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**DISTRICT ATTORNEY**  
SALT LAKE COUNTY  
**SIM GILL**

*Via Hand Delivery*

Acting Chief Anita Schwemmer  
West Valley City Police Department  
3575 S. Market Street  
West Valley City, Utah 84119

August 8, 2013

Re: Officer Involved Shooting of Danielle Willard  
Incident Location: 2293 W. Lexington Park Drive, West Valley City, Utah  
Incident Date: November 2, 2012  
WVCPD Case No.: 12I050232  
Our Case No.: 2013-3394

Dear Acting Chief Schwemmer:

As you know, the Office of the Salt Lake County District Attorney, (hereinafter, the "DA's Office" or the "Office") is required by Utah State law to review officer involved critical incidents that include the use of deadly force employed by an officer in the scope of their official duties. In discharging that responsibility, the DA's Office operates pursuant to an agreement with participating law enforcement agencies, consistent with established protocols and applicable law, to perform joint investigations and independent reviews of officer involved critical incidents.

On November 2, 2012, at approximately 1:30 in the afternoon, West Valley City Police Department Detectives Shaun Cowley and Kevin Salmon were involved in a critical incident that occurred during a narcotics investigation they were conducting (hereinafter, the "Incident"). In the Incident, they fired a total of six bullets at a vehicle driven by Danielle Willard. Detective Cowley fired two bullets, the first of which fatally struck Ms. Willard in the head. Detective Salmon fired four bullets, one of which grazed Ms. Willard's chin.

Upon learning of the Incident, the West Valley City Police Department (hereinafter, the "Department") invoked the Officer Involved Critical Incident ("OICI") protocol. Investigators from the DA's Office responded to the Incident and conducted a joint investigation with the Department. Consistent with the OICI protocol, the DA's Office also independently reviewed the Incident. The Federal Bureau of Investigations also became involved when concerns related

to their federal jurisdiction arose in the investigation. Through their thorough investigation, it was concluded that the concerns raised were not involved in the Incident. This letter reports the nature of and conclusions reached as a result of the joint investigation conducted by the DA's Office and the Department. The conclusions reached in this report are based upon the information developed and available through the investigation of the Incident.

The principle issue addressed in this review is whether Detective Cowley and Detective Salmon were justified in using deadly force against Ms. Willard. The findings of what occurred in the Incident based upon the considerable information developed from the joint investigation and a discussion of those findings are presented in the body of this report. A summary of those findings and the conclusion reached by the DA's Office is presented in the next section.

### **EXECUTIVE SUMMARY**

#### CONCLUSION OF REVIEW:

Neither Detective Cowley nor Detective Salmon were justified in using deadly force against Ms. Willard.

#### MATERIAL FINDINGS FROM THE INFORMATION GENERATED FROM THE INVESTIGATION THAT SUPPORT THAT CONCLUSION:

1. Detective Cowley was in front of a Dodge Nitro that was parked adjacent to Ms. Willard's reversing vehicle;
2. Ms. Willard reversed her vehicle around Detective Cowley and not directly at him, and did not pose a threat of death or serious bodily injury to either Detective Cowley or Detective Salmon;
3. Detective Cowley's relatively safe location was known to Detective Salmon and was apparent to both Detective Cowley and Detective Salmon;
4. Detective Cowley and Detective Salmon used deadly force against Ms. Willard as she was reversing past Detective Cowley.

### **MATERIALS RELIED UPON**

- WVCPD Reports re: Case No. 12I050232. (approximately 185 pages)
- A written statement titled "Officer Involved Shooting" that describes the Incident provided by Detective Cowley and Detective Salmon's attorneys.
- Aerial photograph of Lexington Park Apartments.
- OIS Diagrams A-F, completed by West Valley City Police Department Detective Daren Mower, detailing accident reconstruction investigation of the Incident. (Exhibit A)
- WVCPD Policy Manual §§ 300.1-300.9, regarding Department policy on use of force.

- Firearm Training Records for the Department and Detective Cowley and Detective Salmon.
- Report of Examination of Erik D. Christensen, M.D., Assistant Medical Examiner, Office of the Utah State Medical Examiner, Case No. R201202034 .
- Recorded Interview and Transcript of West Valley City Fire Department paramedic Scott Byrne, conducted on March 7, 2013, wherein Byrne described his involvement in and recollection of the Incident.
- Recorded Interview and Transcript of West Valley City Fire Department paramedic Kyle Stewart, conducted on March 7, 2013, wherein Stewart described his involvement in and recollection of the Incident.
- Recorded Interview and Transcript of West Valley City Police Department Detective Shaun Cowley, conducted on December 18, 2012, wherein Detective Cowley described his involvement in and recollection of the Incident.
- Two drawings by Detective Cowley from December 18, 2012, interview that depict his involvement in the Incident. (Exhibits B and C)
- Recorded Interview and Transcript of West Valley City Police Department Detective Kevin Salmon, conducted on December 18, 2012, wherein Detective Salmon described his involvement in and recollection of the Incident.
- Drawing by Detective Salmon from December 18, 2012, interview that depicts the Incident.
- Recorded Interview, including video, and Transcript of West Valley City Police Department Detective Kevin Salmon, conducted on June 6, 2013, wherein Detective Salmon described his involvement in and recollection of the Incident.
- Drawing by Detective Salmon from June 6, 2013, interview that depicts the Incident.
- Report of Michael Haag, Forensic Science Consultants, submitted April 2, 2013.
- Images created by Michael Haag included in his report. (Exhibit D)
- Various Witness Statements.
- Medical Records that document the treatment Officer Cowley received following the Incident.
- Force Science Institute Report, dated March 12, 2013.

## UTAH STATE LAW

The Utah Code contains statutory provisions that outline circumstances when an officer's use of deadly force is justified. The DA's Office relied upon the following statutory provision in its determination of whether Detective Cowley and Detective Salmon were justified in using deadly force against Ms. Willard:

**UTAH CODE § 76-2-404.** Peace officer's use of deadly force.

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(3) or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

## SUMMARY OF INCIDENT

On November 2, 2012, at approximately 1:30 P.M., Detectives Shaun Cowley and Kevin Salmon were conducting surveillance as part of a narcotics investigation on a couple of residences located in the area of 3650 South 2200 West, West Valley City, Utah. Detective Cowley was parked in a nearby residential property and Detective Salmon was parked in the Lexington Park Apartments, located at approximately 2290 West 3700 South, in West Valley City, Utah. Both detectives were in their unmarked police vehicles watching the residences for evidence of drug transactions and drug activity. Detectives Cowley and Salmon were both dressed in plain clothes.

Shortly after parking at the Lexington Park Apartments, Detective Salmon observed a Subaru Forester arrive at the Lexington Park Apartments that was later determined to be driven by Ms. Willard. The Subaru parked in a stall near Detective Salmon. Shortly after the Subaru parked, Detective Salmon noticed that a male exited one of the residences he and Detective Cowley were observing and begin to walk toward the Subaru. Detective Salmon observed the male walk to the passenger side of the Subaru. Fearing that his undercover status would be discovered, Detective Salmon moved his vehicle and communicated to Detective Cowley that he

was moving his vehicle to avoid detection. Detective Cowley replied that he would move his position to the apartments to maintain an observation of the Subaru and any activity that may occur. Detective Salmon moved his vehicle to another parking stall in the apartment complex and maintained a visual on the Subaru as he was moving to another stall until he saw Detective Cowley enter the apartment parking lot. It appeared to Detective Salmon that the occupants in the Subaru were engaged in a narcotics transaction. Detective Salmon then proceeded to park in another parking stall in the apartment complex.

Detective Cowley initially could only see a portion of the Subaru and by the time he entered the parking lot, the male was exiting the Subaru and appeared to be returning back to the residence that was under surveillance.

After the male left the Subaru, Ms. Willard drove to a different area of the parking lot, and parked her vehicle in a parking stall directly adjacent to where Detective Salmon moved his vehicle and parked. Detective Salmon attempted to watch Ms. Willard without being noticed and thought he observed Ms. Willard preparing to ingest what he believed was a controlled substance. As she parked next to Detective Salmon, the detectives decided to make contact with her to discuss her activity. However, shortly after parking next to Detective Salmon, and perhaps because she noticed Detective Salmon watching her, Ms. Willard backed her vehicle out of the stall next to Detective Salmon and parked in a stall a few stalls away from where Detective Salmon was parked.

Detective Cowley had just parked his vehicle in a stall almost directly behind and across the parking lot where Detective Salmon and Ms. Willard were parked. As Detective Cowley exited his vehicle and began to approach Ms. Willard, she backed out of her stall and proceeded to park in the stall away from Detective Salmon.

Ms. Willard parked directly next to a Dodge Nitro that was backed into its parking stall by turning left into the parking stall around the front of the Dodge Nitro. Consequently, Ms. Willard's vehicle was parked forward in the stall and the Dodge Nitro was parked with its front in the opposite direction of Ms. Willard's vehicle.

Noting where Ms. Willard parked her vehicle, Detective Cowley began walking towards her vehicle. Detective Cowley walked in front of the Dodge Nitro, turned in between both vehicles and made contact with Ms. Willard at the driver side door. Detective Cowley explained that as he was approaching her vehicle door, he observed her to be placing what looked like a black substance in her mouth. He explained that he identified himself as a peace officer and demanded that she spit it out and open the door.

At this point, Detective Salmon was also approaching Ms. Willard's vehicle and heard Detective Cowley demanding her to spit it out. Up to that point, Detective Salmon explained that he was not acting with any particular urgency, but upon hearing Detective Cowley order her to spit it out, he quickened his pace and his urgency. Detective Cowley explained that Ms. Willard was not complying with his orders. By this time, Detective Salmon was on the front passenger side of Ms. Willard's vehicle. He explained that he too identified himself as a peace officer and ordered Ms. Willard to open her door, but that she was not complying with his orders either. Both detectives tried to open the vehicle doors, but found them to be locked.

When Ms. Willard would not comply with his orders, Detective Cowley explained that he unholstered his firearm and pointed it at her and continued to order her to spit out the substance and open the door. Detective Salmon also explained that when Ms. Willard did not respond to his orders to open her doors that he too unholstered his firearm and pointed it at her in the “low ready” position, meaning, he held his firearm at an approximate 45 degree angle to the ground.

Both detectives explained that they removed and pointed their firearms at Ms. Willard as a show of force. Referring to his show of force, Officer Salmon described it as follows:

Q. And if they're sitting in their car and they're not complying, what would you do?

A. Force them to comply at that point.

Q. How would you do that?

A. The same way I was attempting to do, force entry. Try to open the car, that didn't work. Try and force entry and that didn't ultimately ended up not working. A, a secondary escalation of force, which was my firearm display uh which didn't work um that is what I would do it's what I did do and that's what I would do again in the future, continue to escalate my police presence and show of force to the point of compliance.

Neither detective noticed any weapon in Ms. Willard's possession or described her to engage in any behavior that they perceived to threaten them or anyone else. They described her as looking at them alternatively and having a vacant or blank stare.

