

MARCH 2, 2020



**REPORT OF THE HENNEPIN COUNTY
ATTORNEY'S OFFICE REGARDING THE
POLICE USE OF DEADLY FORCE ON MARIO
PHILIP BENJAMIN ON AUGUST 2, 2019**

INTRODUCTION

The evidence in this case does not support the filing of criminal charges against Officer Jason Wolff for the fatal shooting of Mario Benjamin. When Officer Wolff shot Mr. Benjamin, Mr. Benjamin was holding a firearm that he had been refusing to drop despite numerous commands to do so. Officer Wolff had every reason to believe Mr. Benjamin had just shot Victim, who was obviously recently and seriously injured and lying on the ground between them. Officer Wolff fired to protect himself, Officer Davis, Victim, and the public from the danger the armed Mr. Benjamin posed. From an objective standpoint, any reasonable officer would have perceived an apparent threat of death or great bodily harm.

STATEMENT OF RELEVANT FACTS

Initial Call and Shootings

On August 2, 2019, at 2:47 a.m., Minneapolis ShotSpotter technology detected two gunshots near the intersection of 25th Avenue North and Emerson Avenue North in Minneapolis, Hennepin County. The gunshots were approximately 40 seconds apart.

Minneapolis Police Department (MPD) Officers Jason Wolff and Ryan Davis were on patrol approximately three blocks south of the shots on Emerson Avenue. Officers Wolff and Davis were working in squad 461 with Officer Wolff driving. Personnel and training records obtained during this investigation show that both are fully trained and competent police officers. Officer Davis noticed a communication on their in-squad computer from MPD dispatch that ShotSpotter detected one round fired and they headed in that direction. They then received the second ShotSpotter notification.

Less than a minute after the second ShotSpotter notification and while the officers were still on their way, dispatch notified them that a 911 caller reported someone had been shot.¹ Both officers activated their body worn cameras (BWC) and left them recording for the remainder of the event. Their BWCs captured the entire incident. Officer Wolff, who had been a Minneapolis Police Officer since 2013 and has worked continually in the city's Fourth Precinct, initially believed that the ShotSpotter alert resulted from someone test firing an illegally purchased firearm or drunkenly discharging a firearm. For this reason, Officer Wolff did not activate his lights and sirens while traveling to the scene, so there is no squad video of the incident. When dispatch advised Wolff of the 911 call, however, he became aware he was responding to a shooting. He then activated his BWC and emergency lights, but not his squad video recorder.²

As the officers arrived, they saw a woman who appeared to have been shot lying in the middle of the street. This known adult woman is referred to in this report as "Victim." A man,

¹ The first 911 call regarding the shooting was at 2:49 a.m., two minutes after the ShotSpotter alert. In Minneapolis, as in most cities, patrol officers do not hear the actual 911 calls over their radios. Officers receive information from dispatchers, who obtain their information from 911 call takers.

² Approximately 20 minutes after the shooting, a responding officer activated the video recorder in Squad 461.

Mario Benjamin, was crouched over Victim with a cigarette in his mouth. Witness 1, Victim's thirteen-year-old child, was standing about six feet away to Mr. Benjamin's right, and walked toward a large van parked nearby as officers approached. Both officers got out of the squad car and asked Mr. Benjamin where Victim had been shot. Mr. Benjamin, still crouched down over Victim, replied only, "She shot."

Mr. Benjamin stood up and Officer Wolff saw that Mr. Benjamin had a handgun in his right hand pointed at his (Mr. Benjamin's) own head. BWC video shows that Mr. Benjamin quickly and quietly said, "I'm not going to hurt you" before raising his left hand, palm up, toward Officer Wolff. Officer Wolff unholstered his firearm and pointed it at Mr. Benjamin while commanding Mr. Benjamin to drop the gun. Officer Davis, who had been leaning over Victim, drew his firearm and backed away from the area.

Mr. Benjamin remained standing with his left side facing Officer Wolff, now approximately ten feet away. Officer Wolff yelled at Mr. Benjamin to drop the gun nine more times (ten times total) and radioed, "one man with a gun." Mr. Benjamin did not lower the firearm from his head, but briefly dropped his empty left hand to his side before raising it again.

