



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.

FORCE INVESTIGATION TEAM

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Force Investigation Team Report Officer-Involved Shooting

Incident: Officer Involved Shooting-Fatal

Agency(s) Involved: Ogden Police

Relevant case numbers: OPD 21G9060, 21G9013, CSI 21CS222, ME 2021-00911

Date of Incident: February 5th, 2021

Time of Incident: 23:37 hrs

Location of Incident:

FIT Lead Investigator: Investigator Steve Zaccardi

Involved Officer(s): Devin Taylor, Patrick Burham

Involved subject (s): Dino Raul Morales

Introduction

In the early morning hours on February 6th, 2021, the Ogden City Police Department reported that there had been an officer-involved shooting, which involved two of their officers. The Weber County OIS protocol was initiated.

The officer-involved shooting criminal investigation is the Weber County Attorney Force Investigation Team (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. The following investigators worked on the case with a summary of their assignments.

Lead Investigator: Steve Zaccardi, WCAO FIT

Crime Scene: Brian Schultz, WCAO FIT

Witness interviews: John Frawley RPD HTF

Crime Analysis: Mandy Kruger ATAC

Drone footage: Josh Terry ATAC

Summary

On February 5th, 2021, at approximately 1911 hrs, the Ogden Police were dispatched to vehicle theft in progress at . At that location, Meagan Malan reported to police that earlier she had posted a personal ad on a site called Mega Personals. In the ad, Meagan was looking for men to have a sexual encounter with. Meagan told the patrol officer that a man (identified as Dino Morales) called the number listed, and the two agreed to meet. Meagan invited the male to her home at .

The male arrived at the home and met with Meagan. There was a discussion that turned into a disagreement between the two about the sexual interaction they were going to have. Meagan told the male to leave. According to Meagan, the male produced a handgun, threatened her, and forced her to perform oral sex on him. After that, the male took Meagan's car keys and left in her 2002 Mercedes silver SUV.

At approximately 2337 hrs, Ogden Police Officer Huckaby located the stolen Mercedes traveling northbound on Washington Blvd. The vehicle pulled into the Chevron at 30th and Washington Blvd, where a female passenger quickly exited. The driver, Morales, pulled the car back out onto 30th St but promptly parked in a lot to the west. There Morales ran from the car on foot through backyards behind the business. Officers gave chase but lost sight of him.

At 23:40 hrs, Officer Burham located Dino Morales hiding in the back of a parked and unoccupied pickup truck. This truck was discovered under a carport behind a residence at . Upon discovery, Burham ordered Morales to show him his hands. Morales instead stood up in the back of the truck and pulled a handgun out of his waistband. Burham ordered Morales to drop his gun, but Morales refused and held the gun down by his leg.

Officer Devin Taylor was near where Burham had located Morales and heard him giving verbal commands. Officer Taylor approached the truck from the other side of a chain-link fence. Officers gave

Morales several orders to drop the gun and then opened fire, striking Morales several times. Morales fatally fell into the back of the pickup truck bed.

Aggravated Robbery

On February 5th, 2021, at 1911 hours, Officer A. Clark was dispatched to a vehicle theft at . At that location, Officer Clark met with the owner of the car Meagan Malan. During his investigation, he learned that this was an aggravated robbery, not just a vehicle theft.

Meagan told Officer Clark that she had placed a personal ad on a website called mega- personals looking for men interested in a sexual relationship. Meagan told Officer Clark this as if it was a dating website. I interviewed Meagan later, and she admitted that she was acting as a female escort, and the ad was an advertisement for that purpose.

Dino Morales responded to Meagan's ad by calling her from his cell phone at . The two agreed to meet at her home at . Meagan said that she was outside when Dino arrived. The two meet and went inside the house. Meagan had told Officer Clark that Morales did not bring a condom, and she refused to have sex with him. In an interview, she later said that wasn't true but that she was "creeped out" by him and just told him no. That is when he pulled out a gun and ordered her to have oral sex with him. Meagan said she was fearful, so she did. She noted that after Morales ejaculated, he grabbed her car keys off her dresser and left the house. She followed him outside and saw that he got into her silver-colored Mercedes SUV and quickly left the area. That is when she called 911 and reported the incident. She told Officer Clark that Morales never pointed the gun at her, but he implied that he would use it to hurt her. She described it as a small automatic handgun. [Note: Investigators found Meagan's debt card in Dino Morales' pocket at the medical examiner's office. She was unaware that this was missing until I told her. End of note]

Dino Raul Morales



Dino Raul Morales was born on . At the time of the incident, it appears that Morales was homeless. Morales had an Idaho identification card, but it seems as if he hadn't been in that area for some time based on the follow-up investigation.

Criminal History: Morales had no Utah criminal history. All of his criminal records appear to have come from California.

- 2007- Shoplifting
- 2007- Theft
- 2008-Vehicle theft
- 2009- Burglary
- 2009- Shoplifting
- 2011- Vehicle theft
- 2013- Felony theft
- 2013- Felony theft

Property

Morales was wearing five pairs of shirts, three pairs of pants, three pairs of socks, and three pairs of underwear at the time of his death. His backpack also had several other articles of clothing.

A sales receipt was located in Morales' pockets, which showed that he had recently purchased a cell phone in Clinton, Utah. Morales had two cell phones on him and had \$2,300 in cash in his pockets. The cash was mostly in crisp, new, one hundred dollar bills. In this investigation, I was unable to determine where the money had come from.

A search warrant was written to conduct a forensic analysis of both phones. They were given to Weber County Sheriff's Office Det. Dustin Stewart for this examination. He was only able to access one of the phones. It appeared it was not an active phone and was not being used by Morales at the time of this death. I was unable to determine why he had this phone with him. The other phone, the one he had purchased a few weeks before his death, investigators were unable to access it due to the unknown passcode.

