



FORCE INVESTIGATION TEAM

Commander Steve Zaccardi
Weber County Attorney
Email: szaccardi@weber.ut.us

Assistant Commander
Steve Haney
Weber County Attorney
Email: shaney@co.weber.ut.us

Detective Rick Childress
Ogden Police Dept.
rickchildress@ogdencity.com

Detective Brian Schultz
South Ogden Police Dept.
bschultz@southogdencity.com

Detective Sean Endsley
Weber County Sheriff
sendsley@webercountyutah.gov

Detective Larry Lewis
Ogden Police Dept.
larrylewis@ogdencity.com

FIT-IC Jamie Pitt
Court Technical Specialist
jpitt@co.weber.ut.us

Force Investigation Team Report Officer-Involved Shooting

Incident: Officer-Involved Shooting-Fatal

Agency(s) Involved: Weber County Sheriff's

Relevant case numbers: WCSO 22WC275, CSI 22CS18, ME 2022-00069

Date of Incident: January 4, 2022

Time of Incident: 13:23 hrs.

Location of Incident:

FIT Lead Investigator: Investigator Steve Zaccardi

Involved Officer(s): Deputy Grady McFarland

Involved subject (s): Adam Winters

Witness Officers: Corporal Tyler Tremble
Deputy Trista Markham
Deputy Caleb Nielson

**PURSUANT to URCrP, Rule 16(e)
and UCS §77-38-6, the victim(s)
and witnesses' identifying
information has been redacted
from the enclosed documents.**

Introduction

In the early afternoon of January 4, 2022, the Weber County Sheriff's Office reported that there had been an officer-involved shooting, which involved one of their officers. The Weber County OIS protocol was initiated.

Officer-involved shooting investigations are the Weber County Attorney Force Investigation Team's (FIT) responsibility outlined in the protocol. The information contained in this document is a summary of the complete investigation conducted by the WCAO FIT with assistance from investigators with the Weber County Homicide Task Force (HTF). The following investigators worked on the case with a summary of their assignments.

Lead Investigator: Steve Zaccardi, WCAO FIT

Crime Scene: Steve Haney, WCAO FIT

Family Interviews: Cameron Hartman, WCAO FIT

Witness interviews: Rachel Walker, OPD HTF

Witness interviews: Waldo Vazquez, RVPD HTF

Witness interviews: Andrew Howard, OPD HTF

Witness interviews: Brandon Peterson, RVPD HTF

Summary

On January 4, 2022, at approximately 1324 hrs, Deputies from the Weber County Sheriff's Office were dispatched to a domestic disturbance at . At that location, Cindy Winters was in an argument with her husband Adam Winters. This argument escalated when Adam retrieved a handgun from his camp trailer and fired a shot. Cindy locked Adam out of the house and called Adam's Aunt Darcey Winters, who in turn called 911. A neighbor across the street from the Winters' residence also called 911 reporting that Adam was out in front of his home with a gun.

This particular neighborhood consisted of newly built homes. At the time of the incident, the Winters' home was the last house on that particular street. When Deputies arrived they parked at the end of the block to the east, several houses away from the Winters' home. Adam was sitting on the steps leading to his house when they arrived. As Deputies approached, Adam got up and started walking toward their location with a handgun in his right hand, and appeared to point the gun at Deputies. Adam eventually ended up standing behind a vinyl fence across the street from Deputy McFarland who had taken up a position on the corner of the house to the north. Deputy Nielson was directly east of Adam standing on the other side of the vinyl fence. At one point Adam appeared to jump up onto the fence. Deputy McFarland fired a shot from his patrol rifle. Adam then fired two rounds from his handgun. Deputy McFarland fired two more rounds from his rifle. One round struck Adam in the lower chest, and he was pronounced dead at the scene.

Adam Winters



Adam Winters was born on September 4, 1980.

Criminal History:

- 2004- Criminal Mischief/Interfering w/arrest
- 2007- Unlawful detention

Adam Winters was a civilian employee who worked on Hill Air Force Base.

Deputy Grady McFarland



Deputy McFarland had been a certified law enforcement officer with the state of Utah since 2017. McFarland worked as a corrections deputy with the Salt Lake County Jail from March 2017 to October 2017. He had been a full-time Deputy with Weber County since October 2017. He is currently assigned to the patrol division. The above photo is how McFarland was dressed on the day of the incident.



Investigators conducted a bullet count with Deputy McFarland. The weapon he used in this incident was an AR-15 which fires a .223 caliber bullet. In the magazine were twenty-four (24) rounds. The magazine's maximum capacity is thirty (30) rounds. According to Deputy McFarland, it is Weber County Policy to keep just twenty-eight (28) rounds in the magazine. Based on the count, the remaining rounds would indicate that McFarland fired three rounds from his patrol rifle. This is consistent with the evidence found at the scene. [Note: no other weapon was used by law enforcement in this incident. end of note]



Interview with investigators.

A request was made for Deputy McFarland to speak with Investigators and describe what happened in his own words. Through his FOP Attorney, McFarland refused our request for an interview citing his constitutional right to self-incrimination

Crime Scene



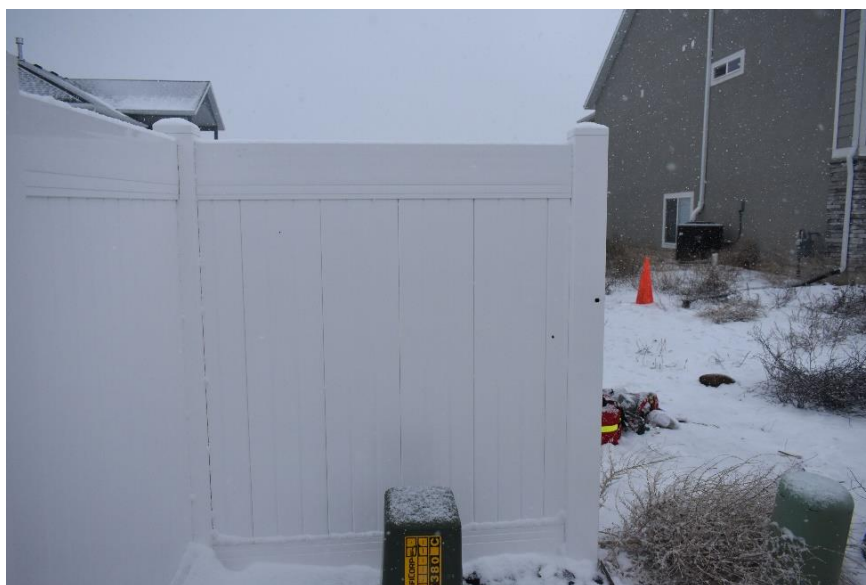
The above photo was taken from a drone of the overall crime scene. When Officers arrived on the scene Adam Winters was sitting on the steps in front of his home. Upon arrival Deputy Nielson took up a position on the same side of the road as Winters behind a vinyl fence. Upon seeing the deputy, Winters made his way from his house to the east and took up a position on the vinyl fence at the other end. McFarland arrived later and took up a position at the house on the corner across the street from the Winters location.



In the photo above the orange circle represents where Winters was standing behind the fence.



In the above, photo the black circle on the left was a bullet impact from the first shot from McFarland that struck the top of the vinyl fence post. The circle to the right is the bullet impact on the fence.



The bullet holes in the fence



The green-colored rods in the fence are trajectory rods used by CSI to show the path of the projectiles.



Above is a photo from the side which shows the angle that the projectiles traveled. Through consultation with CSI, Investigators believe that the rod on the top which is angled downward was fired by Adam Winters. It is believed the projectile continued to travel on a downward angle striking the fire hydrant located in the grass strip. (photo below)





Above and below are a series of photos of the gun that was used by Winters. When Deputies arrived at the body they moved the gun to this location.



Springfield Armory Model XD-9 SN:



The markers are shown in the photo are where shell casings were located by where Winters had been standing.





Above is a photo of where Deputy McFarland was standing when he fired his shots.



These markers show where spent shell casings were located, there were three in total.

Surveillance Video

Investigators were able to obtain surveillance footage from Winter's residence and also from a home in the neighborhood at the east end of the road.

