them to a heat signature along the side of a nearby business. He parked his squad in the entryway leading to the parking lot of the business, to the left of Stoler’s squad. Levin used his squad spotlight to look for the person along the side of the building. Levin observed a dark object between the bushes and the building. Levin turned his squad spotlight toward the object and observed a person holding a handgun. Levin exited his squad with his rifle. Levin raised his rifle and immediately began to shout “Police, Burnsville Police. Drop the weapon, put your hands in the air”. Levin recalled seeing Stoler next to him on his right side. Levin stated that as he looked through the optic scope on his

rifle he observed the person continue to hold the gun. Levin stated that at this point he was thinking "this is for real. He's gonna kill me." He then heard multiple shots being fired from Stoler's rifle. He recalled Stoler stating "he's pointing a gun at us." Levin continued to look through his rifle scope and noted that it appeared that the person was attempting to crawl to the nearby bushes. The person eventually stopped moving. Levin maintained his position as a team of officers with a ballistic shield approached the person and secure him.

F. Summary of Statement of Officer Brian Hasselman.

Officer Brian Hasselman was interviewed on September 27, 2016 by BCA Special Agents Michelle Frascone and Brent Petersen.

On September 26, 2016, Hasselman, along with his K9 partner "Rex" were on duty when he received a dispatch that a male had left an apartment with a gun and had intentions of killing himself. Hasselman recalled that officers became very concerned for their safety and the safety of others as they had received reports that the person wanted to harm himself, was armed with a gun, and that he was a convicted felon who had stated that under no circumstances was he going to go back to prison because he knew if he had gun on him he was going to do at least ten years. He assisted other officers in searching for the person and securing the area. Officers located a motor vehicle associated with the person in the parking lot of a business next to the apartment complex. He assisted other officers in searching the vehicle. No one was found inside the vehicle.

Hasselmann recalled that a state patrol helicopter arrived and located a person along the side of a nearby business. Hasselman heard Sergeant Stoler on the radio state, "we're out with him and he's got a gun". Stoler requested that he and Officer Carlson respond to his location. Hasselman drove to the location. When he arrived he saw Stoler out of his squad with his rifle out. As he opened the squad door he heard Stoler yell "drop the gun" and then a gun shot. Initially he did not know if an officer or another person had fired the gun. He went to where Stoler and Levin were standing. He then went to a position on the other side of the squad and crouched down. He believed he heard Stoler again yell "drop the gun" and then "I, I'm not 100 percent certain if there was another round fired or not. I just, I cannot remember, I just don't, I don't know. Um, I'm not sure, I believe he said "drop the gun" again. And then there was another shot, and then I, err, I don't know if there was another shot. I, I'm just not 100 percent certain. Yeah, I don't know. There may have been, you know, I just don't know." He then returned to Stoler's and Levin's location and was able see in the distance someone lying on the ground. He recalled seeing the body move slightly. It was determined that he and a team of officers would approach the person with his canine and a ballistic shield. He took the canine to a location where Officer Carlson and other officers were stationing with a ballistic shield. He along with his canine and other officers began to cautiously approach the person. Officers noticed that the person was not moving. When they got to the person he was immediately handcuffed for officer safety. Once the person was secured he returned to his squad with his canine.

G. Summary of Statement of Officer Mitch Carlson.

Officer Mitch Carlson was interviewed on September 27, 2016 by BCA Special Agents Michelle Frascone and Brent Petersen.

Carlson stated on September 26, 2106 he was getting ready to start work and heard that there had been a report of a suicidal male with a gun. He got in his squad car and drove to the scene to assist. In his squad car was a ballistic shield. Carlson recalled hearing that the person was a convicted felon and that he was not going to go back to prison, and was not going to cooperate with police. Upon arrival Carlson went to a nearby business parking lot and assisted other officers in searching a motor vehicle that had been associated with the person. No one was found inside the vehicle.