Both detectives then observed Ms. Willard moving her right hand over the gear shift and appear to contemplate backing up in what they both perceived would be an effort to flee the scene. Detective Cowley thought about breaking out the driver side window, but only had his firearm or his hand and decided against using either. Detective Salmon removed his knife and used it to attempt to break the front passenger side window but it did not have a “punch” and he was not successful.

Detective Cowley decided to return to his vehicle to obtain a halogen light that he would use to break out the window. He explained that he thought the situation was “ridiculous” that Ms. Willard would not open her vehicle since it was only a drug issue.

Detective Cowley explained that as he was walking back, he heard the tires on Ms. Willard's vehicle “screech.” He turned and observed her reversing directly toward him and believed that she was going to run him over and kill him. He also explained that when he turned, he could not see Officer Salmon and believed that Ms. Willard had run over him.

Detective Cowley explained he was in front of the Dodge Nitro when he heard the tires, turned and saw Ms. Willard reversing toward him. In another explanation, he described being in between the Dodge Nitro and Ms. Willard's vehicle when he heard her tires screech. However, Detective Cowley also drew a diagram with the vehicles parked adjacent to each other and a line that he noted was the path he took walking back to his vehicle. The diagram shows Detective Cowley walking back between the vehicles and making a ninety degree turn at the front of the Dodge Nitro.

Detective Cowley also drew another diagram where he noted his location when he heard Ms. Willard reverse her vehicle that places him in front of the Dodge Nitro. In this drawing, Detective Cowley also described the path Ms. Willard's vehicle took as it reversed.

Detective Cowley further explained that when he heard her tires screech, turned and saw her reversing at him, he had his firearm in his hand. He could not specifically remember unholstering it, but recalls that he reholstered before he began to walk back to his vehicle because he did not want to carry it while walking back to his vehicle. He only remembers having it in his hand when he saw Ms. Willard reversing toward him.

Detective Cowley explained that he realized that he was going to be hit. He recalls that he tried to move out of the way, but as he was being hit on the right leg he saw Ms. Willard's head in the front seat, aimed and, simultaneously to being hit by her vehicle, he fired his firearm at her. He recalls seeing that shot hit the passenger or driver side window. He recalls taking a second shot as he was falling or as he hit the ground. He did not know where the second shot hit. He explained that everything was going fast up to the second shot when things seemed to slow. After the second shot, Detective Cowley said he fell to the ground, lost his weapon and recalls being face down. He recalled hearing Ms. Willard's vehicle hit the Dodge Nitro. He also recalled seeing the front windshield in Ms. Willard's vehicle get shot and believed that it was from Detective Salmon.

Detective Salmon explained that as Detective Cowley was walking back to his vehicle Ms. Willard began to reverse. He described her reversing rapidly and as she began to turn and the vehicle moved in a clockwise direction, that the front of the vehicle brushed his leg.

Detective Salmon stated that as she reversed, he moved to the front of her vehicle and kept his focus on her. As he did so, he could see Detective Cowley in his peripheral vision. Detective Salmon explained that he saw Detective Cowley in the front of the Dodge Nitro and believed that Ms. Willard was about to run over Detective Cowley. Detective Salmon explained that he saw Detective Cowley bringing his gun up and he began to do the same and pointed it at Ms. Willard.

Detective Salmon recalled seeing Detective Cowley falling to the ground and remembered seeing him shoot at Ms. Willard as he was falling. Detective Salmon began shooting at this point believing that Ms. Willard was about to run over Detective Cowley. Detective Salmon expressed that he believed that Detective Cowley was being run over as he was shooting at Ms. Willard.

As Detective Salmon described this scene, he also drew what he recalled of the Incident. He placed Detective Cowley in the front of the Dodge Nitro and drew the path of Ms. Willard's reversing vehicle. Detective Salmon put Detective Cowley not behind Ms. Willard's reversing vehicle, but rather on its side as it was reversing.

Detective Cowley's first shot was the fatal shot that hit the top left side of Ms. Willard's head and traveled in a downward direction. His second shot hit the pillar between the side driver window and driver side rear passenger window. Detective Salmon fired four shots from the front of her vehicle. One shot entered the front windshield and grazed Ms. Willard's chin and the other three were shot at various locations in the front of the vehicle.

## THE SCENE

The Incident occurred in the parking lot of the Lexington Park Apartments, located at 2293 W. Lexington Park Drive, West Valley City, Utah. This complex consists of approximately ten buildings, each of which contains multiple individual apartment units. Lexington Park Drive is an "L" shaped street (which runs north to south in the west portion of the complex and runs east to west in the south portion of the complex) connecting to 3650 South on its north end and 2200 West on its east end. There are numerous covered and uncovered parking stalls lining both sides of Lexington Park Drive between 3650 South and 2200 West.

## PHYSICAL EVIDENCE

At the scene, officers located a silver 2005 Subaru Forester with a Washington license plate (#AHB5722). Ms. Willard, who was pronounced dead at the scene of the Incident, was found by officers in the driver's seat of the Subaru Forester. Dr. Erik Christensen, Assistant Medical Examiner, determined that Ms. Willard died as a result of a gunshot wound of indeterminate range to the left parietal portion of the scalp which caused multiple fractures of the vault and base of Ms. Willard's skull. Dr. Christensen was able to determine that the bullet entered the top left of Ms. Willard's head, traveled at an angle from left to right and downward where it came to rest in the bottom right side of her head. Dr. Christensen also observed a laceration, consistent with a graze wound from a bullet, on Ms. Willard's chin and multiple abrasions consistent with pseudo-stippling on Ms. Willard's face.

The Subaru Forester was located in a post-collision position approximately perpendicular to a red Dodge Nitro. From tire impressions taken from the asphalt, accident reconstruction detectives concluded that the Subaru Forester and the Dodge Nitro were, prior to the Incident, parked parallel to each other in adjoining parking stalls. At some point during the Incident, according to the tire impressions, the Subaru Forester backed out of its parking stall, directly east of the Dodge Nitro, and began moving in a clockwise circular pattern around the Dodge Nitro.

At the scene, officers located a total of six spent 9mm. shell casings clustered in two individual groups: one group of two casings and one group of four casings. Officers also located glass from the driver's side rear window of the Subaru Forester on the asphalt in the area where the Subaru Forester originally passed the front left corner of the Dodge Nitro.

Officers also located a small amount of field-tested-positive heroin in plastic in the side pocket of the driver door and several items of drug paraphernalia in the vehicle, as well as numerous personal items belonging to Ms. Willard, including clothing and personal hygiene items.

## WITNESS INTERVIEWS AND STATEMENTS

### **Officer Willoughby**

West Valley Police Officer Willoughby was the first officer to arrive at the scene of the Incident. Upon his arrival, Officer Willoughby was directed towards the east end of the apartment complex and observed a Subaru Forester that appeared to have been involved in a collision with a Dodge Nitro. When he approached the Subaru Forester, Officer Willoughby



could see Ms. Willard seated in the driver's seat, but leaning over onto the passenger side of the vehicle.

Because the Subaru Forester's car doors were locked, Officer Willoughby slipped his fingers through a crack in the driver's side front window and pulled at the window to shatter the glass. After gaining access to the interior of the Subaru Forester, Officer Willoughby was able to locate a shallow pulse on Ms. Willard's wrist. Officer Willoughby, and other officers, removed Ms. Willard from the Subaru Forester and began administering C.P.R. while waiting for emergency medical personnel to arrive.

#### **Officer Dell**

West Valley Police Officer Dell also responded to the scene of the Incident. As he arrived, Officer Dell observed Officer Willoughby standing on the driver's side of the Subaru Forester and saw Sergeant Hamilton break the front passenger window by striking it with his ASP baton. Officer Dell pulled Ms. Willard from the Subaru Forester and observed that Ms. Willard had suffered what appeared to be a gunshot wound to the left side of her head. Ms. Willard was bleeding from the mouth, nose, and ears. Officer Dell administered C.P.R. until relieved by West Valley City Fire Department paramedics, who eventually pronounced Ms. Willard dead at 13:38 hours (under direction of a physician at Pioneer Valley Hospital).

#### **Officer Cowan**

West Valley Police Officer Cowan also arrived at the scene of the Incident. After seeing other officers responding to the Subaru Forester and the Dodge Nitro, Officer Cowan ran directly to Detective Cowley who was lying on his back next to the sidewalk, approximately 40 yards to the west of the Subaru Forester and Dodge Nitro. Detective Cowley told Officer Cowan that he had been struck by the Subaru Forester, and that he had pain in his upper right leg, but no other injuries. Officer Cowan observed black marks running down Detective Cowley's right pant leg.

#### **Lieutenant Coyle**

West Valley Police Lieutenant Coyle arrived at the scene of the Incident shortly after the initial responding officers. Lieutenant Coyle observed Detective Cowley sitting on the ground holding his knee. Lieutenant Coyle approached Detective Cowley and inquired about his condition. Detective Cowley said: "My knee is hurt, but I'm ok[ay]." Lieutenant Coyle then responded to Detective Salmon, who stated: "I thought [Detective Cowley] was dead ... She ran [Detective Cowley] over."

#### **Sergeant Johnson**

West Valley Police Sergeant Johnson supervised Detective Cowley and Detective Salmon at the time of the Incident. Sergeant Johnson told investigators that on the date of the Incident Detective Cowley and Detective Salmon were investigating a residence located on the corner of 3650 South and 2200 West for distribution of heroin and printing counterfeit U.S. currency. Sergeant Johnson told investigators that, shortly before the Incident, he heard Detective Cowley and Detective Salmon over the radio talking about having observed a woman enter the Lexington Park Apartments parking lot and begin to ingest a controlled substance. Sergeant Johnson also heard Detective Cowley and Detective Salmon talking on the radio about

approaching this woman. A short time later, according to Sergeant Johnson, the first reports of an officer-involved shooting at that location were broadcast.

Sergeant Johnson responded to the scene with Lieutenant Coyle and spoke with Detective Cowley and Detective Salmon. Detective Salmon told Sergeant Johnson that he was okay, but that Detective Cowley had been hit by the Subaru Forester found at the scene. Detective Salmon also told Sergeant Johnson: “You know she was running over Cowley, you know I feared for him.”

Sergeant Johnson also indicated that Detective Cowley made the following statements: “My leg hurts...” “God, you know and she hit me and I didn’t know what else I could do...” “You know like when she started to back into me I knew I was going to get hurt, I feared for my life...” “As the car swung around I saw [Detective Salmon] go down or I thought I saw [Detective Salmon] go down, I thought she hit him, so I fired first.”

### **Scott Byrne**

Scott Byrne, a paramedic with the West Valley City Fire Department, responded to the Incident. In an interview with investigators, Byrne recalled he “was the first [paramedic] to walk up to [Detective Cowley] and assess his injuries...” Detective Cowley told Byrne that “... his leg was hurting,” and Byrne “... cut[] his pants, his [right] pant[] leg [had what] appeared to be ... some debris, dirt ...there was discoloration of his upper leg, he said ... it hurt above his knee.”

### **Kyle Stewart**

Kyle Stewart, a paramedic with the West Valley City Fire Department, responded to the Incident. In an interview with investigators, Stewart indicated that after arriving at the Incident, he observed Detective Cowley being loaded onto the ambulance to be taken to the hospital. Stewart noted that Detective Cowley was “... limping a little bit,” but “... was able to walk to the stretcher pretty well.” According to Stewart, Detective Cowley denied pain medication when it was offered to him by paramedics. Stewart also remembered Detective Salmon telling him that Detective Cowley “had [just] been hit by a car.”