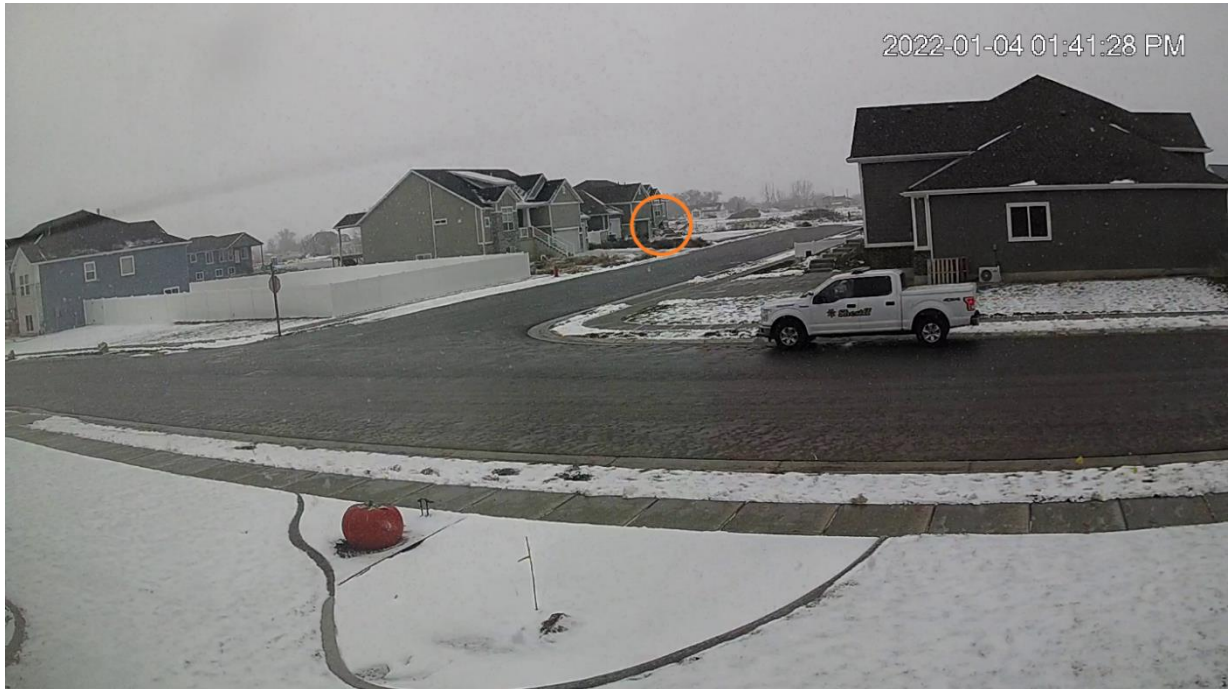
Winters home

Below are a series of photos taken from the doorbell camera at the Winter's residence. What is in a portion of the video but is not depicted in the photos, is the fact that Winter's wife Cindy Winters had come out onto the porch looking for her husband. At this point, Adam had gone to his camp trailer which was parked on the east side of his home, and retrieved his handgun. Cindy had come outside to look for Adam. She was on the phone with Adam's Aunt and Uncle at the time. Adam came around the corner with their dog in his arms. The video also had a microphone that captured the audio exchange. As Adam started walking up the steps he commented, "bye bitch." He said "bye" two more times, then commented "you caused all of this" and then "you did this."

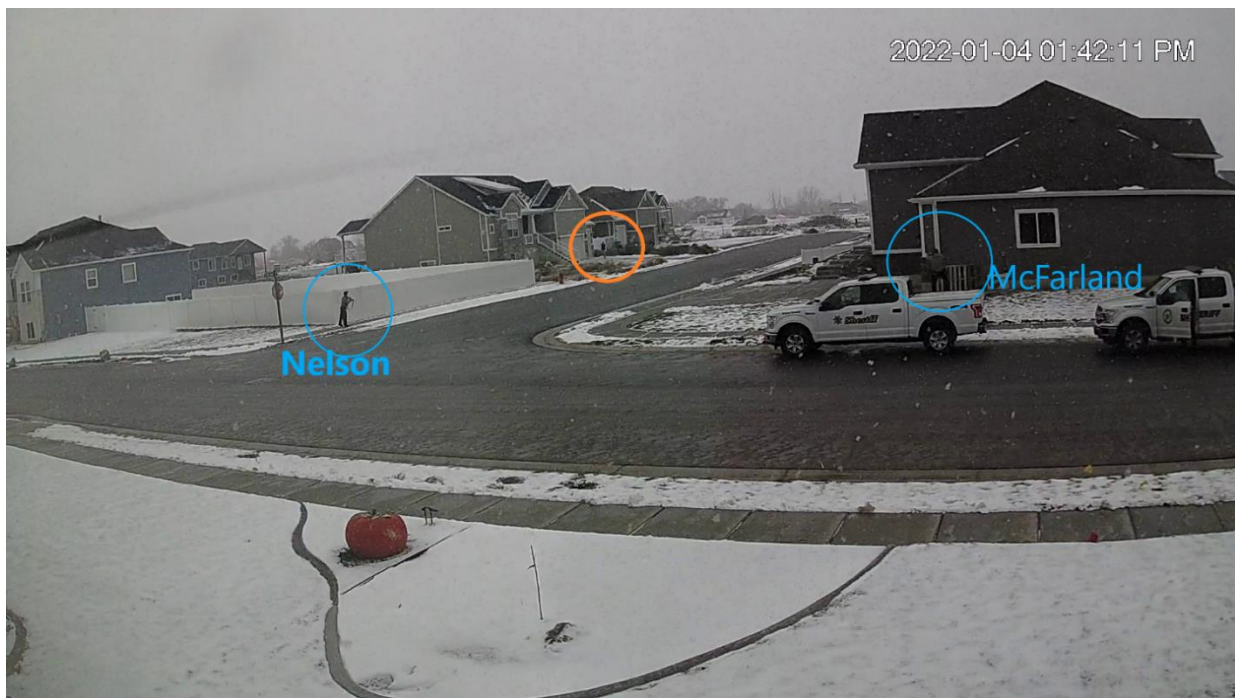




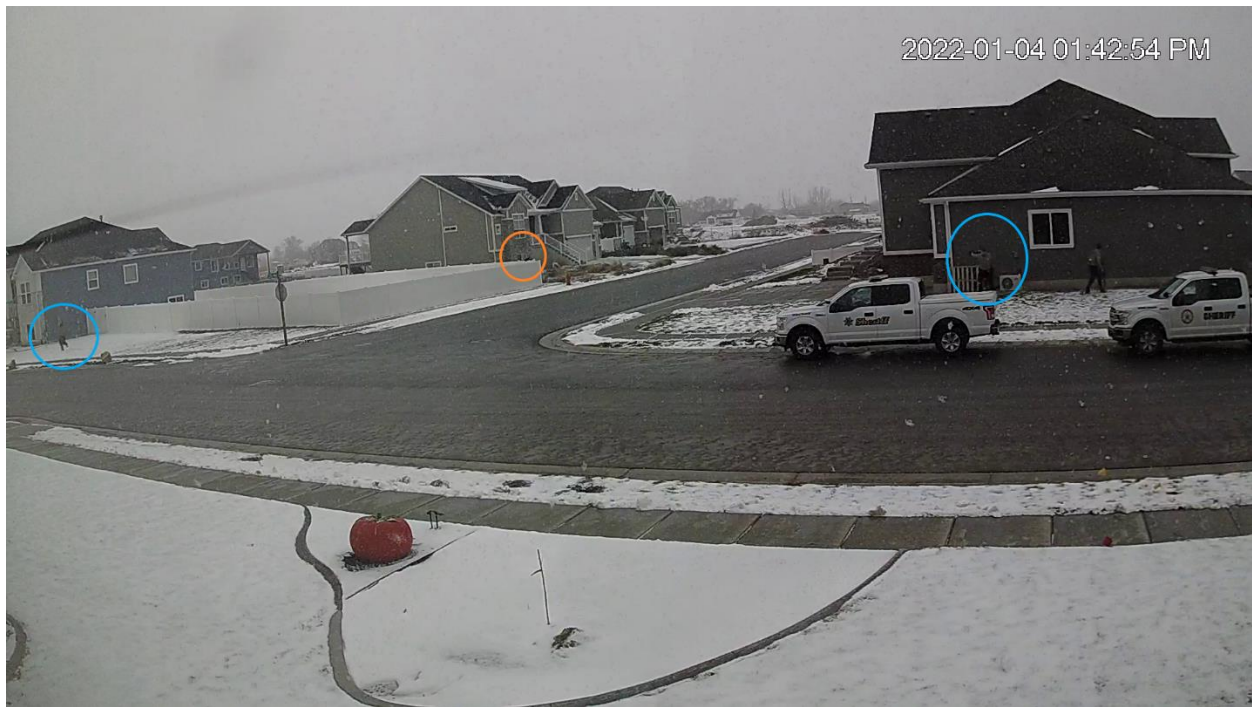
Neighborhood video



The above photo shows when the first deputy Deputy Nielson arrived. The circle is Winters sitting on the steps.