Carlson recalled a state patrol helicopter arriving and detecting a heat source along the side one of the buildings. Sergeant Stoler requested Carlson and Officer Hasselman to respond to his location with the ballistic shield. As he drove his squad to the location Stoler radioed that they had a male at gun point that had a gun. Carlson got out of his squad to retrieve the ballistic shield. As he was doing so he heard Stoler yell multiple times for the person to drop his gun. He then heard a gun being fired. He ran over to where Sergeant Stoler and Officer Levin were. He observed a male on the ground. It appeared that the person was still moving. A team of officers was formed and started approaching the person with the ballistic shield and police canine. As they approached the person they continually yelled for the person to show us his hands. When they got to the person they handcuffed him and started to perform first aid on him. Burnsville para medics arrived and they checked for a pulse, and hooked up one of their medical machines. The paramedics pronounced the person dead at the scene.

H. Axon Video Summaries.

Burnsville Police Department supplies its officers with Axon body cameras to record and document events. Department policy states officers should activate the body camera in all field contacts involving actual or potential criminal conduct, field activity which would normally result in notification to the Dakota County Communications Center, calls for service where the recording may aid in the apprehension and or prosecution of a suspect, adversarial contacts, and any other circumstances where the officer through training and experience believes that the recording of the incident would be appropriate. Once a camera is activated, there is a 30 second delay in the audio portion of the recording.

BCA investigators collected Axon videos from all responding Burnsville officers who activated their body camera at any time in response to the incident. All the videos were reviewed and compared to incident reports and statements provided by responding officers. There were no significant discrepancies noted between the incident reports, statements and recordings.

Sergeant Stoler's Axon body camera was activated at 9:28 p.m. The entire video is eight minutes and eight seconds long. Stoler is initially observed exiting his squad and taking position behind the driver's door of Levin's squad. Once he reaches the driver's door the video depicts Levin's squad spotlight shining on Lewis who is lying on his back along the side of a building.

Lewis appears to be approximately 30 to 40 yards away. On two occasions it appears that Lewis is using both hands to raise an object above his body. Due to the distance and quality of video it cannot be determined what he is holding in his hands. As Stoler raises his rifle and looks down the rifle's optic scope the video moves from the person to Stoler's rifle.³ The audio begins at the 30 second mark of the video. Officers are heard yelling "drop the gun, drop the gun, Burnsville Police drop the gun, drop the gun". At the 39 second mark there are seven consecutive gun shots. At the 49 second mark Stoler is heard stating "shots fired". At the 1 minute mark Stoler is heard stating "He sat up and pointed the gun at us." The remainder of the video depicts Stoler directing officers on how to respond and providing cover for a team of officers who are attempting to approach the person with a ballistic shield and police canine.⁴

Officer Brett Levin's Axon body camera was activated at 9:28 p.m.⁵ The entire video is twenty one minutes and eighteen seconds long. The video depicts Levin arriving at the scene and parking his squad. Levin is observed turning his squad spotlight on Lewis who is lying in the grass on his back approximately 30-40 yards away. Levin raises his rifle and as he does it blocks the sight line of his body camera to Lewis. Levin periodically lowers his rifle which re-establishes the camera's sight line to Lewis. On one occasion Lewis appears to be holding an object in his hands. Due to the distance and quality of the video it is unclear what the object is. Levin again raises his rifle blocking the body camera sight line to Lewis. At the 30 second mark the audio begins and you can hear officers repeatedly yell "Police, hands in the air, keep your hands in the air." At the 41 second mark you can hear an officer in the background state "he's got a gun in his hand." At the 45 second mark you hear the officers repeatedly yell "Drop the gun, Burnsville Police, Drop the gun." At the 58 second mark you hear seven consecutive gun shots. At the 1 minute and 18 second mark an officer is overheard stating "he sat up and pointed the gun at us." The remainder of the video depicts Levin providing cover for the team of officers who approach Lewis.