### **Officer Lynes**

West Valley Police Officer Lynes responded to the scene after hearing about the Incident over his police radio. When he arrived at the scene, Officer Lynes was contacted by three individuals near Apartment #8 who were frantically waving their arms in an attempt to catch Officer Lynes’ attention and speak with him.

Mahonry Jared Daniel Jimenez told Officer Lynes that, from his apartment, he heard 4-5 gunshots. When he looked out his window, Mr. Jimenez saw Detective Cowley lying on the ground and observed Detective Cowley to be in pain. Mr. Jimenez also observed Detective Salmon running towards a black vehicle and then coming back to help Detective Cowley move to a grassy area near the Incident.

Andres Jimenez told Officer Lynes that, from his apartment, he heard 4-5 gunshots. When he looked out his window, Mr. Jimenez saw Detective Cowley lying on the ground. Mr.

Jimenez described that Detective Cowley appeared to be in pain and was moaning as he was moving around. Mr. Jimenez observed Detective Salmon retrieve what Mr. Jimenez believed was a cell phone from a black vehicle and then returned to help move Detective Cowley to a grassy area near the Incident.

Lucas Gerardo Jimenez-Ruano told Officer Lynes that he heard gunshots from in his apartment. When he went outside, Mr. Jimenez-Ruano saw Detective Cowley being helped by Detective Salmon. Mr. Jimenez-Ruano also observed that Detective Cowley appeared to be in pain.

### **Rosario Guillermo**

Rosario Guillermo lived at 2271 West Lexington Park #3 and was interviewed by investigators shortly after the Incident. Ms. Guillermo told investigators that, at the time of the Incident, she was a passenger in a vehicle parked in a stall behind Ms. Willard's vehicle and the Dodge Nitro.<sup>1</sup> Ms. Guillermo explained that she saw two men approach Ms. Willard's vehicle. One of the men, according to Ms. Guillermo, approached the front passenger window of Ms. Willard's vehicle and tapped on the window with his hands and attempted to speak with someone inside the vehicle. Although Ms. Guillermo could not understand what the man was saying, she believed that the man was trying to get the driver of Ms. Willard's vehicle out of the car. Ms. Guillermo also noted that, while the first male was talking to someone inside the vehicle from the passenger side, a second male was standing near the front of the vehicle on the driver's side and pointing a gun at the vehicle. Shortly thereafter, according to Ms. Guillermo, she heard Ms. Willard's vehicle accelerate, back up, and hit the car parked next to it, the Dodge Nitro. The impact from Ms. Willard's car, according to Ms. Guillermo, caused the Dodge Nitro to move or shift from a North/South orientation to an East/West orientation.

### **Andrew Springer**

Andrew Springer lives at 2278 West Lexington Park, #6. He is the maintenance employee at the Lexington Park Apartments. He was interviewed by investigators shortly after the Incident. Mr. Springer told investigators that he was in his house for lunch when he heard multiple shot being fired. Upon hearing the shots, he looked out his east facing window and saw two males who he recognized to be police officers because of the badges they were wearing and he saw one with a police radio. He saw one of the officers run a short distance and then suddenly lay down in the parking lot. He saw the other officer run to his vehicle, retrieve the police radio and then attend to the officer who was on the ground and help him to the grass.

### **Detective Cowley**

Protocol investigators from the West Valley City Police Department and the DA's Office interviewed Detective Cowley, in the presence of his attorney, on December 18, 2012. This is the only statement Detective Cowley gave to investigators regarding the Incident.

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<sup>1</sup> Ms. Guillermo is not necessarily acquainted with Ms. Willard or the owner of the Dodge Nitro, but, from her statement, it is clear that Ms. Guillermo is referring to Ms. Willard's vehicle and the Dodge Nitro when she describes the portion of the Incident she observed.

When asked about the circumstances that brought him to the Lexington Park Apartments on the day of the Incident, Detective Cowley explained that he had received information from another police officer of complaints of drug activity in the area of 3800 South and 2200 West. Detective Cowley said he was told that members or associates of a white supremacist criminal street gang were selling heroin and guns and creating forged U.S. currency from this location. Detective Cowley identified at least three houses that were suspected to be involved in this illegal activity

Detective Cowley further explained that on the day of the Incident, he was in the area of 3800 South and 2200 West watching the houses he identified as part of his investigation. Shortly after he arrived in this area, Detective Salmon joined him and began assisting him from a location inside the parking area of the Lexington Park Apartments. The two detectives, during this time period, were in separate vehicles and communicating with each other over a secure radio channel. After watching their target residences for approximately one hour, Detective Cowley and Detective Salmon both noticed Ms. Willard's Subaru Forester arrive and enter the north side of the parking lot of the Lexington Park Apartments and park in a parking stall on the north end of the complex. Both detectives saw an unknown male wearing a black shirt exit one of the residences they were watching, approach Ms. Willard's vehicle and enter and sit on the front passenger seat next to Ms. Willard. Detective Cowley began to move his vehicle toward Ms. Willard and by the time he was near her in the complex, the male exited Ms. Willard's vehicle and began walking back to his residence.

Detective Cowley told investigators that while he could not see what was happening inside Ms. Willard's vehicle, Detective Salmon was telling him over the radio that the occupants of the Subaru were "talking, [and] maybe doing a hand to hand transaction."

Believing that they might have witnessed a drug transaction, Detective Cowley informed Detective Salmon that he wanted to make contact with Ms. Willard to determine if a drug transaction occurred. Detective Salmon had moved his vehicle and parked toward the south side of the complex. Detective Cowley was driving ahead of Ms. Willard after she exited the stall in which she was parked. Detective Cowley parked his vehicle in south end of the parking lot under a covered parking area across from where Detective Salmon parked and noticed Ms. Willard park her vehicle in the stall adjacent to Detective Salmon.

Detective Salmon told Detective Cowley that, from his vantage point, it appeared that Ms. Willard was preparing to use heroin. Detective Cowley exited his vehicle and was approaching Ms. Willard when she exited the parking stall, drove approximately ten stalls to the east, and parked her car again, this time next to a red Dodge Nitro.

Detective Cowley told investigators that he approached Ms. Willard in this new location on foot, and attempted to speak with Ms. Willard through the driver's side window. Detective Cowley described that Ms. Willard looked up at him with a "blank look" on her face and put a black substance in her mouth that Detective Cowley believed to be heroin. Detective Cowley, at this point, identified himself as a police officer and commanded Ms. Willard to open her mouth. Detective Salmon had approached the passenger side window and was also giving Ms. Willard commands to open the door. After seeing Ms. Willard put what he believed was heroin in her mouth, Detective Cowley drew his firearm and pointed it at Ms. Willard and continued ordering her to open the door and spit out what he believed was heroin.

Detective Cowley told investigators that, at this point, he saw Ms. Willard looking towards the center console and became concerned that Ms. Willard would "... be backing out to try to get away." While yelling at Ms. Willard "not to do it, not to do it," Detective Cowley could hear Detective Salmon attempting to break the passenger side window. Ms. Willard's passenger window, however, remained intact.

Detective Cowley told investigators that, at this point, he decided to "... walk back to my car to get a [tool] to use to break out [Ms. Willard's] window." Detective Cowley described that "[a]s I was walking, I turned around and was walking back, so I came right around the Dodge Nitro, I heard the, the tires screech on [Ms. Willard's] car. And, as I turned around the back of her car was coming towards me at, uh, what I felt was an extremely high rate of speed." Detective Cowley explained that at this point "... I had my gun in my hand and I fired a round at her, um, right as I was being hit and I fired a second round right, either as I was hitting the ground or on my way to the ground." Detective Cowley also clarified that "... my first shot I saw hit ... [Willard's] driver's side window ... and then the second shot, I'm not sure where, where that hit..."

In describing the path of Willard's vehicle, Detective Cowley stated that "... so when she came at us and she, her wheel was so turned all the way that, it was coming directly at me, it, it, she could have just backed straight out and went out but she didn't..." Detective Cowley described that "... her wheel was turned and I was concerned for Kevin that he was on that passenger side and that wheel had sucked him under the car, as well..." Detective Cowley explained that "... I didn't know that [Detective Salmon] had not been sucked under the car, until when I was firing I saw two bullets hit and sputter the glass windshield ... on the front of the car and at that point I realized that [Detective Salmon] was at least okay enough to fire his gun..."

When asked again by investigators to explain Ms. Willard's demeanor at the time he was approaching her vehicle, Detective Cowley explained that "... right as I came around the Nitro, she was already turned looking back at me walking up ... she watched me come around the Nitro." Detective Cowley again described Willard's facial expression as "... just blank, I mean a, just an utter blank look, no change of expression ... it didn't look like she was scared, it didn't look like she was angry, didn't look like she was happy, it was blank." Detective Cowley did, however, specifically note that while Willard did not show any "sort of emotion" during this encounter, "... she, she was obviously looking around for a way out ..."

When asked for more detail about his path of movement when he withdrew from Ms. Willard's vehicle to retrieve his tool to break the window, Detective Cowley noted that he "... was probably right either in the middle of the Nitro or towards the front of the Nitro, when, when I heard the tires." Detective Cowley further explained that the wheels of Willard's vehicle "... had to be cranked all the way across, [be]cause, she came close to hitting the Nitro. So her wheels had to have been turned like this, so she came flying back and, and hit me..." When asked which portion of Ms. Willard's vehicle struck him, Detective Cowley said it was in the rear quarter panel of the vehicle, "... in the back corner or the fender..."

When asked about the line of travel of Ms. Willard's vehicle at the time of his first shot, Detective Cowley said "... I fired right, within milliseconds of being hit ... and then as I, I remember, as I was falling, I, I shot again ... as I was firing my second shot and I saw little puffs of glass on her front windshield, at the same time I was firing ... from [Detective Salmon]."

Detective Cowley told investigators that he saw his first "... bullet hit the front window, um, right by [Ms. Willard's] head, and then my second shot, I don't know for that, where that hit."

When asked by investigators about his reaction to hearing screeching tires, Detective Cowley described thinking "... she's going to run me down and then at the same time seeing the way she spun out of there thinking oh my God, [Detective Salmon] was sitting right next to that tire and now I don't see [Detective Salmon] or hear him anymore." Detective Cowley noted being concerned that "[Detective Salmon is] already under the car and I'm next." Detective Cowley described that "... I've had people drive at me before but nothing like, like that ... She was trying to kill me."

Detective Cowley described that when he left to retrieve his tool from his truck he placed his gun back in its holster and was "looking at my truck, [because] I know [Detective Salmon] was ... still [at Ms. Willard's passenger window]." Detective Cowley explained that his attention was turned back to Ms. Willard's vehicle when he "heard the screeching [of the tires]" and saw "[Ms. Willard's] car coming at me." At this point, Detective Cowley said he drew his gun from its holster, pointed it at Ms. Willard, and began to fire. Detective Cowley clarified that "... my first shot was ... like almost simultaneously with when I'm getting hit ... with the car" and that he fired the second shot as he was falling to the ground or already on the ground, after being hit by the car.