This photo shows where both Deputies were located as Winters started to advance on their positions.



This photo shows how Deputy Nielson started making his way toward the south. At the same time Winters jumped up onto the fence, Deputy McFarland fired his first shot at this point. It is unclear if Winters was trying to climb the fence or was pointing the gun in the direction of where he thought Deputy Nielson was located. Since Deputy McFarland did not provide a statement to investigators it is unclear what exactly prompted Deputy McFarland to fire his weapon at this point. However, it could be reasonably assumed that Adam had the weapon in his hand and was either pointing it toward Nielson's position or was attempting to advance on Nielson's position.

Body Camera

Background

All officers had their body cameras operational. Due to the distance between the officers and Winters during the encounter, the body camera footage did not much evidence. This was also complicated by the way Deputy McFarland was holding his patrol rifle, which caused his arm to partially block the camera lens. The camera is a Watchdog brand. The videos are attached to the case file and are available for review. Below is a summary of the video and screens shots of highlighted portions of the video.

Deputy Caleb Nielson's body camera



Officer Nielson pointed out the location of Winters to other officers.



Deputy Nielson has a rifle up. This is an example of how shooting this type of weapon interferes with the camera lens.

Deputy Grady McFarland's body camera



McFarland is standing by the house. Circled in red in the above photo is Winters running east. Deputy Nielson is to McFarland's left in the photo.





Once they deemed the situation safe, Deputies imminently started advanced life-saving measures.

Noteworthy facts

- Deputy McFarland ordered Winters to drop the gun ten (10) times before the first shot was fired.
- Deputy McFarland identified himself as a Sheriff once and warned Winters that he was going to be shot once.
- Deputy Nielson ordered Winters to drop the gun five (5) times before the first shot was fired.
- From the time McFarland arrived on the scene to the first shot was one (1) minute.
- From the time McFarland arrived on the scene to Winters falling was one minute and fourteen sec. (1:14 sec.)
- Time on the scene to officers starting advanced emergency medical treatment was five minutes and twelve seconds (5:12 sec.)

Faro Scanner and other facts



Above is a Faro 3D scan of the crime scene. This scanner creates a replica of the actual scene. With this tool, investigators can get exact measurements of the scene. Using this tool it was determined that the distance between McFarland and Winters at the time of the shooting was 125 feet.

Interviews

Witness Officer Interviews

FIT Investigator Steve Haney interviewed all of the deputies that were witnesses to the OIS. The interviews were audio-recorded. The following was taken directly from Investigator Haney's report.

Corporal Tyler Tremble: *Corporal Tyler Tremble is a patrol deputy who was working in that capacity on that day. Corp Tremble was wearing a clearly visible deputy sheriff uniform and driving a marked patrol vehicle with overhead lights attached.*

Corp Tremble said he was eating lunch in Marriott Slaterville City when the call for service came in describing a domestic disturbance in Hooper. Corp Tremble said he started driving to the Hooper address and dispatch was giving updates about the situation devolving. The information was that the female had been strangled at one point while trying to keep her husband out of a gun safe in their closet. Corp Tremble said he turned on his lights and siren and drove "code" the rest of the way. Corp Tremble recalled that dispatch alerted deputies that a shot had been fired when he was near the neighborhood.

Corp Tremble parked his marked patrol truck near the intersection of _____ and exited his vehicle. Corp Tremble said he saw Deputy Neilson making his patrol rifle ready as he walked up to the edge of the house on the north west corner of the intersection.

Corp Tremble said he looked west to the subject house and could see a male sitting on the front porch, brandishing a handgun. Corp Tremble said that Dep Neilson started giving the male commands but there was no response from the male. Corp Tremble decided that he would also need his patrol rifle and started back to his patrol unit. At this time Deputy McFarland arrived and deployed his patrol rifle and went to the corner of the house where Corp Tremble had just been (North West corner) and set up there for cover.

Corp Tremble said he was deploying his rifle when he heard shots being fired. Corp Tremble said the first shots he heard were different sounding than the next set of shots fired. Corp Tremble said the second set of shots were louder than the first. Corp Tremble said he believed that this was the suspect shooting first and Deputy McFarland firing back. Corp Tremble then thought about it and said he was actually up to the house behind McFarland when he heard the shots being fired. Corp Tremble said he could see the male suspect peeking around the corner of a white vinyl fence across the street and to the west. Corp Tremble said the suspect had moved off of the porch and was now behind the edge of this fence and was "leaning" around the corner looking out towards the north east.

Corp Tremble said that both Deputy Neilson and Deputy McFarland were yelling out commands to the suspect to drop the weapon. Corp Tremble described that Dep Neilson was positioned on the south west corner of _____ and was behind the east half of the white vinyl fence. Deputy McFarland was on the south east corner of the residence that is on the North West corner of the intersection. Corp Tremble believed that somewhere in this time frame, the shots were fired as he was trying to communicate on his handheld radio.

Corp Tremble said the suspect was then down on the ground but there was bushes and weeds that were obstructing their vision of him so he gave Dep Neilson the command to go around the fencing to the south and make his way behind the suspect. Cpl Neilson and Deputy Markham kicked the panel out of the fence behind the house on the north west corner of _____ and used the house as cover as they moved west through the backyard. They then kicked through another panel to exit the yard and move west of where the suspect still lay on the ground. Cpl Tremble and Dep Markham then slowly moved their way across the street and approached the suspect. Cpl Tremble said the gun was on the ground and near the reach of the suspect. It was right next to the fence. Cpl Tremble moved the gun away from the suspect and set it back down on the ground.

Corp Tremble then described that they attempted to give lifesaving care to the suspect and Deputy McFarland went and got his medical bag. Medical personnel arrived and relieved the deputies at this point.

Corp Tremble then took Dep McFarland out of the immediate scene and gave him permission to stop his body camera recording. Dep McFarland then was placed inside his own vehicle and stayed there. Deputy Child arrived on scene and was placed by Corp Tremble to stay with Dep McFarland.

Corp Tremble then joined back up with the other deputies and went to the subject house, _____ and spoke with the wife of the suspect who was inside and unharmed. Corp Tremble said there was also a travel trailer on the side of this residence and the door was open. Both he and Deputy Miles cleared this trailer of anyone inside. Corp Tremble said Dep Miles told him that there was an open gun case on the bed at the front of the trailer. They did not touch anything and exited the trailer.

Corp Tremble then entered into the residence of along with other deputies and cleared the inside of the house of any other persons. Corp Tremble said it appeared there was a “scuffle” inside the closet near a safe that was locked.

I asked Corp Tremble about the scuffle in the closet and he advised me that he had known from the call notes that part of the incident happened in the closet and when he looked he noticed items that seemed out of place and messy and how the house was very nice and kept but the items in the closet were askew as if there had been a physical altercation. I then asked Corp Tremble about moving the gun. Corp Tremble told me that he moved it out of reach of the suspect and to the south from where he was laying on the ground. I asked Corp Tremble about the gun case in the trailer and asked where it had been seen. Corp Tremble told me that Dep Miles was the one who had witnessed it and had told Corp Tremble about it being on the bed in the front portion of the trailer.

I spoke with Corp Tremble about the shots being fired. I asked if he believed that the suspect was firing at them. Corp Tremble believed the first set of shots that he heard had come from the suspect because they seemed to be coming from a distance and when Dep McFarland fired his rifle, it was loud and close to Corp Tremble.