As Officer Wolff continued to command Mr. Benjamin to drop his gun, a young child was standing approximately 20 feet behind Mr. Benjamin, between the van and another parked car. Investigators later identified this child as Mr. Benjamin's six-year-old child in common with Victim, Witness 2. Another one of Victim's children, fifteen-year-old Witness 3, removed Witness 2 from the area, and they both went behind the van.

Officer Wolff fired six shots in Mr. Benjamin's direction, striking him at least five times. After Mr. Benjamin went to the ground, Officer Davis walked over to Mr. Benjamin and kicked a handgun away from his body. Officer Davis handcuffed Mr. Benjamin as Officer Wolff asked Victim "are you okay?" and "where are you shot?" Victim continued lying on the ground, screaming "I can't feel my leg" and "please help me." Officer Wolff walked over to the handgun that Officer Davis had kicked away from Mr. Benjamin and documented its location on his BWC.

MPD Response

Responding MPD officers arrived within 30 seconds of Officer Wolff shooting Mr. Benjamin. They secured the scene, administered emergency medical care to Mr. Benjamin and checked on the welfare of Victim's children. In addition to the previously mentioned children, officers found a fourth child sleeping in the van. Investigators later identified this five-year-old child as Victim's child in common with Mr. Benjamin.

Sgt. David O'Connor arrived at the scene and became the incident commander in accordance with MPD policy. As the incident commander, Sgt. O'Connor was responsible for asking Officer Wolff and Officer Davis public safety questions.³ Sergeant O'Connor escorted

³ When police respond to a scene such as a shooting where there is an immediate threat to public safety, officers may ask involved parties/shooters questions necessary to protect the public or themselves before giving a Miranda warning. *New York v. Quarles*, 467 U.S. 649 (1984); *State v. Caldwell*, 639 N.W.2d 64, 68 (Minn. Ct. App. 2002).

Officer Wolff to his (O'Connor's) squad car and asked Wolff if there was, "anyone that's not... that could be possibly hurt that's not in the street right now?"⁴ To this, Officer Wolff replied, "not that I'm aware of."

A short time later, Sgt. Eric Nelson escorted Officer Wolff from the scene to MPD headquarters. Officer Michael Mays escorted Officer Davis to MPD headquarters. Neither officer discussed the shooting with their escort officers.⁵

MPD requested that the Minnesota Bureau of Criminal Apprehension (BCA) investigate the shooting.

Officer Wolff's Statement and BWC Video

On August 4, 2019, Officer Wolff provided a voluntary statement to investigators from the Minnesota BCA. Personnel and training records obtained as part of this investigation show that Officer Wolff has been a competent and fully trained Minneapolis Police officer since 2013. Officer Wolff elected not to review his BWC video before speaking with investigators.⁶ His attorney, who had watched Officer Wolff's video, was present for the interview.

Officer Wolff said that when he arrived and saw Mr. Benjamin crouched over Victim, he thought Mr. Benjamin was assisting Victim and did not know Mr. Benjamin was the person who had shot Victim. As Wolff approached, he saw blood on Victim's shoulder. At this point, Officer Wolff said he and Mr. Benjamin were so close they could have "bonked heads."

When Mr. Benjamin stood up, Officer Wolff saw a tan pistol in Mr. Benjamin's right hand. Officer Wolff was shocked and went for his own handgun. Officer Wolff recalled that Mr. Benjamin had the gun pointed down at first, "cheeking" it, which is a term meaning holding a gun behind one's leg and pointing it straight down. Officer Wolff said that because he had been bent over while checking on Victim, when Mr. Benjamin raised his gun past Wolff, Benjamin's gun was at Wolff's eye level, and pointed at him for an instant. Mr. Benjamin then put his gun to the right side of his own head. Officer Wolff did not recall Mr. Benjamin saying anything.