Detective Cowley said that he had never seen Ms. Willard before the Incident, and was not aware of Ms. Willard being involved in any other investigations conducted by the Neighborhood Narcotics Unit, a specialized unit in the West Valley Police Department.

When asked again to clarify for investigators the circumstances of his first shot fired during the Incident, Detective Cowley explained, "... as [Ms. Willard is] coming back ... I tried to get out of the way [because] it hit my right knee, so I had just a little piece of her window and the door frame where her head was at, so, it was, it was shooting like angling, I don't know if that's ... right and it, it, I saw it shatter ... I saw the driver's side window shatter and I shot... I only had a piece maybe that big of that big of that window and her head, that's where I was firing at." Detective Cowley further explained that "... all I was seeing, originally while [Ms. Willard's vehicle] was coming at me, was the frames of the door ... and so, I have just a piece, I pointed my gun at it, where I thought I could see her head and fired and I saw that window explode and then I getting thrown back and then ... as I'm falling back to see her head and I shot again."

When asked about whether he sustained any visible injury during the Incident, Detective Cowley explained, "... on my pants, there was a black line, a black mark across both of my knees and then on my actual knee, it was, it was swollen on the outside and red and then, the only other thing that I had, I had ... like road rash on my, on the side of my hand ..."

Detective Cowley was asked by investigators why he drew his weapon when he "first walked up to [Ms. Willard's] car ... [and why he was] using force at that point..." Detective Cowley replied:

Well, we're coming up just to make contact with her and as soon, she puts the heroin in her mouth, that's a concern for us, obviously she's now freaking out. Or, I mean we don't have any other weapons, all I have is my gun on me. So I'm concerned that she was just

there, I'm concerned that drug users obviously that we've stopped multiple people that have guns. We didn't know exactly what we were doing as we were walking up normally and as soon as I see her put the heroin in her mouth, I know it's now escalated she's, there's something wrong. So, that, my firearm at the, right at the way, came out just to protect me until I can assess what's going on.

When asked whether he dropped his gun or whether the impact from the ground knocked his gun from his hand, Detective Cowley replied, "[i]t had to have been on the, on the ground, because I had [my gun] as I was falling." Detective Cowley reiterated that "... I remember hitting the ground on my back, but then I don't remember anything until I'm on my stomach."

Detective Cowley was asked by investigators to more specifically describe his movements as he walked away from Ms. Willard's vehicle to retrieve a tool to break Ms. Willard's window. In response to this question, Detective Cowley drew two diagrams for investigators.

The first diagram, attached as Exhibit B, depicts Ms. Willard's Subaru Forester parked directly next to the Dodge Nitro. Using arrows on the front of the vehicles, Detective Cowley indicated that Ms. Willard's vehicle was facing the curb, or front of the parking space, and the Dodge Nitro backed into the parking spot, and was facing towards the parking lot. With circles, Detective Cowley marked his presence at the driver's side front door of the Subaru Forester and Detective Salmon's presence at the front passenger door of the Subaru Forester. Using a line, Detective Cowley traced his path of movement when retreating from Ms. Willard's vehicle to retrieve his tool. As depicted by Detective Cowley, he left the driver's side front door of Ms. Willard's vehicle and walked towards the front of the Dodge Nitro. When he reached the left front corner of the Dodge Nitro, according to Detective Cowley, he turned and walked in front of the Dodge Nitro, roughly parallel to the vehicle's front bumper, and would have eventually crossed the parking lot towards his truck, which was parked to the east of the Dodge Nitro.

In the second diagram, attached as Exhibit C, Detective Cowley described his location when he fired his weapon into Ms. Willard's vehicle. Similar to the first diagram, Detective Cowley's second diagram depicts both the Dodge Nitro and the Subaru Forester parked in adjacent parking stalls. Detective Cowley also drew the path of Ms. Willard's vehicle, as it backed out of its parking stall, and moved from west to east, around the Dodge Nitro. In the diagram, Detective Cowley indicated he was directly in front of the Dodge Nitro, approximately in the middle of the front bumper, when he began firing at Ms. Willard.

### **Detective Salmon**

Detective Salmon was interviewed on two separate occasions. Protocol investigators from the West Valley City Police Department and the DA's Office interviewed Detective Salmon, in the presence of his attorney, on December 18, 2012, and then again on June 6, 2013. In both of his statements, Detective Salmon's description of the Incident from its inception up until both detectives approach Ms. Willard's vehicle is very similar to statements made by Detective Cowley in his interview. For this reason, the discussion below of Detective Salmon's statements about the Incident begins with Detective Salmon describing the circumstances when both detectives were standing at Ms. Willard's vehicle.

## Detective Salmon's First Interview:

Detective Salmon described that "... while [Detective Cowley and I] were at the sides of [Ms. Willard's] vehicle, Detective Cowley had pressed his badge up against the window and said, uh, 'stop police' and 'stop, spit[] it out.'" Detective Salmon noted that he could see "... [Ms. Willard] was, uh, looking at the gear shift and then back at Detective Cowley and myself. I held my badge up to the window and told her 'police, stop, don't do it,' [because] it appeared to me that she was, uh, contemplating placing the vehicle into, uh, motion and fleeing."

Detective Salmon then described that he attempted to gain entry into Ms. Willard's vehicle by striking the front passenger window with the bottom portion of his knife handle. Detective Salmon described that, "as I was [hitting the front passenger window with my knife], I observed Detective Cowley moving to the rear portion of [Ms. Willard's vehicle]." At this point, according to Detective Salmon, Ms. Willard "... quickly and abruptly put the vehicle in reverse and, uh, hit the gas." Detective Salmon stated that "[t]he vehicle moved very quickly out of the, the parking spot, and as it did so, the front, uh, right fender had struck me in the leg. I was able to step out of the way of the vehicle, and as I looked up, I could, uh, see that the vehicle was moving directly towards, uh, Detective Cowley."

Upon seeing this, according to Detective Salmon, "... I stepped out into more of the, the parking lot area, um, because I felt that she was going to completely run Detective Cowley over." Detective Salmon then recalled that, "I had stepped out and, uh, began to obtain a site picture on my, um, firearm... as I was pointing my weapon at her, I observed her strike Detective Cowley with the, uh, rear portion of her vehicle in his legs." At this point, according to Detective Salmon, "I [saw] Detective Cowley start to fall to the ground as he began to fire, uh, it was almost simultaneously I discharged my weapon at the driver of the vehicle in attempt to stop her from running Detective Cowley over and, and possibly killing him."

When asked to describe the movement of Ms. Willard's vehicle as it backed out of the parking stall, Detective Salmon described the following to the investigator:

Q: So the last time you see [Detective] Cowley before [Ms. Willard's] vehicle moves is roughly equal to the corner of the Nitro, give or take a little?

A: Mm-hmm (affirmative)

Q: In between the cars or?

A: Yes.

Q: How much of him can you see?

A: I can see his upper torso... as ... she places the vehicle in reverse, I took a step back and, uh, the front fender of the vehicle struck me in the leg as it, uh, reversed out of the parking spot.

Q: Which leg?

A: My right leg... I was able to step back after being, being struck, um, step back a foot and the vehicle was able to clear the parking spot and at that point, I had taken a step to the left, because I felt that at the point I was going to have to use deadly force because she was moving very quickly right at ... Detective Cowley. As I stepped out, I observed her strike Detective Cowley and I observed Detective Cowley falling to the ground as he was shooting. At the same time, I began shooting my weapon at the driver of the vehicle.

Q: Could you hear Detective Cowley say anything at this point...?

A: No, I just remember hearing the, uh, the discharge of his firearm.



Q: Okay and how do you know that the vehicle hit him?

A: I [saw] it hit him.

Q: Where did it hit him?

A: In his lower portion, I'm not sure, in the leg, and I don't know which, which leg I thought and thought about it and I can't remember which leg he was struck in, um, but I remember seeing the back portion of the vehicle make contact with his body.

When asked by investigators to again describe the circumstances at the moment he began firing his weapon, Detective Salmon clarified that: "... I began shooting as a, as I observed Officer Cowley being struck and as he was falling to the ground, he began shooting also. Um, so it was, at, almost at, at the same time, um, that we both began firing at the, at the driver." When asked to describe the manner in which Detective Cowley was falling, Detective Salmon said "[h]e was falling uh, to his right side to the ground as he was firing his weapon."

### **Detective Salmon's Second Interview:**

In his second interview, when describing the Incident at the point when both he and Detective Cowley were interacting with Ms. Willard at the front windows of Ms. Willard's vehicle, Detective Salmon was clear with investigators that "... in my mind, I think that [Ms. Willard was] obviously thinking about placing [her] vehicle in drive or reverse to flee the scene." When describing how he was attempting to gain access into Ms. Willard's vehicle, Detective Salmon noted that "... I remember seeing Cowley move towards the uh the back of her vehicle ... [and] she abruptly puts the car in reverse and begins backing out of the parking spot at a pretty fast rate of speed. As she does so, she turns the wheel uh hard to her left and ... [as] I step out of the way and the vehicle continues to reverse and I can see [Detective] Cowley in front of the Dodge Nitro that was parked there and uh the car hits him and I ... I can see that [Detective] Cowley's got nowhere to go and she's going to strike him. My fear was that she was going to strike him and run him over."

In further describing Ms. Willard's actions as she is confronted by the two detectives, Detective Salmon stated: "... she looks at me, looks back at [Detective] Cowley and [Detective Cowley] is still yelling at her to stop ... as this is happening, she's looking at [Detective] Cowley [and] she's looking down at the shifter [and] she's got a left hand on the steering wheel. She places her hand on the shifting column [and] looks at me. I shout at her, 'stop police, open your window or open your door,' um she takes her hand back off of the shifter puts it on the steering wheel looks at [Detective] Cowley, looks back at me again, puts her hand back on the shifter, she's looking in her rearview mirror, she looks back at [Detective] Cowley, [and] looks at me..."

When asked about Ms. Willard's demeanor during this time period, Detective Salmon described: "... she had a blank stare on her face ... the entire time that [Detective Cowley and I] were standing conversing at her car."

When asked again about his observations of Ms. Willard's actions at this point, Detective Salmon stated,

I'm feeling that she's gonna back out and flee the scene. It's evident to me that that's what she was planning on doing, she's looking in her rearview mirror to check the rear portion of her car to make sure she's not obstructed. She's looking at me and my partner in my opinion, she's sizing up the situation looking at avenues of exit, uh and

then she's moving her hand back and forth to the shifter almost like she's debating complying with our orders, but at the same time she's listening to herself of I need to flee the scene. So I'm watching this goin[g] on and I'm assuming she's gonna bail.

Investigators also asked Detective Salmon to clarify the point at which he was last able to see Detective Cowley, as Detective Cowley retreated from Ms. Willard's vehicle, prior to Ms. Willard backing out of the parking stall. Detective Salmon responded, "... I would estimate it about even with the rear tire of [Ms. Willard's] vehicle." Detective Salmon further described that, "I see her ... and I see Detective Cowley ... in front of the Nitro... At this point, I can see what's gonna happen, that she's gonna strike him with her car, um I'm assumin[g] he sees the same threat because he's got his gun out and he's bringing his gun up. Uh, I come out and that's when I start raising my firearm also."