I asked Corp Tremble where Dep Nielson was when the shots were fired. Corp Tremble said he last noticed Dep Nielson being on the south east side of the intersection and behind a fence but did not know exactly where Dep Nielson was when the shots were fired.

Deputy Trista Markham: Deputy Markham is a patrol deputy who was working in that capacity on that day. Deputy Markham was wearing a clearly visible deputy sheriff uniform and driving a marked patrol vehicle with overhead lights attached.

Deputy Markham said she heard the call for service over the radio and responded from Marriott Slaterville City. Deputy Markham said the call “picked up” as she was en route so she decided to run “code” (lights and siren) at about 1800 s 4700 w. Deputy Markham then heard Deputy Neilson arrive on scene and that there was a male suspect out on the porch. Deputy Markham also said that the call notes had stated that the suspect had a gun in his possession.

As Deputy Markham arrived on scene. She heard Cpl Tremble announce over the radio that shots had been fired on scene. Deputy Markham parked and exited her patrol vehicle. At that time Deputy Markham heard a shot ring out and she took cover by the engine block of her vehicle. Deputy Markham could see Deputy McFarland and Cpl Tremble by the corner of a house and were looking south. Deputy Markham went to join them and was directed to go to the North side of this residence. Deputy Markham said Cpl Tremble kicked in the paneling of a vinyl fence into the backyard of this residence. From there they went west across the backyard until they reached another portion of fence. The panel was again kicked out to make an exit out of the backyard. They used the houses to the west as cover to get an angle of vision to the suspect who was laying on the ground.

Deputy Markham and Cpl Tremble approached the suspect and Deputy Markham holstered her weapon and handcuffed the suspect on the ground. Deputy Markham said medical aid was then administered to the suspect by deputies. Markham said “the wife” came out of the house and Deputy Markham told her to go back inside and wait for deputies to come to her. Deputy Markham stayed as

scene security until medical arrived. Deputy Markham went with other deputies to secure the residence and backyard. Deputy Markham said that when medical checked on the wife, she disclosed to them that her husband had fired two shots while he was in the backyard.

I asked Deputy Markham if she had witnessed the suspect having a firearm. Deputy Markham said she saw a handgun near the fence when she handcuffed the suspect. Deputy Markham then said later saw the gun in a different spot closer to the house they were in front of.

Deputy Markham then showed me the house where she and Cpl Tremble had kicked the vinyl paneling out and used the cover of the house to move west. The house was on the North West corner of 3675 S and 5250 W. I asked Deputy Markham if she had witnessed shots being fired by anyone, Deputy Markham told me that she only heard gunshots but did not see who was firing. I asked Deputy Markham if she had a body camera recording. Deputy Markham said she did not but there would be dash camera footage from her patrol vehicle.

Deputy Caleb Nielson- *Deputy Nielson is a patrol deputy for the Weber County Sheriff's Office and was working in that capacity on this day. Deputy Nielson was wearing a clearly marked Weber County Deputy uniform and driving a marked patrol truck with markings and overhead lights.*

Deputy Nielson said he heard the call on the radio of a domestic violence situation where a male named Adam Winters was arguing with his wife and was intoxicated. Deputy Nielson said there were multiple calls into dispatch about this incident and the male reportedly was seeking to find gun. Dep Nielson said he decided at this point to run "code" the rest of the way to the address. Dep Nielson said he stopped at 3625 S and then realized he was at the wrong street and then drove to 3675 S and stopped at the corner on 5250 W.

Dep Nielson said he deployed his patrol rifle as he was getting out of his marked Sheriff's Office truck and noticed a male sitting on the porch towards the west on the south side of 3675 S. Dep Nielson crossed 3675 S towards the south and when he was moving, he noticed the male had a gun in his hand. Dep Nielson said he believed that he called out on the radio that the male had a gun.

Dep Nielson said he crossed the road with the intent to approach the male at that angle. Dep McFarland and Corp Tremble had arrived and posted up at the house on the north side of 3675 S. Dep Nielson said he saw the male suspect coming east towards them and he started to yell at the male to drop the gun and he heard Dep McFarland also yelling "drop the gun".

Dep Nielson said he took cover behind the white vinyl fence at the corner and decided that if the male were to continue east with the gun in his hand, he would have to take lethal action if he comes around the fence. Dep Nielson said the male suspect stopped when he got to the west portion of this fence and did not continue but stopped. Corp Tremble yelled out to Dep Nielson that the suspect is on the other side of the fence and to "watch out" because he could be head towards Dep Nielson.

Dep Nielson said he opened a gate on the fence that went into the backyard of this fence property. Dep Nielson said he then heard gun fire and could not see the suspect. Dep Nielson said he could see Dep

McFarland firing with his rifle towards the south west. Corp Tremble then told Dep Nielson that the suspect was down and he needed to go south around the back of this fenced area and come up behind where the suspect was now laying. Deputy Nielson then drew a diagram showing where everyone was during this incident and how he made his way around to where the male was taken into custody and life saving measures were then taken.

I took Dep Nielson back through his recollection of the event starting with where he had parked and how he had crossed 3675 S and witnessed the male suspect with a gun in his hand. Dep Nielson said multiple deputies including himself yelled, "drop the gun", at the male as he was now moving east towards them. Dep Nielson also said it was yelled out multiple times as well.

I ask Dep Nielson if he believed the male suspect recognized him to be law enforcement. Dep Nielson was in full uniform with markings on this uniform. Dep Nielson said he believed the male saw him and started running right towards him. Dep Nielson said he saw the gun when the male was on the porch but did not see it while he was moving towards him. Dep Nielson took cover around the corner of the fence and then could hear the other deputies yelling "drop the gun".

I asked Dep Nielson how many shots he heard and Dep Nielson was unsure but knew it was multiple shots and speculated that it was five in total and could not tell which direction they were coming from. Dep Nielson said he saw Dep McFarland's gun recoil as if he was firing so he knew Dep McFarland had fired towards the south west. Dep Nielson felt he had made a mistake by using the vinyl fence as cover.

Civilian Witnesses

FIT Investigator Cameron Hartman interviewed his wife Cindy Winters. This statement was video and audio recorded. The following was taken directly from Hartman's supplementary report.

Spouse Cindy Winters

The following is a summary of the interview with Cindy WINTERS Tuesday, January 4, 2022 @ 04:39 PM (SEE AUDIO RECORDING FOR COMPLETE DETAILS);

- A verbal altercation (between Cindy and Adam Winters) began when their holiday (leave) began approximately Wednesday, December 23, 2021.*
- Holidays are difficult for Adam Winters.*
- Adam Winters started drinking excessively.*
- Adam Winters would exhibit good days and bad days.*
- January 3, 2022 Adam Winters was doing well until he found out that a friend/co-worker obtained a job/position that he was also seeking at Hill Air Force Base.*
- Adam Winter kept drinking since the night prior (January 3, 2022).*
- Cindy Winters had never witnessed her husband drink (Vodka, Peach "stuff", Beer, etc.) so excessively.*
- This morning she observed that he still wasn't, "ok" and that their verbal altercation continued.*
- Cindy Winters explained that, when he was struggling, they would often get into verbal altercations.*
- Adam Winters would often say things during his bouts with anger that he'd later apologize for.*
- Adam Winters recently expressed that he hated his life and that he wanted to die and be with his dad and his brother.*