Officer Wolff said that when he drew his firearm, he accidentally turned on the strobe light attached to his gun for approximately two seconds and then turned it off. After telling Mr. Benjamin to drop his gun multiple times, Officer Wolff realized that it was Mr. Benjamin who had shot Victim. This led Officer Wolff to believe that because Mr. Benjamin was refusing to

⁴ Earlier, a patrol officer asked Officer Wolff if he was the only shooter and Wolff confirmed that he was. Later that night, Sgt. Eric Nelson asked Sgt. O'Connor if he obtained a public safety statement from Officer Wolff and Sgt. O'Connor replied, "brief."

⁵ Both Officers Wolff and Davis kept their BWCs activated during their rides to MPD headquarters. Officer Wolff eventually turned his off at the direction of Lt. Bob Kroll, who called Sgt. Nelson's cell phone to speak with Wolff. Wolff was in Nelson's squad outside MPD headquarters at that time. Officer Davis turned his camera off approximately 20 minutes after that while sitting inside MPD headquarters at the direction of an unknown officer.

⁶ The BCA defers to the originating agency's policy on whether officers can review their BWC footage before providing a statement. In addition to Officer Wolff's attorney, MPD Lt. Bob Kroll and MPD Sgt. Cory Fitch also watched Wolff's BWC video the night of the shooting.

drop his gun, Mr. Benjamin could and might shoot him (Wolff), Officer Davis, or shoot Victim again. Officer Wolff fired three or four times until Mr. Benjamin collapsed and dropped his gun.

While Officer Wolff's BWC video corroborates most of the information he provided in his interview, there are four significant differences. First, the BWC footage does not reflect that Mr. Benjamin had the firearm pointed briefly at Officer Wolff when he raised it to his own head. Second, the footage also does not show Mr. Benjamin "cheeking" the firearm as Officer Wolff described. Rather, it appears that Mr. Benjamin had the gun to his own head even as he was crouched down over Victim and kept it there after standing up.

Third, Mr. Benjamin is heard in the video saying, "I'm not going to hurt you," and Officer Wolff did not report hearing that in his statement to the BCA. Importantly, Mr. Benjamin uttered these words quickly and quietly, so it is possible Officer Wolff did not hear them. Finally, the BWC also shows Officer Wolff firing six shots, not three or four as he said in his statement.

Officer Davis's Statement and BWC Video

Approximately five and a half hours after the shooting, Officer Ryan Davis provided a voluntary statement to investigators from the BCA. Lt. Bob Kroll from the Minneapolis Police Federation was present. Unlike Officer Wolff, Officer Davis chose to review his body worn camera footage before speaking with investigators and watched it twice. No investigators were present while Officer Davis watched the video, but Lt. Bob Kroll, Sgt. Cory Fitch, and Officer Davis's attorney watched the video with Officer Davis.

Officer Davis had been a fully trained Minneapolis police officer since 2015. Personnel and training records obtained as part of this investigation show that Officer Davis was a competent police officer.

Officer Davis said he arrived and approached Victim and Mr. Benjamin in the street. There was another person present, but Davis did not know that person's age or gender. Officer Davis checked on Victim and did not see extensive bleeding but heard Victim mumbling. As Officer Davis was checking on Victim and requesting an ambulance, he heard Officer Wolff yell, "Drop the gun!" Davis looked up and saw Mr. Benjamin holding a tan handgun to his (Mr. Benjamin's) head. He did not recall Mr. Benjamin saying anything. Officer Davis drew his handgun and said to his partner, "cover." Officer Davis then moved to the back side of their squad to take cover and divide Mr. Benjamin's attention.

While Officer Davis was at the rear of the squad, he considered retrieving a less-lethal weapon from the trunk. Investigators did not ask Officer Davis, and Officer Davis did not say, which less-lethal option he was considering retrieving. Then, Davis said he heard two or three gunshots. He ran along the driver's side of the squad and saw Mr. Benjamin was down in the street. Officer Davis kicked Mr. Benjamin's handgun away from his body, handcuffed him, and searched him. Davis recovered a pistol magazine from Mr. Benjamin's body and tossed it to the side. Officer Davis then evaluated Mr. Benjamin's wounds until paramedics and other officers arrived. Officer Davis then left the scene with an escort officer.

Officer Davis's body worn camera footage is consistent with his statement in all relevant respects except that Mr. Benjamin can be heard saying, "I'm not going to hurt you" and there were more than two or three gunshots.