When asked to describe his feelings at this point in the Incident, Detective Salmon stated, "I'm thinking she's gonna run my partner completely over, run Shaun over." Detective Salmon then stated that: "I began to uh to pull my firearm up and I move towards the vehicle and begin gaining a sight picture on the car ... I remember looking at the driver of the car, I remember seeing [Detective] Cowley out of my peripheral falling to the ground and firing his weapon, um, with his right hand, I stepped out ... and I began to uh shoot at the driver."

When asked to describe Ms. Willard's actions at this point in the Incident, Detective Salmon recalled: "... I see uh [Ms. Willard] ducking down towards uh her door kind of ducking down below the threshold of the dashboard almost as if she was taking cover like she [could foresee] what was about to transpire, like she assumed we were gonna start shooting at her, is really the best way I can describe it. It was like she was taking cover behind the dashboard almost." Detective Salmon further described that Ms. Willard was "... leaning to her left ... towards [the driver's side] door." At this point, according to Detective Salmon, Ms. Willard was "... still manipulating the steering wheel and leaning um and still in control of the vehicle." Detective Salmon also noted that "... it almost looked like she was looking in her side view mirror..."

When asked to clarify his observation of the Incident at the point he began firing his weapon, Detective Salmon said: "I can see my rounds impacting the windshield in small puffs, ... it almost looks like smoke to me poppin[g] through the glass, and at this point the car just takes off, I mean likes somebody was literally standing on the accelerator, and the car moves out of the way ... I see [Detective] Cowley just layin[g] there motionless face down in the parking lot... I thought at this point she had completely ran him over and killed him."

Detective Salmon was asked by investigators whether he ever actually saw Ms. Willard's vehicle strike Detective Cowley. In contrast to his first interview, Detective Salmon told investigators: "[n]o... I don't see any other way that vehicle could have not have hit him and coinciding with him falling to the ground, I concluded he's been struck by the car... [b]ut, ... I don't think I actually s[aw] it physically impact him."

### **Darren Mower**

Darren Mower is an accident reconstruction detective with the West Valley City Police Department. Detective Mower responded to the scene of the Incident and, along with crime

scene personnel, identified evidence relevant to the Incident, took measurements, and completed an accident reconstruction investigation.

Upon arriving at the scene, Detective Mower observed that Ms. Willard's vehicle came to rest after the driver's side portion of its rear panel impacted the rear portion of the passenger side of the Dodge Nitro. Upon impact, Ms. Willard's vehicle pushed the Dodge Nitro out of its parking space, and into the Lexington Park Apartments parking lot. After coming to a stop, the Dodge Nitro was facing west and Ms. Willard's vehicle was facing north, almost in the same location from where it started its path of movement. Detective Mower was able to determine that, originally, the Dodge Nitro and Ms. Willard's vehicle were parked directly adjacent to one another, with the Dodge Nitro backed into its parking stall and Ms. Willard's vehicle parked forward in its parking stall.

Detective Mower was able to observe that Ms. Willard's vehicle left markings on the asphalt of the parking lot as it traveled out of its parking stall and around the Dodge Nitro. From these markings, called "yaw marks," Detective Mower was able to precisely determine the path Ms. Willard's vehicle traveled in reverse. Detective Mower concluded that Ms. Willard's vehicle traveled only in reverse, that it traveled clockwise roughly in a circular pattern around the Dodge Nitro, and eventually impacted the rear portion of the Dodge Nitro, pushing the Dodge Nitro out of its parking spot. Using these yaw marks for reference, Detective Mower was also able to observe that the closest point between Ms. Willard's vehicle and the Dodge Nitro occurred when the driver's side of Ms. Willard's vehicle passed the left front corner of the Dodge Nitro at approximately three feet.

Despite the fact that the paved asphalt in the Lexington Park Apartments parking lot is a viable surface for such marks, Detective Mower did not find any acceleration marks left by Ms. Willard's vehicle. The absence of acceleration marks would indicate that Ms. Willard's vehicle did not make sounds similar to screeching as the vehicle backed out of its parking stall. Detective Mower determined, however, that the vehicle backed out rapidly, but not with an acceleration consistent with it making any noise from its tires when it began to move. Detective Mower estimated that the speed of Ms. Willard's vehicle when it reversed was between 10-20 mph. However, Detective Mower could not determine the speed at any given point in its travel since the vehicle started from a stopped position. Detective Mower was also able to determine from the yaw marks that Ms. Willard's vehicle was traveling at a slower speed as it began to reverse out of the stall and came around the front of the Dodge Nitro and then gained speed as it completed the circle and impacted the Dodge Nitro.

### **Michael G. Haag**

Protocol investigators consulted with Michael G. Haag, a private shooting incident reconstruction expert, in their investigation of the Incident. Mr. Haag was provided with the information, interviews, and evidence collected by protocol investigators, and provided a report of his findings.

As described above, at the scene, investigators located a total of six spent 9mm. shell casings. Mr. Haag determined that two casings were fired from Detective Cowley's firearm and four casings were fired from Detective Salmon's firearm. An analysis of the ejection pattern of the two shots fired by Detective Cowley indicate that the Subaru Forester would have been to the right of the gun when it was fired, and, thus, the ejected shell casings were likely in the path of

the reversing Subaru Forester. The casings fired by Detective Cowley therefore may have been carried or moved by Ms. Willard's vehicle.

An analysis of the ejection pattern of the four shots fired by Detective Salmon did not indicate that the Subaru Forester entered the path of the ejected shell casings. The casings fired by Detective Salmon were likely not carried or moved by Subaru Forester.<sup>2</sup>

As noted in Exhibit D, an analysis of the Subaru Forester indicated that it was struck by six bullets fired from two separate firearms:

Bullet A, which did not strike Ms. Willard, penetrated the hood of the Subaru and was recovered from the engine compartment. Detective Salmon fired bullet A.

Bullet B penetrated the front windshield causing the bullet to fragment, or break apart. A fragmented portion of this bullet struck Ms. Willard in the chin, causing the laceration observed by Dr. Christensen. The multiple, secondary impact sites or surface wounds on Ms. Willard's nose and left cheek, as described by Dr. Christensen, are most likely associated with small portions of Bullet B, which broke apart, or fragmented, when it struck the front windshield. Detective Salmon fired bullet B.

Bullet C, which did not strike Ms. Willard, penetrated the front windshield and continued forward until lodging in the forward facing portion of the steering wheel. The only orientation of the steering wheel that is consistent with the trajectory and the yaw marks found at the scene is a full left turn orientation of the steering wheel. In other words, when Bullet C perforated the windshield of the Subaru Forester, the steering wheel was fully turned to the left. Detective Salmon fired bullet C.

Bullet D, which did not strike Ms. Willard, entered and came to rest in the driver's side door approximately below the left side of the door handle. Detective Salmon fired bullet D.

Bullet E, which did not strike Ms. Willard, hit and remained in the pillar behind the driver's side door without entering the interior of the vehicle. From the absence of any glass embedded in bullet E and the precise hole left in the rubber weather sealant on the pillar behind the door, it is clear that Bullet E did not penetrate the driver side rear passenger door window. Bullet E, therefore, was fired after the fatal shot broke out the driver side rear passenger door window. Because of the precise hole in the weather seal caused by the bullet and the impact on the pillar a precise trajectory angle was determined for this bullet. Detective Cowley fired Bullet E.

The fatal shot struck Ms. Willard in the head. The entrance wound has irregular margins and is, therefore, not consistent with a stable bullet entrance. This observation is supported by evidence that the only logical trajectory for the fatal shot is through the driver side rear passenger door window of the Subaru Forester, the broken glass from which was found by investigators on the asphalt at the scene of the Incident. The fatal shot, thus, must have broken the driver side rear passenger door window. Mr. Haag's best estimate of the trajectory of the fatal shot passed

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<sup>2</sup> Though not likely not moved by the Subaru, available information suggests that some of the casing may have been disturbed by emergency and other responding vehicles.

between the left side of the driver's headrest and between the pillar on the driver's side of the car. Detective Cowley fired the fatal shot.

**DISCUSSION OF WHETHER DETECTIVE COWLEY AND DETECTIVE SALMON WERE JUSTIFIED IN USING DEADLY FORCE AGAINST DANIELLE WILLARD AS OUTLINED AND AUTHORIZED BY UTAH CODE SECTION 76-2-404.**

As referenced at the beginning of this report, Utah Code Section 76-2-404 sets forth the statutory authority that outlines the elements that define when the use of deadly force by a peace officer is justified. Its several subsections vary in their application depending on the facts of the deadly force incident. For ease of reference, the statute is provided again and states:

- (1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:
  - (a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(3) or (4);
  - (b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and
    - (i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or
    - (ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or
  - (c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

In reviewing this matter, the entirety of the statute was considered. Based upon the facts from the investigation and a review of the Incident, subsection 1(a) and 1(b) were determined to not be applicable. The incident did not involve the enforcement of a judgment of a court. Similarly, neither Detective Cowley nor Detective Salmon described their decision to use deadly force against the Ms. Willard in order to affect her arrest where they believed she committed any violent felony or where she posed a threat death or serious bodily injury if her apprehension was delayed.

Based upon the facts material to the incident, subsection 1(c) is the provision of the statute that is at issue in deciding whether Detective Cowley and Detective Salmon were justified in using deadly force against Ms. Willard.

Because both Detective Cowley and Detective Salmon used deadly force against Ms. Willard, an analysis is required of each officer's actions to determine whether each was respectively justified in using deadly force. The fact that Detective Cowley's use of deadly force

was the fatal bullet that caused Ms. Willard's death is not at issue in the justification analysis. The justification analysis is limited to determining whether the use of deadly force by either officer was lawful, and does not concern whether the deadly force actually caused death.

Additionally, Detective Cowley references that he believed that Ms. Willard first ran over Detective Salmon as he was realizing the threat to himself. Although he frames the reference in the context of its influence on his belief that Ms. Willard was going to run over him next, a separate analysis is required to determine if that belief justified Detective Cowley's use of deadly force against Ms. Willard.

In this review, there are two principle factual issues to resolve. First, where was Detective Cowley located when he and Detective Salmon decided to use deadly force against Ms. Willard? Second, where was Ms. Willard's vehicle located and what direction was it reversing toward when she was struck with the fatal bullet? It is understood that an officer's perception/reaction time to a threat has to be considered. The effect of perception/reaction time likely causes a moving threat to be in a slightly different location from the location where the officer made the decision to respond to the threat.

The principle legal issue that this review must resolve is whether, based upon the answers to the factual issues, Ms. Willard's vehicle posed an imminent threat of death or serious bodily injury to either officer to a degree that it was reasonable for both officers to conclude that the use of deadly force against her was necessary to prevent that threat.