- When Adam Winters was married to Kara Winters, the police were called because he had been threatening suicide.
- Cindy Winters explained that he had threatened suicide, "a lot."
- She didn't believe that he would actually commit suicide.
- When Cindy and Adam were first married, he exhibited emotional struggles and anger more than over the past year.
- She explained that their relationship has been on a downhill slope since December 2021.
- Adam Winters recently changed his anti-depressant medication(s) and that affected him prompting him to return to his original medication(s).
- She explained his medication(s) as; Thyroid (unknown brand), Lyrica, Lorazepam, Vitamins (unknown type), Steroids (unknown brand – Rx from Dr. Butcher).
- Adam Winters attempted to get accepted into the police academy but failed his background check(s) in December 2021.
- Adam Winters wanted to find a different job as he was unhappy at his current employer.
- She decided to go get some food (McDonald's) nearby hoping it would help calm him down.
- Adam Winters didn't go to work yesterday (01/03/2022) and got in trouble for; Leaving Without Permission (LWOP).
- He informed her that he also wasn't going to go to work today (01/04/2022).
- When she returned home she observed that he had obtained a bottle of vodka and that he had consumed almost all of the alcohol from the bottle causing him difficulty in walking.
- Adam Winters started to try to provoke Cindy Winters into hitting him and calling the police.
- He became more frustrated and mad because she wouldn't do as he was requesting.
- She did not observe him to have any weapons at that time and he poked her in the forehead.
- This action (poking) did not cause her any pain but was described as, "forceful."
- She informed him that he could provoke her all that he wanted to and that she wasn't going to do what he wanted her to do.
- Adam Winters then started to call her, "slut...cheater...dirty whore!"
- He has said things like that to her because he gets, "insecure."
- Adam Winters then intentionally hit his head on the kitchen counter and kitchen wall.
- Cindy Winters then called his uncle, Kenny Winters and explained to him what was going on and how Adam Winters was acting.
- Cindy Winters requested that Kenny Winters respond to assist with Adam Winters.
- Adam Winters then called 911 and placed his phone call on the "speaker" setting while exclaiming, "Oh...she's hurting me...she's this...she's that!"
- Cindy Winters was unsure if her husband actually called "911" but noticed that the screen on his cellular telephone did say, "911."
- She then grabbed his phone, pressed the hang-up button, and told him that he, "was being so stupid."
- When she called Kenny Winters, Adam Winters was in the background exclaiming that she was hurting him.
- She was then informed by Kenny and Kim Winters that they were going to call the police.
- Adam Winters then explained to her that he was, "going to get the gun!"
- He then responded to the bedroom and attempted to gain entry into their safe to get the guns
- Cindy Winters then stood in between him and the safe prompting him to grab her by the throat and exclaim, "I'll snap your fucking neck!"
- Adam Winters was not able to get into the safe as he was too inebriated at that time.
- Cindy Winters stood there as he attempted to use the push button code on the safe unsuccessfully.

- She then pushed him away from the safe and he realized that there was a single gun that they store outside in the trailer.
- Cindy Winters continued her conversation with Kenny and Kim Winters via telephone explaining to them that she did not know where Adam Winters was as she could not see him.
- Cindy Winters could only describe the gun as a little black handgun.
- She recalled that after he obtained the gun from the trailer he fired a shot towards her and their house.
- Cindy Winters explained that she locked the back door to prevent him from coming back into their house.
- Adam Winters then went to the front of the house and sat on the front steps to wait for the police.
- Cindy Winters could see her husband sitting on the front steps through the window and by partially opening the front door to check on him but did not communicate with him.
- She informed Kenny and Kim Winters that Adam Winters had fired a shot at her/in her direction.
- Cindy Winters explained that when the police showed up, Adam Winters got up and ran to the fence (towards the sheriff's deputies).
- She recalled seeing the cops and that her husband was still holding the gun.
- She continued to explain that the next she could see was Adam Winters laying on the ground.
- Cindy Winters explained that every time that she would try to exit her home, the Weber County Sheriff Deputies would yell at her and tell her to stay inside.
- Cindy Winters reported that her husband had never pointed a firearm at her and that he had never hit her before.
- Adam Winters would get mad and say things to her but would not physically harm her.
- When Adam Winters grabbed her by the neck, she described it as not being painful and not having difficulty(s) breathing.
- Cindy Winters recalled that when her husband was on the front steps he saw the officers and darted towards the neighbor's side fence.
- Cindy Winters lost sight of him at that point and eventually heard gun shots, possibly two (2) but not a lot.
- She witnessed the deputies yelling at him to drop the gun and put the gun down.
- Cindy Winters did not hear Adam Winters say anything to the deputies.
- She had to go in-and-out of the house to see him once he ran off and also tried going into the bedroom to see if she could see him from the bedroom window.
- Cindy Winters expressed a great deal of disbelief and shock throughout this interview.
- Cindy Winters could only recall that he had fired one (1) shot when he was in the backyard in her direction and that it, "scared me to death!"
- Cindy Winters would try to get him to go see a psychologist/psychiatrist.
- Adam Winters saw one briefly at Hill Air Force Base.
- Cindy Winters believed his medication(s) altered his mood(s).
- Described, "You never knew what you're going to get" when it came to her husband's mood.
- During prior altercations, Adam Winters had never grabbed a gun.
- He has expressed in the past that he missed his dad and his brother and that he wanted to go home.
- Adam's brother died in a car accident causing his father to start drinking heavily and telling him things like, "it should've been you that died."
- Adam's brother's name was, "Michael" and his father's name was also, "Michael."
- When she returned home from McDonald's, Adam Winters was sitting in the living room (next to kitchen) watching television.
- She woke up at 0600 hours on January 4, 2022.

- Adam Winters went to the store at approximately 0900 hours on January 4, 2022.
 - Cindy Winters explained that they were involved in a minor car accident on the night prior (January 3, 2022).
 - The accident happened on Pioneer Road (400 North) after leaving Adam Winters cousin's home resulting the truck being towed away from the scene.
 - Prior to the accident, Cindy Winters and her husband were fighting/arguing in the truck before it left the roadway.
 - Cindy Winters received a citation for leaving the scene of an accident after receiving a ride from a motorist who stopped to assist.
 - Adam Winters did not appear angry over the accident on the night prior.
 - Cindy Winters could not describe what they were fighting about prior to the accident.
 - Adam Winters expressed his concern that Cindy Winters was, "going to find someone else with money."
- [Break]
- Cindy Winters has been in a relationship with Adam Winters since the end of 2018.
 - Lived into their house in Hooper on January 14, 2021.
 - When Adam Winters was hitting his head on the counter and wall he only damaged the wall and did not cause injury(s) to himself.
 - Cindy Winters described the handgun involved as one that you put a magazine into (semi-auto).
 - Always kept a gun in the trailer.
 - Adam Winters was not currently a hunter.
 - The safe also contains guns belonging to other friends.
 - The arguments inside of the house only took place in the kitchen and their bedroom.
 - Did not know what things would set-him-off.
 - Adam Winters told her that he had lost his temper towards his old neighbors in Roy, Utah.
 - Cindy Winters described that fighting over messes, parties, and teasing his dogs.
 - Cindy Winters explained that they didn't interact with the new neighbors.
 - Adam Winters would express remorse and apologize after his episodes of anger.

During the canvas, HTF Detective Gerardo Vazquez contacted Christy Hansen and Tim Brunelle. The following was taken directly from his supplementary report.

Christy Hansen

I contacted Christy Hansen at her residence located at _____ Christy's residence is directly across the street from _____ Christy is one of the individuals who called into 911. Christy was the only individual home at the time the incident occurred.

Christy advised she was outside on her porch and saw Adam Winters in his garage. Christy advised Adam was stumbling around a car and was holding something black to his head as he leaned up against the car. At first Christy believed the black item Adam was holding to his head was a cell phone due him holding the object flat to his head. Christy was not sure if Adam was injured, but did not have a good feeling, so she went inside her home. Approx 10 minutes later Christy looked out the window from her front room and saw Adam was still in the garage. She advised it appeared Adam was walking a little bit better and was still carrying the black item she thought was a cell phone. Christy advised she believed Adam was intoxicated the way he was walking off balance and weird movements. Christy saw Cindy was off her front porch of the residence and down several stairs facing towards the garage. Adam walked out of the garage towards Cindy. As Adam was getting closer to Cindy, Cindy started backing back into the

house as Adam followed her up the stairs, still holding the black item. Cindy went into her house, but kept the door cracked. Adam was at the porch landing and the two had a conversation. Christy could not hear what was being said. Adam then lifted the black item and pointed it at Cindy. Cindy screamed so loud Christy could hear the scream from inside her house. At that point Christy advised she believed the item Adam was holding was not a cell phone. Christy shut the door as Adam turned around on the porch. At this time Christy advised she could see the black item Adam was holding was a handgun. Adam had the barrel pointing down and the finger on the trigger. Christy then called 911. Adam sat down on the stairs and was waving the gun around. Adam then got up and walked down the stairs and hustled east across his driveway. Adam started to run and pulled the gun up and aimed it at something. Christy described Adams arms were extended in front of him while holding the gun as if Adam had intent to shoot the gun. Adam ran in front of his flat bed trailer in his driveway, hurdled a bunch of weeds that separates his house and his neighbor's house. Christy then lost visual of Adam. Christy said several seconds later Christy heard 2-3 shots being fired. Christy tried to look through another window, but her neighbor's home blocked the view. Christy went back towards her front room and saw Cindy standing at the end of her driveway. Christy opened her door and yelled for Cindy from inside her house and asked Cindy if she was ok. Cindy replied to Christy something along the lines of "I don't know, he's been shot." Christy was not sure who had been shot. Cindy then walked back inside her residence. Christy believes she was still on the phone with dispatch when she yelled for Cindy. I noticed a camera placed over the garage of Christy's residence. It was found the camera is motion activated and it was not activated during this incident.