Investigation into Officer Wolff's Use of Deadly Force

A further search of Mr. Benjamin revealed a tablet of suspected narcotics and a plant-like substance in his socks. Crime lab testing revealed the tablet to be a small amount of methamphetamine; the plant-like material was not tested.

Investigators confirmed that Mr. Benjamin's firearm, which has a 15-round capacity, had a round chambered with the hammer cocked, and ten rounds in the magazine. BCA crime scene personnel located two discharged cartridge casings just north of where Victim had been lying. Forensic examination determined Mr. Benjamin's gun fired those shots, which corroborates that Mr. Benjamin fired his gun twice before officers arrived. Investigators also determined that Mr. Benjamin's gun had been stolen from a Spooner, Wisconsin residence in July 2018.

Investigators located six discharged cartridge casings near where Officer Wolff was standing when he shot Mr. Benjamin. The BCA crime lab determined these casings were fired from Officer Wolff's gun. This also matches the six shots ShotSpotter detected after Officers Wolff and Davis arrived at the scene. The five bullets recovered from Mr. Benjamin's body were fired from Officer Wolff's gun. Investigators confirmed that Officer Davis's firearm was fully loaded and had not been fired.

The van behind where Mr. Benjamin had been standing contained blankets, children's belongings, food, and several containers of clothing. Investigators also recovered a fired handgun bullet from the floor adjacent to the driver's seat of the van. Testing revealed this bullet came from Officer Wolff's gun. Crime scene investigators detected the presence of lead consistent with a bullet impact on the driver's side between the front and rear windows.⁷ There was also a defect consistent with bullet impact below that on the lower driver's side panel near the door. There was also a live, unfired round in a purse between the front seats of the van.⁸

On the sidewalk in front of 2418 Emerson Avenue North investigators found two backpacks containing men's clothing and mail addressed to Mr. Benjamin.

Investigators conducted a thorough canvas of the area, interviewing several civilians who heard or saw portions of the incident. These citizen accounts were consistent with Officers Wolff and Davis's statements and BWC footage in all relevant and/or significant respects.⁹ Two

⁷ It is likely that this bullet defect is from a previous event, as trajectory analysis indicated the bullet had a northwestern origin, and Officer Wolff was standing southwest of the van. Further, BWC footage shows that the front driver's door of the van was open at the time of the shooting.

⁸ All bullets and shell casings in the case were 9mm in caliber. The bullets from Mr. Benjamin's gun were Hornady 9mm Luger brand. The bullets from Officer Wolff's gun were FC 9mm Luger brand. The unfired round in the van was 9mm Luger WIN brand.

⁹ One witness said he observed a female filming the altercation between Mr. Benjamin and Victim with her cell phone. This was later determined to be one of Victim's daughters calling 911.

residents heard people arguing before the initial shots, including a female saying “no” and a male saying, “shut the fuck up.”

In accordance with the MPD Critical Incident Policy, Officer Wolff gave a blood sample for toxicology testing, which revealed he was not under the influence of alcohol or drugs of any kind.

Autopsy

On August 2-3, 2019, the Hennepin County Medical Examiner performed an autopsy on Mr. Benjamin. The autopsy revealed that Mr. Benjamin suffered seven gunshot wounds, some of which were likely caused by the same bullet. The medical examiner recovered five intact projectiles or bullet fragments from Mr. Benjamin’s body.¹⁰

Toxicological testing revealed that Mr. Benjamin had amphetamine, methamphetamine, naproxen (an over-the-counter painkiller), and THC (a chemical component of marijuana) in his system.

Investigation into Mr. Benjamin’s Shooting of Victim

Investigators confirmed Victim suffered a gunshot wound to her upper right chest. The trajectory of this bullet led to a serious spinal cord injury, which resulted in Victim being paralyzed from the waist down and hospitalized for a significant period of time. Victim has shown improvement but remains under the care of doctors so that she might fully recover. When she was well enough to speak with investigators, she reported that she and Mr. Benjamin had been in a significant romantic relationship for several years and had two children, ages 5 and 6. At the time Mr. Benjamin shot her, Victim, her children with Mr. Benjamin, and her two teenagers were in the process of moving out of state. Mr. Benjamin was not going to move with them and was going to stay temporarily with friends at the 2418 Emerson Avenue residence.