#### **I. WHERE WAS DETECTIVE COWLEY WHEN HE DECIDED TO USE DEADLY FORCE AGAINST MS. WILLARD:**

**Detective Cowley was directly in front of the Dodge Nitro, a relatively safe location from Ms. Willard's reversing vehicle.**

Detective Cowley explained that when he turned around immediately upon hearing Ms. Willard reverse her vehicle, he saw her driving directly toward him, and he believed that she was going to kill him. However, his own statement, the written diagrams he drew, Detective Salmon's statements, the location of the glass debris caused by the window that broke out from the fatal shot and the direction of the fatal shot place Detective Cowley close to and directly in front of the Dodge Nitro when he fired the fatal shot.

Detective Cowley gave conflicting statements as to his location when he described hearing Ms. Willard reverse her vehicle and turned to see it coming directly at him when he believed that he was going to be run over.

In one description, he placed himself between the Dodge Nitro and Ms. Willard's vehicle "probably right either in the middle of the Nitro (the Dodge) or towards the front of the Nitro" when he heard the tires reversing, turned and fired his gun.

In another description he placed himself not between the vehicles, but in the front of the Dodge Nitro. "So as I came around the Dodge Nitro I heard the, the tires screeching on her car and as I turned around the back of her car was coming toward me."

Detective Cowley drew two diagrams regarding the Incident. In one, Exhibit B, he drew the path he followed as he was walking back to his vehicle to get the tool he intended to use to break out the window in Ms. Willard's vehicle. That drawing is consistent with his second description. It shows him walking back to his vehicle between the Dodge Nitro and Ms. Willard's vehicle, then turning sharply in front of the Dodge Nitro.

In his other drawing, Exhibit C, he drew the Incident noting the vehicles, the path by Ms. Willard's vehicle and where he was when he fired his shots and explained he was hit by Ms. Willard. Consistent with his second statement of his location and his other drawing, it also places him in front of the Dodge Nitro.

The physical evidence corroborates his second statement and his drawings, and shows that Detective Cowley was in fact in front of the Dodge Nitro and not on the side when he fired his gun at Ms. Willard.

The glass from the driver side rear passenger window that was shattered when Detective Cowley fired the fatal shot that killed Ms. Willard was located on the pavement beginning from the left front corner of the Dodge Nitro. It is known that Detective Cowley fired from the rear of Ms. Willard's vehicle to front and not from the front to the rear. In order for his shots to come from the rear of Ms. Willard's vehicle resulting in the glass breaking out and landing on the pavement at the left front corner of the Dodge Nitro, Detective Cowley would have to be in front of the Dodge Nitro and not on its side.

Detective Salmon also describes seeing Detective Cowley in the front of the Dodge Nitro. As Detective Salmon was watching Ms. Willard reverse her vehicle, he describes "I can see Cowley in front of the Dodge Nitro that was parked there..."

Although Detective Cowley is not completely consistent in his statements where he describes his location at the moment he explains turning and seeing Ms. Willard reverse toward him, the totality of his statements, drawings and the compelling corroboration of the physical evidence persuasively places Detective Cowley close to and directly in front of the Dodge Nitro.

## **II. WHERE WAS MS. WILLARD'S VEHICLE LOCATED AND WHAT DIRECTION WAS IT TRAVELING IN REVERSE WHEN SHE WAS FATALLY SHOT:**

**Ms. Willard was parked directly next to the Dodge Nitro. When she reversed her vehicle, she traveled in a clockwise circular path around the Dodge Nitro and Detective Cowley and not toward or in a direction that threatened Detective Cowley.**

Detective Cowley explained that when he turned upon hearing Ms. Willard reverse her vehicle, he saw her coming directly at him and thought that he was going to be killed. However, the physical evidence as well as Detective Salmon's statements, place Ms. Willard's vehicle reversing past and around Detective Cowley when he fired the fatal shot at Ms. Willard.

Detective Mower, an expert in vehicle accident reconstruction, was called to the scene of the Incident and was asked to study the scene and reconstruct the path taken by Ms. Willard's vehicle, and determine what occurred between her vehicle and the Dodge Nitro.

Detective Mower was able to locate key information that allowed him to determine the path traveled by Ms. Willard's vehicle, to determine certain characteristics about its movement, and what occurred between Ms. Willard's vehicle and the Dodge Nitro.

Detective Mower was able to locate tire marks on the pavement left by Ms. Willard's vehicle referred to as "yaw marks." They are the marks caused by the rubber of the tire that are left on a road surface when certain forces from a vehicle's movement occur.

From the yaw marks, Detective Mower was able to determine that Ms. Willard reversed her vehicle out of the stall initially at a slight clockwise angle. As her vehicle cleared the front of the Dodge Nitro, the clockwise circular angle of her vehicle became more pronounced and her vehicle continued in a clockwise circular path around the front of the Dodge Nitro. As it continued, the rear of her vehicle impacted the right rear of the Dodge Nitro causing the Dodge Nitro to be pushed in the same clockwise circular path until Ms. Willard's vehicle came to rest in almost the same location it started, with the Dodge Nitro perpendicular to its original location and Ms. Willard's vehicle. With the weight of the engine in front, the Dodge Nitro essentially rotated around on its front wheels with its rear wheels sliding sideways from the force of Ms. Willard's vehicle. Both vehicles remained in contact with each other upon rest.

The darkness of the yaw marks varied in their appearance. The marks around the front of the Dodge Nitro were lighter than those marks left by the tires of the vehicle as it completed the circle and impacted the Dodge Nitro. According to Detective Mower, the lighter marks indicate that Ms. Willard's vehicle was traveling at a slower speed where those marks were found versus where the darker marks were found. Detective Mower, however, cannot determine the precise speed of Ms. Willard's vehicle at any particular location. He can only state that the vehicle started from a stopped position and appeared to continue to accelerate as it traveled in the clockwise circular path.

Detective Mower was not able to locate any acceleration marks left by Ms. Willard's vehicle as it began to reverse from a stop. If the vehicle's tires made a screeching noise as it began to reverse, he would expect to see acceleration marks. However, Detective Mower did indicate that the vehicle reversed rapidly and not necessarily consistent with the speed expected from a vehicle reversing from a parking stall.

The path taken by Ms. Willard's vehicle is also corroborated by the ballistics evidence developed by the expert, Mr. Haag, who was engaged to determine the angles and other characteristics of the bullets fired by Detective Cowley and Detective Salmon. The corroboration of his work is compelling when considered against the information that places Detective Cowley directly in front of the Dodge Nitro.

The angle of both shots put Officer Cowley at an angle away from the rear of the vehicle consistent with his location in front of the Dodge Nitro and Ms. Willard's vehicle safely passing him at a slight angle as it exited the stall.

Though the precise angle of the fatal bullet could not be determined due to the absence of any fixed points, the natural orientation of Ms. Willard's head looking in her side view mirror as she was reversing places Detective Cowley shooting the fatal bullet at a safe angle away from the vehicle. See Exhibit D. Notably, the orientation of Ms. Willard's head that is relied upon for the angle of the fatal bullet is consistent with the angle and path the bullet traveled in her head.



determined by the medical examiner and with Detective Salmon's description that Ms. Willard was looking in her side view mirror when she began to reverse.

The angle of the second shot was determined with precision due to the fixed points that it traveled through, coming to rest in the pillar between the driver side window and rear passenger window. With the second shot fired by Detective Cowley immediately after the first from the relative same location and with Ms. Willard's vehicle moving, the angle of the second shot is predictably wider from the vehicle than the first shot. That slightly wider angle provides further confirmation that Officer Cowley was safely to the side of Ms. Willard's reversing vehicle when he fired both shots.

Consideration of perception/reaction times for Detective Cowley from the moment he perceived the threat to the moment he fired his weapon at Ms. Willard does not alter the assessment of the threat Ms. Willard's reversing vehicle posed to Detective Cowley. Because she was reversing out of an adjacent parking stall at a slight angle, placing her vehicle slightly ahead of the location the glass debris places her vehicle at the moment Detective Cowley fired the fatal shot does not alter the lack of threat Ms. Willard's vehicle posed to Detective Cowley. In fact, it further mitigates the threat perception Detective Cowley would have had.

The vertical angles of both shots also undermine Detective Cowley's description of the circumstances under which he fired both shots. He describes firing the first shot at about the same time he was hit on the right leg by the left rear bumper and firing the second shot as he was falling. However, both shots were on a downward angle. Accepting that his first shot was at a downward angle since he was still upright even though he describes moving sideways to avoid the impact, his second shot would likely not have same downward angle if he was indeed falling from the impact when he fired the second shot. The downward angles for both shots are at the same relative downward angle. Even fired in rapid succession, some difference in the angle would be expected, if Detective Cowley was falling while firing.

The positioning of Detective Cowley to the side of Ms. Willard's reversing vehicle is also corroborated by Detective Salmon. As Detective Salmon described, he saw Detective Cowley to the side of Ms. Willard's vehicle when he observed Detective Cowley shooting his gun at Ms. Willard. That is in contrast to the statements Detective Salmon made in his first interview when he described actually seeing Detective Cowley being hit by Ms. Willard's vehicle. However, Detective Salmon later retracted those statements in his second interview when he explained that he did not actually see Detective Cowley being hit by Ms. Willard's vehicle.

Notably, Detective Cowley's contention that he fired the first and fatal shot as he was being hit in the right leg by the rear bumper seems unlikely given the angles involved and what would be required of his positioning. He claims that he was able to see her head as he was trying to avoid being hit. "This is coming at me straight on like this, it's, I'm able to move just enough, I can get like half my body out to see, just to see enough of her, otherwise, all I was seeing, originally while it was coming at me, was the frames of the door."

The fatal bullet had to travel through the rear passenger window, between the pillar that separates the driver side window from driver side rear passenger window and the driver head rest and impact Ms. Willard near the left top of her head. Even assuming she was angling her head to the left and tilted back in an orientation that would not naturally be consistent with looking in the side view mirror, the position that Detective Cowley put himself in to fire that fatal round does

not give him the angle necessary to have an open path that would permit the fatal bullet to travel and impact Ms. Willard as it did. The angle he describes seems too tight. The angle that presents the opportunity to hit Ms. Willard in the head as she is seated in the driver seat only realistically occurs as one moves away from the side of the vehicle. The fact that Detective Cowley was shooting with his right hand while he contends he was being hit on the right leg further defines the probabilities of the scenario.

As part of their investigation, detectives from the protocol team also inspected the rear of Ms. Willard's vehicle to determine if they could locate any evidence that would support that Detective Cowley was hit by her vehicle. The vehicle surface had the normal amount of dirt expected on a vehicle that was not recently washed. Detectives could not locate any marks or other evidence that would be consistent with an impact with Detective Cowley. The dirt on the back of Ms. Willard's vehicle was free of any swipe marks or other disturbances that would be consistent with contact with Detective Cowley.

Detective Cowley did complain of pain to his right leg after the Incident that would be consistent with an impact. However, there was no medical corroboration of any injury and all information of any pain was self reported by Detective Cowley. A paramedic who examined Detective Cowley at the scene of the Incident did note redness to his right leg. However, that redness could very well have occurred when Detective Cowley fell to the pavement face down, as he described. Certainly both Detective Cowley and Detective Salmon describe Detective Cowley falling to the pavement. However, whether Detective Cowley fell to the pavement is not at issue, but rather, the cause of the fall. At issue is the reason why he fell. Detective Cowley was certainly in the path of Detective Salmon's four shots at Ms. Willard's vehicle. Indeed, Detective Cowley describes seeing the front windshield being hit by bullets fired by Detective Salmon. Being in the path of Detective Salmon's shots could reasonably cause Detective Cowley to fall to the ground.