Tim Brunelle

I responded to _____ and contacted Tim Brunelle. It was found that Tim, Karrie Jewett and Judy Jewett were at the residence at the time of the incident. Tim and Karrie were home but did not witness anything as the incident occurred. Tim advised she yelled at Judy as she was in the front room and observed what occurred. Judy advised she was in one of the front rooms and observed the WCSO deputies arrive on scene. Judy advised she noticed Adam sitting on the front porch of his residence. Deputies were arming themselves with their rifles. Judy advised once Adam saw the deputies Adam ran towards the police. Judy advised as he was running, Adam held his arms out in front of him as if he had a gun. Adam ran towards a white fence. Judy then left the room and did not see anything else. Video Surveillance footage Tim Brunelle advised his video surveillance system captures the entire road of 3675 S and captured the shooting. Tim willingly provided a copy of the video surveillance footage of the incident.

During the canvas Detective, Rachel Walker interviewed Spencer Riley, Benjamin Thomas, and David & Lisha Russell. The following was taken directly from her supplementary report.

Spencer Riley

I made contact with Spencer Riley who was sitting in his GMC Sierra (1C4SB) which was attached to a black trailer. I introduced myself to Spencer and explained my intent in speaking to him. Spencer agreed to provide a statement and followed me to the Weber County Mobile command center. I brought Spencer to a private room in the mobile command and recorded the interaction on my body worn camera. I explained the 1102 admonition and Spencer agreed to give a statement. Spencer stated he is employed by Mason Electric and was working at

which is south of the suspect's home. Spencer said he was working at the home with two co-workers (Tytan Smith and Dallin Moore). Spencer explained the home they were working on is on the street directly to the south of where the shooting occurred. Spencer stated he was outside with Tytan and Dallin cleaning up the job site when he heard a loud sound he initially thought was dropped lumber. Spencer said he heard a female screaming, and then another loud sound he recognized as gunfire. Spencer said he believes the first sound he heard was also a gun shot after hearing the second one. Spencer said he entered his GMC Sierra and drove east on 3750 S then north on 5250 W where he stopped just south of 3675 S. Spencer clarified that he left the work site alone, and Tytan and Dallin stayed behind. Spencer said he observed a Sheriff Deputy enter the area from the north, and then a second Deputy shortly after. Spencer described the first deputy as a white male with light hair, with facial hair and wearing a hat. Spencer described the second Deputy on scene as having dark hair, no facial hair, and taller than the first Deputy. Spencer said he gave verbal directions and hand signals to the Deputies to inform them where the sounds of the shooting came from. Spencer stated both Deputies parked on the north west corner of Spencer said both Deputies were carrying rifles, and gave at least 2 commands to the suspect prior to firing their weapon(s). Spencer said he did not observe the shooting because he observed a female Deputy enter the area and drove to her to assist her in finding the address. Spencer said the real estate development is new, and was worried Deputies wouldn't know where to go. Spencer said he heard approximately 4 shots fired during the incident. I asked Spencer if there was anything he would like to add at the end of the statement. Spencer said both Deputies acted with no fear and prevented loss of life.

Benjamin Thomas

I made contact with Benjamin Thomas who works for Nilson Homes. I introduced myself to Benjamin and explained my intent in speaking to him. Benjamin agreed to provide a statement and followed me to the Weber County Mobile command center. I explained the 1102 admonition and Benjamin agreed to provide a statement. Benjamin stated he had been working at "Nilson home #3" which is located directly south of The home is under construction and does not have a known address. Benjamin stated Nilson home #3 and the suspect's home share a backyard which is not obstructed by a fence. Benjamin said he was working in the home when the incident occurred. Benjamin said he was listening to music through headphones, but heard a loud sound he initially thought was dropped lumber. Benjamin said he heard two sounds which he believed were gunfire. Benjamin said he observed a male wearing dark colored clothing on the south side of who he said appeared to be trying to enter a door located on the south side of the home (possibly the garage door). Benjamin said he couldn't remember if he heard the second loud sound before or after seeing the male. Benjamin said the male then ran towards the front of the house, and he wasn't seen again. Benjamin said his co-worker "Chris" had also been in Nilson house #3 at the time of the shooting and spoke briefly to him about it. Benjamin said Chris left the area prior to police arrival. Benjamin said he walked to the area of where he observed the suspect on a stretcher receiving medical care. I asked Benjamin to call Chris and ask him to return. Benjamin said he called Chris and Chris agreed to return. This concluded Benjamin's statement.

David and Lisha Russell

While conducting the neighborhood canvas I made contact with Lisha and David Russell. Both parties agreed to provide an 1102 statement. Lisha stated she heard a disturbance outside so she looked out through her west facing front window to see what was happening. Lisha said she observed a black truck pulling a trailer (Spencer's vehicle) driving north past her home. Lisha said she observed two Deputies on the south east corner of 5254 W. Lisha stated she observed the Deputy closest to the corner fire two shots. Lisha said she could not see what he was firing at. Lisha allowed me to stand and look out from where she had observed the shooting. I confirmed her view was obstructed due to the angle she was looking from. Lisha confirmed there were no video surveillance cameras on the property. David was in the basement instructing a class while wearing a headset and did not observe or hear any part of the incident.

During the canvas of the neighborhood, Det. Andrew Howard interviewed Tytan Smith, Dallin Moore, Stephanie Foit, William Ridenour, and Christopher Wasmer. The following was taken directly from his supplementary report.

Tytan Smith

I spoke with Tytan Smith (Tytan), first. I asked Tytan to tell me what he knows. Tytan told me he was working on a house on the next street south of 3675 (I later found the address to be). They were cleaning up and were outside in the driveway area. He was with Spencer and Dallin. Tytan said they heard a "Pop" and it sounded like a gunshot, but he wasn't sure. After the pop, they heard a "really loud blood-curdling scream". They got in their vehicles, and Spencer had left in his truck separately. Tytan said they thought they could still hear screaming or a whistling noise. They got to the corner of the street, and Spencer called Tytan, saying there was a guy with a gun and the police are coming so do not move. Tytan said he parked the vehicle in the middle of the road. While parked he heard four more gunshots. Tytan and Dallin ducked down, then left the van and hid in front of a corner house. A truck then drove by, and the driver told them to get inside a house. They ran into a house under construction and hid in an upstairs bonus room. While in the bonus room, they saw a cop walking around, behind the houses. Tytan had two video snippets that he emailed to me. After it felt safe, they got in the van and parked where I contacted them. I asked, if when he heard the first pop, was he aware of any police out here. Tytan said he didn't hear of any police yet; he wasn't aware of any police until Spencer called him. I asked if the scream they heard sounded male or female, Tytan said it was a girl. I asked Tytan how much time he thinks passed between the first pop he heard, and the four other gunshots. He said maybe a minute, but he was not completely sure. Tytan showed me where he initially parked his van after Spencer called him, it was parked on 3750 S, at the intersection with 5250 W.