As Victim was dropping off Mr. Benjamin, they had an altercation and, without warning, Mr. Benjamin shot her. Victim said she was surprised that Mr. Benjamin shot her, and stated he was not “in his right mind” when he did so, “had several things going on,” and “wasn’t thinking logically.” She said Mr. Benjamin apologized to her after shooting her and told one of her daughters to call 911. She recalled Mr. Benjamin telling the police he would not hurt them and the police firing several gunshots.

HENNEPIN COUNTY ATTORNEY’S OFFICE REVIEW

On March 16, 2016, Hennepin County Attorney Mike Freeman announced that police use of deadly force cases reviewed by the Hennepin County Attorney’s Office would no longer be submitted to a grand jury. Instead, the County Attorney would make the charging determination of whether an officer’s conduct in such an event constitutes a crime and whether charges are

¹⁰ One of the gunshot wounds was to Mr. Benjamin’s right lower back. It is likely this wound occurred when Mr. Benjamin was turning as he fell to the ground after the initial shots, which can be seen on Officer Wolff’s BWC footage. Officer Wolff’s BWC footage clearly shows that Mr. Benjamin was not running away and did not have his back to Officer Wolff when Wolff fired.

warranted. The Hennepin County Attorney reviewed the case with two senior prosecutors, and on March 2, 2020, issued this report.

LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

A. Law governing police use of deadly force

In the United States, police officers are authorized to use deadly force in the line of duty to protect themselves and members of the public from death or great bodily harm. In 1985, the United States Supreme Court recognized the use of deadly force by a police officer is justified where the officer has “probable cause to believe that the suspect pose[s] a threat of serious bodily harm either to the officer or to others.”¹¹ In 1989, the Supreme Court again addressed the use of force by a police officer in *Graham v. Connor*,¹² holding that an objective reasonableness standard should be used to evaluate a police officer’s use of deadly force. The assessment of reasonableness requires careful attention to the facts and circumstances of each case.

The *Graham* Court outlined a non-exhaustive list of factors for evaluating an officer’s decision to use force: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.¹³

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

- (1) to protect the officer or another from apparent death or great bodily harm;
- (2) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- (3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.¹⁴

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

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

¹² *Graham v. Connor*, 490 U.S. 386 (1989).

¹³ *Graham*, 490 U.S. at 396.

¹⁴ Minn. Stat. § 609.066, subd. 2.

Mohamed Noor, a murder case involving the use of deadly force by a police officer and the first such case tried in Hennepin County:

[T]he kind and degree of force a peace officer may lawfully use is limited by what a reasonable peace officer in the same situation, without the benefit of hindsight, would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. To determine if the actions of the peace officer were reasonable, you must look at those facts known to the officer at the precise moment he acted with force. Giving due regard for the pressures faced by peace officers, you must decide whether the officer's actions were objectively reasonable in the light of the totality of the facts and circumstances confronting the officer, without regard to the officer's own state of mind, intention or motivation.¹⁵

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

If an officer's use of deadly force was (1) necessary for one of the reasons specified in Minn. Stat. § 609.066, (2) proportional to the threat facing the officer, and (3) objectively reasonable under the totality of the facts and circumstances, no criminal charges against any such officer is supported.

B. Officer Wolff was authorized to use deadly force against Mario Benjamin.

Officer Wolff's use of deadly force against Mr. Benjamin satisfies all three justifications for deadly force included in Minn. Stat. § 609.066. First, Wolff's use of force was necessary to protect himself, his partner, Victim, and any bystanders from apparent death or great bodily harm. Officer Wolff had every reason to believe Mr. Benjamin shot Victim just minutes before he and Davis arrived at the scene. Wolff saw Witness 1, who was also in danger, nearby. Mr. Benjamin was holding a firearm he had just used and refused to drop despite receiving ten clear commands to do so. Second, it was apparent to Officer Wolff that Mr. Benjamin had just committed a felony involving deadly force, namely, shooting Victim. It was Officers Wolff and Davis's duty to arrest Mr. Benjamin for committing this felony. Because Mr. Benjamin refused to drop his gun, he continued to pose a significant risk to the officers (and others) which prevented the officers from safely arresting him. Third, Officer Wolff reasonably believed that