Officer Mitch Carlson's Axon body cam was activated at 9:29 p.m. The entire video is twelve minutes and twenty three seconds. The video depicts Carlson arriving to the scene, parking his squad, going to the rear seat of his squad and taking a position near Stoler and Levin. Because of his position there is no depiction of Lewis or his actions prior to gun shots. The audio begins at the 30 second mark after Stoler discharged his rifle. Carlson is heard asking whether he should get the ballistic shield. The remainder of the video depicts the formation of team of officers who approach Lewis and secure him. As they are approaching Lewis officers are heard stating that there is a gun on the ground near Lewis.

Officer Brian Hasselman's Axon body cam was activated at 9:29 p.m. The entire video is 10 minutes and 48 seconds. The video depicts Hasselman arriving to the scene, parking his squad, and running towards Stoler and Levin. At the 30 second mark the audio begins and officers are heard yelling "drop the gun" followed immediately by seven gunshots. Due to

³ This is expected as Stoler turned his body into the rifle as the Axon camera is mounted on left side collar of his uniform.

⁴ Stoler reactivates his Axon body camera at 9:40 p.m. The entire video is 5 minutes and 40 seconds. The video depicts what appears to be Stoler removing a magazine and cartridge from his rifle and placing the items in a plastic bag. It then depicts Stoler placing the rifle in a rack in his squad and taping off the area immediately around the squad cars with police tape.

⁵ Levin's Axon body camera was activated approximately 18 seconds before Stoler's.

Hasselmann's position there is no depiction of Lewis or his actions prior to gun shots. The remainder of the video depicts Hasselman retrieving his police canine from his squad and the formation of team of officers who approach Lewis.⁶

The Axon body camera videos from all other officers who responded to the incident were also reviewed. However, many of the videos involved contacts related to other aspects of police responses to the initial report. There does exist Axon body camera videos from officers who arrive immediately after Stoler discharges his rifle. However, these videos do not depict Lewis' or Stoler's actions prior to the rifle being discharged.

I. Physical Evidence and Forensic Analysis.

The following items were recovered by BCA investigators and analyzed:

- Items 1-7: Seven "FC .223 REM cartridge cases collected from the parking lot.
- Item 8: One M4 Automatic .223 caliber rifle reported as being used by Stoler.
- Item 9: One fully loaded .45 Caliber Star Firestar handgun collected from the ground near Lewis body. There was blood on the slide and grip of the gun and the safety was off. DNA swabs were taken from the firearm. DNA obtained from the blood on the grip and the base of the gun magazine matched the known DNA of Lewis.
- Item 10: One empty "Summit" beer bottle collected from the ground near Lewis body. DNA obtained from the mouth of the beer bottle matched the known DNA of Lewis.
- Item 11: One blood collection kit containing a known blood sample from Sgt. Steve Stoler. No controlled substances or ethyl alcohol was detected in the sample.
- Item 12: Known major case prints from Jamie Joseph Lewis taken during the autopsy
- Item 13: One blood collection kit containing a known blood sample from Lewis taken during the autopsy
- Item 14: Bullet fragments from Lewis left femur determined to have been fired from Item 8 (Stoler's rifle).
- Item 15: Bullet fragments from Lewis back determined to have been fired from Item 8 (Stoler's rifle)

J. Medical Examiner Report.

An autopsy on Jamie Lewis was performed by the Hennepin County Medical Examiner on September 27, 2016. It was determined that Lewis died as a result of multiple gunshot wounds. There was an entrance gunshot wound on the anterior of the left arm of Lewis. A projectile (bullet) was recovered from the rear of the arm. A second gunshot entrance wound was detected on the inferior left side of Lewis's back. A trajectory path was located traveling through the left rib, through the lower left lung and exiting on the superior left side of his back. A third gunshot wound was located on Lewis left leg. A projectile (bullet) was recover from his

⁶ As Officer Hasselman is approaching Lewis with the team of officers his body camera falls off his uniform to the ground and video goes dark.

femur. The toxicology report indicated Lewis had an ethyl alcohol concentration of .062. No controlled substances were detected.

K. Stoler's Training Records.

A review of training records supplied by the Burnsville Police Department indicate that Stoler received "Use of Force" training consistent with state law in March of 2015. Training records also indicate that Stoler qualified with the H&K 416 .223 rifle in March of 2016.