Furthermore, a witness to the Incident who saw Detective Cowley after the shots describes seeing Detective Cowley running a short distance from the scene and then falling. In either instance, Detective Cowley falling to the ground could explain the redness to his right leg observed by the paramedic.

From the reconstruction of the path taken by Ms. Willard's reversing vehicle, the reconstruction of the angles of the bullets that Detective Cowley fired at Ms. Willard, Detective Salmon's statement that places Detective Cowley on the side of her vehicle and the absence of any credible information that Detective Cowley was directly behind Ms. Willard's reversing vehicle, compels the conclusion that Ms. Willard reversed her vehicle from a stop in a direction past Detective Cowley and not directly at him.

### **III. WHAT DID DETECTIVE SALMON REASONABLY OBSERVE WHEN MS. WILLARD'S VEHICLE WAS REVERSING:**

**Detective Salmon saw Detective Cowley to the side of Ms. Willard's reversing vehicle, and not behind or threatened by it.**

Detective Salmon explained that as Ms. Willard was reversing her vehicle it swiped his leg as he moved away and then he positioned himself in front of her vehicle and focused on her. He explained that could see that she was going to run over Detective Cowley. He saw Detective

Cowley in the periphery of his vision and as she was reversing he saw Detective Cowley falling.

Detective Salmon further explained that because he could see the threat that Ms. Willard was presenting to Detective Cowley as she was reversing, he starting to aim his firearm at her. As he saw Detective Cowley falling, Detective Salmon explained that he saw Detective Cowley raise his firearm at her and shoot. At that moment, he decided to shoot at her as well to protect Detective Cowley.

However, the information that makes it clear that Detective Cowley was in front of the Dodge Nitro as Ms. Willard was reversing past him was clearly within Detective Salmon's view. Further, Detective Salmon's own statements reflect that he saw Detective Cowley in front of the Dodge Nitro as Ms. Willard was reversing past him when he decided to shoot at Ms. Willard.

When the shooting occurred, Detective Salmon was in front of Ms. Willard's reversing vehicle. That afforded Detective Salmon a view from where he could easily see Detective Cowley's location and accurately appreciate the direction of Ms. Willard's vehicle.

Indeed, Detective Salmon's own diagram reflects that is exactly what he saw. In his second interview, Detective Salmon described and diagramed the Incident. In his diagram, he places Detective Cowley on the side of Ms. Willard's reversing vehicle when he explains seeing Detective Cowley falling. At no point does Detective Salmon place Detective Cowley behind her vehicle. During this interview Detective Salmon contradicted his prior statement that he actually saw Detective Cowley get hit by Ms. Willard. When asked by investigators specifically if he actually saw Ms. Willard hit Detective Cowley, he explained that he did not and only saw Detective Cowley falling to the ground.

#### **IV. DID MS. WILLARD REVERSE OVER DETECTIVE SALMON:**

**Detective Salmon was not in a location where Ms. Willard could reverse over him and Detective Cowley acknowledges that he did not see Ms. Willard reverse over Detective Salmon.**

As mentioned in the beginning of the discussion section, Detective Cowley explained that he used deadly force against Ms. Willard because he believed that Ms. Willard had just reversed over Detective Salmon and was intending on killing him as she continued in reverse toward him. Although Detective Cowley seems to rely upon this belief to support his contention that Ms. Willard intended to run over him and therefore posed a deadly threat, because Detective Cowley raised the issue as a reason why he used deadly force, a discussion on whether his explanation is supported by the investigation is warranted.

Detective Cowley did not claim to actually see Ms. Willard run over Detective Salmon. Rather, he believed Ms. Willard ran over Detective Salmon because he did not see Detective Salmon when he turned upon hearing her reversing. That belief was not reasonable and Detective Cowley was aware of information that further should have allayed any conclusion that Detective Salmon was run over.

Detective Cowley knew that Detective Salmon was at the front passenger window engaging Ms. Willard when he decided to turn around and return to his vehicle to retrieve a tool to break out her window. Her vehicle was still stationary at that point and he did not apparently

have any concern about her propensity to threaten either himself or Detective Salmon. She was not engaging in any threatening action, but rather was unresponsive to their demands. Indeed, he described the circumstance at that point as “ridiculous” when he referred to her unwillingness to unlock her vehicle. Evidently, he was comfortable enough with the situation that he decided to walk back to his vehicle to retrieve a tool leaving Detective Salmon alone with her.

As Detective Cowley was walking back to his vehicle he heard Ms. Willard’s vehicle reversing. He described hearing her tires “screech,” and immediately turned around to see the vehicle coming at him. He expressed that his thought was that Ms. Willard must have run over Detective Salmon because he did not see him.

However, at that moment, Detective Cowley described focusing on Ms. Willard’s reversing vehicle. Thus, it seems he was not looking for Detective Salmon and the area of his focus under those circumstances reasonably explains why he did not see Detective Salmon. Moreover, Detective Cowley’s back was toward Detective Salmon when he heard Ms. Willard reversing.

Moreover, the information available to Detective Cowley at that moment reasonably would have caused one to conclude that Detective Salmon was safely out of the way of her vehicle and in the location where Detective Salmon places himself – to the side and then front of her vehicle. Detective Salmon was at the front passenger window and so close to the front tires that even if Ms. Willard reversed rapidly, as Detective Cowley described, Detective Salmon could have easily avoided the vehicle and its front tires by stepping back and away. Because Ms. Willard was parked directly next to a vehicle to her left, that vehicle also prevented her from making a turn in reverse sharp enough to imminently threaten Detective Salmon.

Detective Cowley’s claim that Ms. Willard must have run over Detective Salmon because he could not see him at the moment he turned is not supported by a reasonable interpretation of the evidence and was not a reasonable assumption – certainly not reasonable enough to justify the use of deadly force. The lack of a threat from Ms. Willard at that specific moment does not reasonably support Detective Cowley’s stated concern about Detective Salmon—it does not reasonably support the use of deadly force.

**DETECTIVE COWLEY AND DETECTIVE SALMON’S USE OF DEADLY FORCE AGAINST MS. WILLARD BECAUSE THEIR BELIEF THAT SHE PRESENTED A THREAT OF DEATH OR SERIOUS BODILY INJURY WAS NOT REASONABLE.**

The totality of the information about the Incident developed through the investigation, particularly the corroborating value of the information, compels the conclusion that neither Detective Cowley nor Detective Salmon were justified in using deadly force against Ms. Willard.

From the location of the glass debris to the reconstruction of the path taken by Ms. Willard’s reversing vehicle to the angles of the shots Detective Cowley fired at Ms. Willard to the location where Ms. Willard suffered the fatal shot in her head to the diagrams and statements provided by Detective Cowley and Detective Salmon, a clear and compelling account of what actually occurred emerges. Detective Cowley and Detective Salmon used deadly force against Ms. Willard as she was passing Detective Cowley while he was standing in the front of the Dodge Nitro. Ms. Willard’s reversing vehicle was not traveling at Detective Cowley and did not

present any threat to either detective. She was, as both detectives perceived, attempting to exit the parking stall to flee the scene.

Accordingly, Detective Cowley and Detective Salmon's contention that they believed Ms. Willard was going to reverse over Detective Cowley was not reasonable. Because their beliefs were not reasonable, their use of deadly force against Ms. Willard was not justified.

Utah state law permits a peace officer to use deadly force against a person, but only when the officer reasonably believes the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another. Neither Detective Cowley nor Detective Salmon acted reasonably in using deadly force against Ms. Willard and, therefore, the DA's Office concludes that their respective use of deadly force in the Incident was not justified under Utah law.

### **FINDINGS AND CONCLUSIONS**

Based upon our review of the evidence and in light of relevant law, we find and conclude as follows:

- 1) Detectives Salmon and Cowley were in separate vehicles in different locations holding surveillance on two residences they suspected to be involved in narcotic activity.
- 2) Detective Salmon was parked in the Lexington Park Apartments; Detective Cowley was parked in the West Gate Condominiums.
- 3) At some point, Ms. Willard entered the Lexington Park Apartment's parking lot and parked near Detective Salmon. A male subject exited one of the residences under surveillance and walked towards Ms. Willard's vehicle. He sat in the front passenger seat.
- 4) Detective Salmon, fearing his cover might be compromised, moved away from Ms. Willard. He maintained a visual on Ms. Willard's vehicle and suspected that she was involved in a narcotics transaction with the male subject. He communicated this to Detective Cowley.
- 5) Detective Salmon parked his vehicle in the same parking lot. A very short time later Ms. Willard moved her vehicle and parked next to Detective Salmon. At this moment Detective Salmon believed, although did not actually see, Ms. Willard preparing to use narcotics. He communicated this Detective Cowley.
- 6) Ms. Willard saw Detective Salmon; she moved her vehicle again several stalls away from Detective Salmon and parked it next to a Dodge Nitro that was backed into a stall.
- 7) By this time, Detective Cowley was parked in the Lexington Park Apartments parking lot and had communicated a desire to make contact with Ms. Willard. He got out of his vehicle and walked up to Ms. Willard's vehicle and made contact with her.
- 8) Detective Salmon got out of his vehicle and started to walk towards Ms. Willard's vehicle. Detective Cowley was already at the driver side window of Ms. Willard's vehicle and Detective Salmon could hear him shouting at Ms. Willard to "open the door"

and to “spit it out.” Detective Salmon quickened his pace to get there. Detective Cowley had pulled out his weapon and was pointing it at Ms. Willard as a show of force. Detective Salmon also pulled out his weapon at low ready as a show of force. He positioned himself on the passenger side window.

- 9) Detective Cowley stated that he saw Ms. Willard put what he believed to be a black substance in her mouth. He believed it to be the purchased drugs. This was not corroborated by the examination of Ms. Willard’s body or the medical examiner. The purchased drugs were found to be in the side pocket of the driver’s side door.
- 10) Detective Cowley was trying to open the door. Detective Salmon tried to do the same—both with no success.
- 11) Ms. Willard was said to be neither excited or angry; only that she was looking back and forth and was non-responsive to their commands with a blank stare. Detectives indicated that she kept moving her hand from the steering wheel to the gear shift.
- 12) Detective Cowley tried to break the window but had nothing to do it with. Detective Salmon tried break the window with his knife.
- 13) At this time Detective Cowley decided to leave the side of the vehicle and walk back to his vehicle to get a tool with which to break out the window leaving Detective Salmon on the other side.
- 14) Detective Cowley walked out of the parking stall and walked around the front of the Dodge Nitro.
- 15) Detective Cowley was in the middle front of the Dodge Nitro when Ms. Willard’s vehicle reversed out of the stall at a slight clockwise angle. It moved out rapidly but not fast enough to screech tires or leave tire impressions behind that could be detected by the accident reconstruction expert.
- 16) As she exited the stall her front bumper brushed Detective Salmon’s knee and he was able to step back and track the vehicle’s movements.
- 17) As Ms. Willard’s vehicle reversed, two shots were fired by Detective Cowley.
- 18) The first and fatal shot went through the rear passenger window and in between the head rest and the metal pillar separating the passenger window and the rear window. This shot struck Ms. Willard on the top left of the head and as her head was leaning to her left. The bullet entered on a downward angle as corroborated by the medical examiner.
- 19) The second shot was also fired by Detective Cowley and it struck the metal pillar dividing the windows also on a down ward angle and at approximately same height vertically as the first shot. This shot entered the metal frame and had no glass embedded within it indicating the glass already had been blown out by the first shot.
- 20) As the vehicle was moving, Detective Salmon fired the third shot hitting the hood of the vehicle as he was raising his gun. He fired the fourth shot hitting the windshield and the

chin of Ms. Willard. He fired fifth shot hitting the windshield and hitting the steering wheel. He fired the sixth shot hitting the door of the vehicle as it circled back clockwise.