¹⁵ *Abraham v. Raso*, 183 F.3d 279 (3rd Cir. 1999); *See also* 10 MNPRAC CRIMJIG 7.11, Authorized Use of Deadly Force by Peace Officers. The court declined to give CRIMJIG 7.11 in *Noor*, choosing the language cited above instead.

Mr. Benjamin would cause death or great bodily harm if his apprehension was delayed. Again, Officer Wolff believed that just minutes before he arrived, Mr. Benjamin shot Victim. Mr. Benjamin continued to hold onto the gun he used in that crime and refused to drop it. It was reasonable for Officer Wolff to believe Mr. Benjamin had no intention of submitting to arrest. Mr. Benjamin posed a risk to everyone in the immediate area, as well as the public at large, if he were to escape.

Even when authorized by statute, a police officer's use of deadly force must not be excessive and must be proportional to the threat facing the officer and/or others. Again, the clear threat Mr. Benjamin posed was that he might shoot someone (again) with his handgun. Shooting someone, even once, demonstrates an intent to kill.¹⁶ Because Mr. Benjamin posed a threat of great bodily harm or death and because he still held and refused to drop his gun, Officer Wolff's use of deadly force with a firearm was proportional to the threat.

Further justification for Officer Wolff's decision to use deadly force is found in the facts known to Officer Wolff at the moment he acted with force. Before arriving at the scene at nearly 3:00 a.m., Officer Wolff knew that at least two shots had been fired in an area of Minneapolis that suffers from a significant amount of gun crime. As he traveled to the scene, he received updated information that at least one person had called 911 to report someone had been shot. A reasonable officer responding to this call would be aware that there might be civilians currently in danger and that intervening, as was his duty and responsibility, could also place the officer in danger.

Upon arriving, Officer Wolff learned additional relevant information. He saw Victim in the middle of the street, apparently shot. Witness 1 was also nearby and ran away when officers arrived. A reasonable officer would know that he or she was entering an already tense and dangerous situation, and the fact that Witness 1 was running away indicated it was likely to escalate further.

Officer Wolff then observed Mr. Benjamin leaning over Victim, initially incorrectly thinking that Mr. Benjamin was assisting Victim. A reasonable officer could also have believed that the assailant had fled the scene and the man leaning over Victim intended to help her. When Mr. Benjamin stood up holding a gun, Officer Wolff learned immediately that the shooter was instead standing right in front of him. A reasonable officer in these circumstances would be surprised and fearful.

A reasonable officer, with these facts and circumstances fresh in his mind, would need to use force to arrest Mr. Benjamin and resolve this situation. Once Mr. Benjamin refused to drop his gun despite numerous commands, a reasonable officer would believe that Mr. Benjamin's refusal, despite having just been caught with nowhere to go, meant that Mr. Benjamin intended to inflict further harm to either escape or complete the attempted murder of Victim.

The BCA's investigation obtained information that corroborates Officer Wolff's objectively reasonable belief that Mr. Benjamin posed an apparent threat of great bodily harm or

¹⁶ See, e.g., *State v. Thompson*, 544 N.W.2d 8, 212 (Minn. 1996).

death to multiple people and that Officer Wolff did not misinterpret the situation in which he found himself. The investigation revealed that Mr. Benjamin had shot Victim shortly before officers arrived. He shot Victim in the presence of his and Victim's four children, further demonstrating a lack of care or restraint. He shot Victim in the middle of a highly populated residential area, knowing that Victim was leaving him and Minnesota with their children. The totality of this evidence shows that Mr. Benjamin had engaged in a deliberate act of extreme domestic violence just before Officers Wolff and Davis responded to the scene. Under Minnesota law, it is clear that Officer Wolff's use of deadly force was necessary, proportional, and objectively reasonable and no criminal charges are supported.