Dallin Moore

I asked Dallin to tell me what he heard/saw. Dallin said he, Tytan, and Spencer were finishing working on the house on the street south (3750 S). Dallin said he heard a "pop", and then a loud scream. He was throwing trash in the dumpster, and he heard another "shot". Spencer left first, and Dallin and Tytan got in the van. Spencer called and told them not to move. Dallin said they heard more shots, so they got out of the van and took cover behind a house. A guy in a white truck comes by and tells them someone is actively shooting. They go into the house under construction and hide. Spencer called Dallin and said, "The cop told him to put his gun down and then shot him". They assumed the incident was over. The guy in the white truck said he was dead. Dallin saw them carry someone into the ambulance. Dallin told me that he heard the first shot, threw the trash away, and he heard another single shot.

I asked Dallin if he heard, either before, during, or after the shooting, any yelling or arguing; he said no.

Stephanie Foit

Stephanie and her husband live at _____, the street the incident occurred on.

Stephanie said she was sitting at her kitchen table and saw a cop truck pull in the neighborhood quickly. She continued what she was doing, and she heard a lot of yelling outside. She went into her daughter's room on the SW corner of the home. She looked out the window and saw a man with a beard and a rifle in his hand (She later clarified it was a handgun). She looked to the east and saw an officer with a rifle. She called to her husband to look as well. Stephanie saw the man "jump up onto the fence, and fire off two shots towards the officers". Stephanie ducked for cover. She said he also shot towards her house as well. Stephanie said she had gone to cover but her husband saw the officers return fire.

Stephanie pointed out she saw the male standing on the northwest corner of the fenced property. Stephanie said he was standing tucked behind the fence before he started firing.

I later clarified with Stephanie which direction the man shot when he fired his first two shots. Stephanie said he pulled himself on the fence and fired east. (I later found this fence was for the property at _____.)

I asked Stephanie if she could understand any words being said in the yelling she heard. Stephanie said the only thing she heard was when the female of the house down the street came walking down after the incident and she was told to go back.

William Ridenour

William Ridenour (William), at

William told me that he was in his office, and he heard what sounded like two shots. He got up, went to his bedroom, and grabbed his gun, then went to the laundry room, which faces north. He saw a police officer with a rifle, moving from south to north along his fence line. The officer was yelling and pointing west. William went to his bedroom window and saw a female officer in the back. William heard two other shots, and he looked back outside and saw another police officer across the street. Everyone was standing still and then he started receiving phone calls. William did not see any of the shooting, he just heard gunshots. William said he thought the female deputy may have shot based on the sound.

I asked William if he could understand any yelling and he said no. He saw and heard the deputy moving on his fence line yelling, but he couldn't hear what was being said.

Christopher Wasmer

I next spoke with Christopher Wasmer (Christopher). Christopher works for Nielsen Homes. Christopher said he was in front of the house behind the victims when he heard the shots. The owner of lot 9 told him to stay in his truck as there was a guy with a gun. He saw a policeman run around the corner house, looking like he was chasing someone. Christopher ran into the house he was working in and asked a co-worker if he heard the shots. The co-worker said yes and said he saw someone trying to get into somebody's house (Det. Walker Interviewed the co-worker). They stayed in the house and watched for a while. Christopher said he heard two shots total, in succession. This was a split second before he saw the officer run.

During the canvas of the neighborhood HTF Det. Peterson spoke to Tuan Nguyen, Jennifer Stanger, and Alex Foit. Below was taken directly from his report.

Tuan Nguyen

I made contact at _____ with resident Tuan Nguyen, _____. Tuan lives next door to the east where the suspect Adam lives. Adam was subsequently shot on Tuan's property. Tuan stated he and his brother had been asleep and were waking up when he heard loud banging noises. He stated he looked outside and saw deputies who then ordered him back inside his home. Tuan stated he then went into the downstairs of his home and observed a bullet hole in the eastern wall towards the front of the home. Tuan stated he notified investigators and CSI photographed the damage. I provided Tuan with a written witness statement form which he subsequently completed and returned. Tuan stated that he had cameras however he does not subscribe to the service so they do not record.

Jennifer Stanger

I then made contact at _____ with Jennifer Stanger, _____ . Jennifer lives directly east of where the incident occurred. In summary, Jennifer stated she heard gunshots and looked out the window and saw deputies. She stated she saw someone on Adam's front porch stairs and assumed it was Adam's child so she tried calling Adam to tell him to get his family inside but Adam did not answer. She stated that she then left the window to take cover in her room and heard more gunshots. Jennifer was provided with a written statement which she completed and returned. Jennifer does not have any cameras.

Alex Foit

I then made contact at _____ with resident Alex Foit, _____ Alex lives directly one house north and one house east of Tuan Nguyen's home. My interview with Alex was audio recorded. In summary, Alex stated he heard commotion and he and his wife opened the front door and he could see a guy standing next to a vinyl fence at the corner directly across the street and he could also see a police officer to the east standing at another corner of the vinyl fence some distance away. I confirmed with Alex that this police officer was a fully dressed uniformed police officer. He stated he then went to a window and watched the whole thing. He stated the male was holding a pistol and jumped up over the fence and fired several shots and then came back down and saw that the male had been hit. Alex stated that he could hear there were presumably police on his property at the eastern corner of his home. Alex stated the male subject fired at least two shots to the east at the officer on the other corner of the fence and at least two shots at the officers across the street on his property. Alex has no cameras on his property. I asked Alex if there was any damage to his home from the shots and he stated he had not noticed any but that the fence was damaged due to officers going through the fence.

Autopsy

On January 5, 2022, Dr. Nicole Stanley performed an autopsy on Adam Winters. This autopsy took place at the Office of the Medical Examiner's office in Taylorsville, Utah. Investigators from Weber County FIT team witnessed the examination.

On May 16, 2022, the ME report was released. The ME found that there was a penetrating gunshot wound to the torso. This wound entered the left chest, and tracked through the left seventh rib, left lower lung lobe, diaphragm, left liver lobe, stomach, pancreas, left adrenal gland, left psoas muscle, and L2 vertebral body with the projectile coming to rest within the spinal cord.

The medical examiner was able to remove from inside the spinal cavity, at the level L2 vertebra, a mushroomed and fragmented projectile with a copper-colored metal jacket and white metalcore.

The direction of fire was left to right, from to back, and downward.

The trajectory and discovery of the projectile fit the evidence found at the scene that one fatal round from Deputy McFarland struck Winters, which caused his death.

In addition to the wound, Winters was found to have a blood alcohol concentration of .179. There was also some hemorrhage and edema identified in the brain. A neuropathologist Dr. Andrew Guajardo conducted a detailed examination of Winter's brain. The examination found that the brain showed diffuse subarachnoid hemorrhage, affecting the cerebrum and cerebellum, with associated mild to moderate intraventricular hemorrhage. They did not find any external head trauma. It was found that it was unlikely that the subarachnoid hemorrhage contributed to the death.

Ballistic Examination

It is clear from body camera footage, surveillance video footage, and evidence at the crime scene, that Deputy McFarland was the only officer to fire his weapon. There is no evidentiary value to conducting ballistic testing in this case.

Conclusion

This conclusion will address the actions of Deputy Grady McFarland to determine if their use of deadly force was reasonable and justified under the law.

On January 4, 2022, Adam Winters had stayed home from work, he was heavily intoxicated. According to his wife Cindy Winters, Adam had been depressed lately and was having trouble at work. Adam and Cindy started to argue. This argument escalated when Adam told her that he was going to get his gun from a safe inside the home, and Cindy tried to keep him away from them. Unable to get the guns from the safe, Adam went to his camp trailer outside of his home. There he retrieved a 9mm handgun. Adam fired a round from this handgun in an unknown direction before police arrival. Winters made several comments to Cindy suggesting that he was going to attempt suicide. He said bye to her multiple times, and then told her "you did this." He then went and sat on the steps of his home.

When Sheriff's deputies arrived he got up and immediately started running in their direction. Deputies recognized he had a handgun and gave him several commands to drop the gun, but Winters refused and continued to advance on Deputies' positions.

Deputy Nelson had positioned himself on the other side of a vinyl fence, with Winters being on the other end of that fence. At one point Winters can be seen on surveillance video getting up onto the fence. It is unknown if Winters was trying to get over the fence or was pointing his gun over the fence toward Deputy Nelson's position. As Winters was on the fence, McFarland fired the first shot. On surveillance video, the vinyl post cap can be seen flying off the post, from the shot. Winters gets off the fence and disappears from view. Then two shots are fired by Winters. Based on our crime scene examination we know that at least one of the two rounds fired by Winters goes through the vinyl fence toward Deputy McFarland's direction, but strikes the fire hydrant on the grass strip.