- 21) Ms. Willard's vehicle continued in its clockwise turn and hit the parked Dodge Nitro pushing it back; Ms. Willard's vehicle came to rest almost in the same place from where it started.
- 22) Detective Cowley claimed that he was hit by Ms. Willard's vehicle, specifically the rear bumper as it came around. Detective Cowley indicated the rear bumper hit him and he fired and as he was falling.
- 23) Detective Cowley also indicated that he thought Ms. Willard had run over Detective Salmon and was about to run him over. This claim is not substantiated by the evidence as Detective Salmon never went down and continued to track Ms. Willard's vehicle's movement.
- 24) Detective Salmon indicated that he fired because he saw Detective Cowley get hit by the vehicle. When pressed he indicated that he did not actually see Detective Cowley get hit; but rather that he saw Detective Cowley falling, and while falling, firing his gun. Detective Salmon indicated he saw Detective Cowley raise his gun and and fire from the side of Ms. Willard's vehicle. Detective Salmon said that he saw Detective Cowley in front of the Dodge Nitro when Detective Cowley fired his gun.

Forensic evidence, statements, and accident reconstruction all indicate the following:

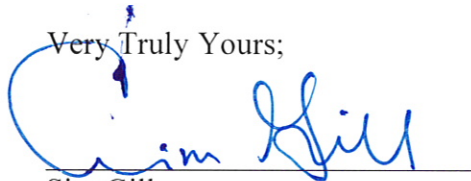
- A) Detective Cowley was in front of the Dodge Nitro as Ms. Willard's vehicle came out of the parking stall. The angle of the shots fired by Detective Cowley place him on the side of the vehicle driven by Ms. Willard. This is corroborated by Detective Cowley's own statements and the statements of Detective Salmon, trajectories of the bullets done by Michael Haag and accident reconstruction.
- B) Detective Cowley was not be behind the Subaru driven by Ms. Willard since he would not be able to obtain the narrow angle of the shot from behind Ms. Willard's vehicle but only from the side of the vehicle when he fired the fatal shot.
- C) The second shot, if he was falling, would not likely have been on the same angle as the first shot. Both shots fired by Detective Cowley were at the relative same downward angle.
- D) The physical evidence also indicates that the glass window that was blown out was found in the area of the front left corner of the Dodge Nitro indicating the shot was fired as Ms. Willard's vehicle was coming out of the parking stall on a slight angle.
- E) Ms. Willard's vehicle reversed at a slight angle, but the angle of her wheels only become more pronounced as she traveled in front of the Dodge Nitro and after she had already been hit by the fatal shot.
- F) Ms. Willard's vehicle produced faint yaw marks in front of the Dodge Nitro indicating a slower speed and more pronounced yaw marks at the top of the clockwise

rotation indicating a higher speed at the time of the collision with the Dodge Nitro. There were no acceleration marks from the place she was parked that would be consistent with her tires making screeching sounds described by Detective Cowley.

- G) Detective Salmon saw Detective Cowley to the side of Ms. Willard's vehicle not behind it. He did not see Detective Cowley actually get hit by Ms. Willard's vehicle but only falling. He also saw Detective Cowley raise his gun. Detective Salmon also followed the vehicle as it reversed, and in his peripheral vision he placed Detective Cowley in front of the Dodge Nitro.
- H) Detective Cowley did not see Detective Salmon get run over. Detective Cowley believed Detective Salmon had been run over because when Detective Cowley turned around at the sound of Ms. Willard's vehicle reversing, Detective Cowley did not see Detective Salmon.
- I) Based on the totality of the information presented to this office and the subsequent detailed analysis articulated more fully in our report it is the conclusion of this office that Detective Cowley and Detective Salmon were not justified in the use of deadly force.

Thank you for the opportunity to review this case. Please contact me directly if I can be of any assistance to you or your department.

Very Truly Yours;

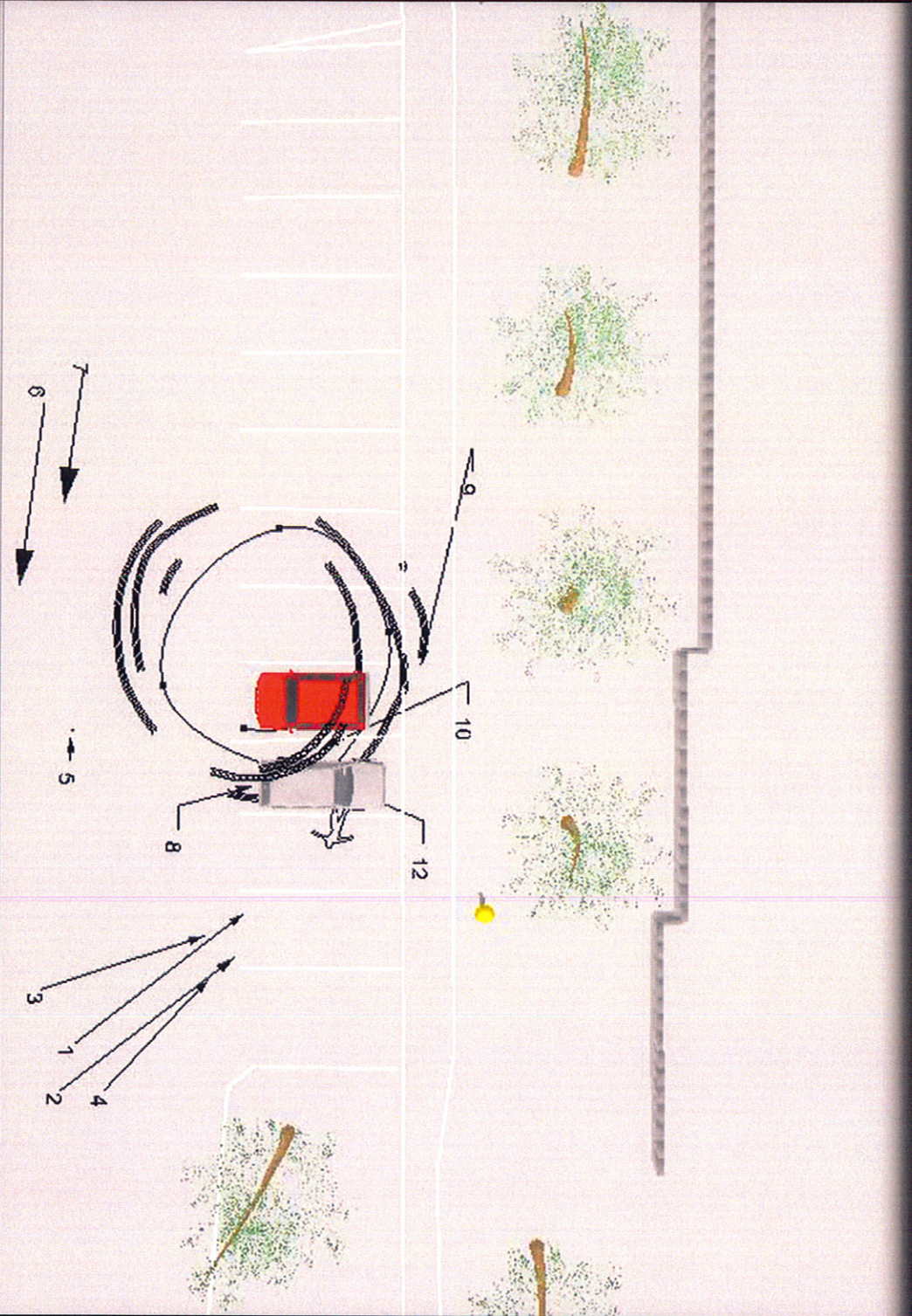


Sim Gill,  
Salt Lake County District Attorney

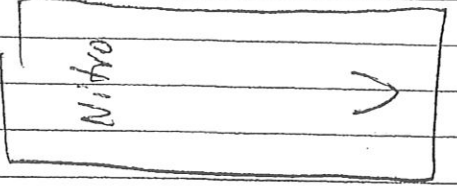
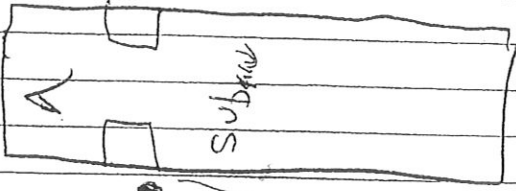
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# EXHIBIT A



# EXHIBIT B

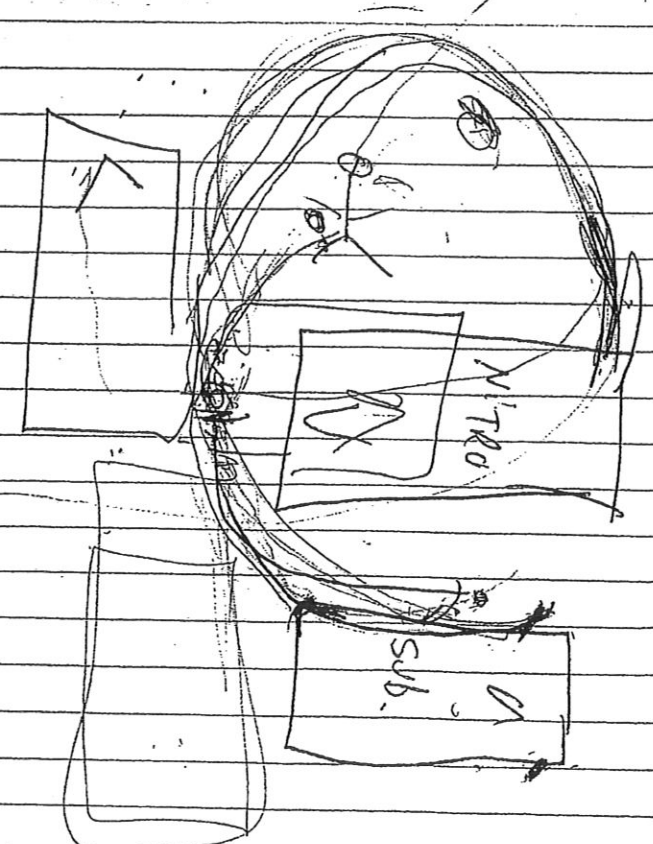


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# EXHIBIT C

ADULT #3



# EXHIBIT D

# Trajectory Conclusions