Deputy McFarland fired two shots toward Winters. One round struck Winters in the chest. The other round struck the fence, exited, and struck the house behind where Winters was standing.

Upon realizing Winters was down, Deputies summoned medical aid to the scene. In addition, they provided advanced emergency medical treatment. Unfortunately, the wound to Adam Winters was so severe that he passed on the scene.

In examining the question if Deputy McFarland was justified in using deadly force against Adam Winters one must examine the information McFarland knew at the time the shots were fired.

- A 911 call reported that Winters was intoxicated, and a gun, and had already fired a shot off in an apparent domestic dispute.
- When Deputies arrived at the residence, they parked down the street away from the Winter's home. Upon seeing the officer, Winters started to advance on their position with a gun in his hand, and at one moment pointed it at the Deputies.
- Winters refused multiple commands to drop the gun, and warnings that he would be shot.
- Deputy Nelson was in a vulnerable position as Winters advanced on them. Nelson was behind the fence and could not see where Winters was located, and his movement. When Winters jumped up on the fence, it would seem reasonable that McFarland would see this action as a direct threat to Officer Nelson based on the things described above.
- Once McFarland fired the first shot, Winters fired two shots of his own in the direction of McFarland. This was a direct threat to McFarland who returned fire.

This report is a summary of the entire investigation. All of the supporting documents, video, and audio are available for review.

Steve Zaccardi
Chief Criminal Investigator
Force Investigations/Homicide Task Force

June 21, 2022

Sheriff Ryan Arbon
Weber County Sheriffs Department
1400 Depot Drive,
Ogden, Utah 84404

RE: OFFICER-INVOLVED SHOOTING; DEPUTY MCFARLAND

Dear Sheriff Arbon:

Chief Investigator Steve Zaccardi, with assistance from investigators with the Weber County Force Investigation Team and the Weber County Homicide Task Force, has completed the investigation of the officer-involved shooting involving Deputy McFarland. CSI processed evidence from the scene. Officers and other witnesses who were present during the incident were interviewed and provided statements. However, Deputy McFarland exercised his constitutional rights in refusing to provide a statement or grant an interview.

I have thoroughly reviewed the investigation and discussed it at length with investigators and senior prosecutors in my office. My conclusions are as follows:

Background

On January 4, 2022, at approximately 1324 hrs, deputies from the Weber County Sheriff's Office were dispatched to a domestic disturbance at [REDACTED]. At that location, Cindy Winters was in an argument with her husband Adam Winters. This argument escalated when Adam tried to retrieve a gun from the safe inside the home. When Cindy tried to prevent him from getting into the safe he grabbed her by the throat and said "I'll snap your fucking neck!" Winters had also made several comments to Cindy suggesting that he was going to attempt suicide. He said "bye" to her multiple times, and then told her "you did this." Not able to get into the safe, Winters went out to a trailer on the property and retrieved a handgun and fired a round. Cindy believed that he fired it toward her and the house. He then went and sat on the steps of his home. Cindy locked Adam out of the house and called Adam's Aunt Darcey Winters, who in turn called 911.

A neighbor across the street from the Winters' residence also called 911 reporting that Adam was out in front of his home with a gun.

This particular neighborhood consisted of newly built homes. At the time of the incident, the Winters' home was the last house on that particular street. When deputies arrived they parked at the end of the block to the east, several houses away from the Winters' home. Four different deputies responded in separate clearly marked police vehicles with lights and sirens activated. Each of the deputies was also wearing clearly visible deputy sheriff uniforms.

Adam was sitting on the steps leading to his house when deputies got there. When they arrived he got up and immediately started running in their direction. Deputies recognized he had a handgun which he appeared to point at them. A neighbor also described seeing Winters running in the direction of the deputies and pointing the gun with outstretched arms like he was going to shoot at someone. Deputy Tremble heard deputies McFarland and Nielson both yelling out multiple commands to Winters to drop the gun, but Winters refused and continued to advance on deputies' positions.

Deputy Nielson took cover behind the vinyl fence on the east corner while deputy McFarland had taken up a position on the corner of the house to the north. Deputy Tremble called out to Nielson that the suspect was on the other side of the fence and to "watch out." Nielson realized that he had made a mistake using a vinyl fence for cover. He concluded that it was a mistake because the vinyl fence would not provide him protection from a potential gunshot as the bullet would easily pass through. It obstructed his view of where the suspect was leaving him unaware of where the possible threat could be. And finally, the fence was easy to climb over or even break through by an aggressive subject. Nielsen concluded that if Winters continued to advance toward him with the gun he would have to take lethal action.

Deputy Neilson had positioned himself on the other side of a vinyl fence, with Winters being on the other end of that fence. At one point Winters can be seen on surveillance video getting up onto the fence. It is unknown if Winters was trying to get over the fence or was pointing his gun over the fence toward deputy Neilson's position. As Winters was on the fence, McFarland fired the first shot. On surveillance video, the vinyl post cap can be seen flying off the post from the shot.

Winters gets off the fence and disappears from view. Then two shots are fired by Winters. Based on our crime scene examination we know that at least one of the two rounds fired by Winters goes through the vinyl fence toward Deputy McFarland's direction, but strikes the fire hydrant on the grass strip.

Deputy McFarland fired two more shots toward Winters. One round struck Winters in the chest. The other round struck the fence, exited, and struck the house behind where Winters was standing. Upon realizing Winters was down, Deputies summoned medical aid to the scene. In addition, they provided advanced emergency medical treatment. Unfortunately, the wound to Adam Winters was so severe that he died on the scene.

Analysis

Utah Code Section 76-2-404(1) states that "A peace officer . . . is justified in using deadly force when: 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 *Graham v. Conner*, 490 U.S. 386 (1989), the United States Supreme Court instructed that "reasonableness" for law enforcement officers must be assessed objectively, in light of a "reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* At 396 (internal citations omitted). The *Graham* court also explained that "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Id.* At 397.

As noted previously, as is his constitutional right, McFarland declined to provide a statement to investigators. Without an explanation for his decision to use deadly force against Mr. Winters, we are left to infer the rationale for his actions based on the surrounding facts and evidence, as well as the reasonable inferences to be drawn from that evidence. Of course these inferences must be consistent with the totality of the evidence available to us.

The question then becomes whether there is evidence to support that deputy McFarland reasonably believed that the use of deadly force was necessary to prevent death or serious bodily injury to himself or to others. Here there is ample

evidence to support that he reasonably believed that the use of deadly force was necessary to prevent death or serious bodily injury to himself or to others.

Deputy McFarland had been called out to a domestic violence situation where the suspect possessed a handgun and had already fired his weapon once, possibly at his wife. Upon arrival, McFarland saw Winters wielding a gun and advancing toward officers, apparently pointing the gun in an aggressive posture. McFarland and Nielson both shouted repeatedly at Winters to drop his gun, but Winters refused. McFarland was in a position to see Winters apparently looking over the vinyl fence toward Deputy Nielson who was in a vulnerable position having only a vinyl fence for cover. When Winters failed to drop his weapon, McFarland had to make quick decisions. Winters had already demonstrated that he was willing to fire his weapon, and his failure to drop his weapon at the command of uniformed police officers presented a continued danger to neighborhood residents and police alike. Finally, even after McFarland fired the first shot, which missed the suspect, Winters still did not surrender. Rather, he began firing back toward McFarland creating an obvious risk of death or serious bodily injury to the deputy.

CONCLUSION

An objective evaluation of all of the circumstances and evidence in this case demonstrates that it would have been reasonable for deputy McFarland to believe that deadly force was necessary to prevent death of serious bodily injury to himself or others, including other deputies and/or local residents.

Therefore, based on witness statements made by other deputies, Cindy Winters, neighbors and other witnesses involved, and the totality of the circumstances; and recognizing that police officers are often forced to make split-second judgments, we conclude that deputy McFarland was justified in his use of deadly force.

Please feel free to call me if you would like to discuss this further.

Sincerely,

Christopher F. Allred
Weber County Attorney