Next of Kin

I was able to locate a number for Morales' mother, Renee Jacobo. She lives in Highland, California. Her phone number at the time this report was written was . She told me that she had not seen Morales for a couple of years. She said that he had traveled to Idaho and Utah with a church group several years prior, but she didn't know which one and did not have much contact with him.

I eventually mailed Ms. Jacobo Morales' personal belongings, his wallet, watch, and necklace. I also had a check written out in her name for the currency that Morales had on him at the time. The check was from Weber County for \$2,310.04 and was mailed to . Out of courtesy, I sent her a copy of the body camera footage released to the media.

Officer Devin Taylor



Officer Devin Taylor has been a full-time police officer with Ogden City for eight years. He is currently assigned to the patrol division. He is also a member of the Ogden Metro SWAT team.



Investigators conducted a bullet count with Officer Taylor. The duty weapon in his holster had nine (9) rounds in the magazine and one round (1) in the chamber for a total of 10. Officer Taylor said it was his custom to carry 18 rounds total in his holstered weapon; this would be consistent with the evidence at the scene that two rounds were fired. Each of the two remaining ammo magazines in his duty belt had seventeen (17) total rounds.

Interview with investigators.

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

Officer Patrick Burham





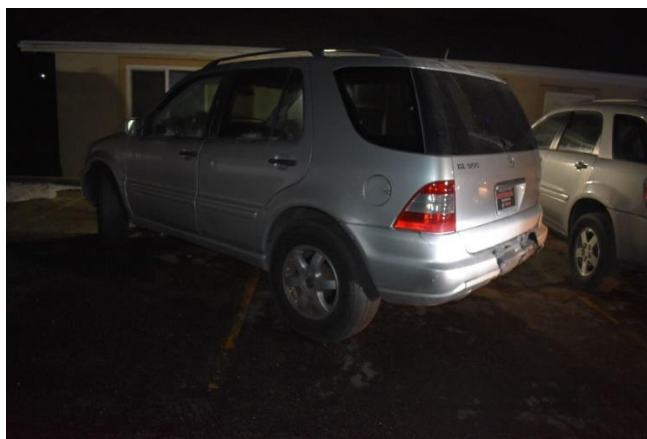
Officer Burham has been a full-time police officer with Ogden City for one and half years. He is currently assigned to the patrol division.

Interview with Investigators

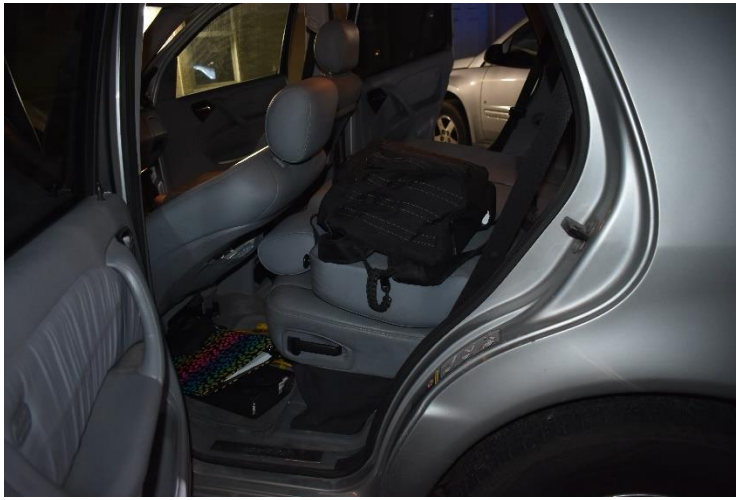
A request was made to Officer Patrick Burham to speak with Investigators and describe what happened in the incident in his own words. Through his FOP Attorney, he refused our request for an interview citing his constitutional right of self-incrimination.

Officers locate the stolen vehicle

On February 5th, 2021, Officer Ken Huckaby noticed the silver Mercedes SUV near the Days Inn motel in the . The vehicle was traveling north on Washington Blvd, with Officer Huckaby following. Huckaby was waiting for other units to respond to help conduct a traffic stop. However, before this could happen, the driver, Morales, pulled the vehicle into the Chevron gas station at . Huckaby and other officers turned on their overhead emergency lights to indicate that they were stopping the car. Inside the vehicle was a female passenger, identified as Rebekah Melton, who exited the car without prompting from police. The driver then put the car into gear and drove out of the parking lot, but then pulled quickly into the parking lot at . The driver drove to the end of the parking lot, then exited the vehicle and ran west behind the house located there. Officer Devin Taylor pursued the suspect on foot but lost sight of him. Other officers in the area set up a perimeter in an attempt to locate the suspect.



Stolen SUV, parked where Morales exited and ran from officers.



A backpack was located in the car that had some personal items of Morales inside. There was also inside was an empty ammo magazine that fit the weapon that Morales had.



The screenshot above has the areas marked; traffic stop, foot pursuit, and shooting location



. Behind this home was the scene of the shooting.



You are looking west in the backyard of , detached carport.



You are looking southeast around the rear of the carport. Morales was hiding in the storage bed of the truck

Body Camera

Officer Burham's body camera



Officer Burham approaching the back of the red truck.



Officer Burham discovers Morales in the bed of the pickup and verbally challenges. "Show me your hands."



Morales does not put his hands up but stands up in the bed of the truck. Morales said, "This is my house, this is my house, dude." [Note: The homeowners of _____ had no idea who Dino Morales was and did not know that he was hiding in their vehicle. End of note.]



Morales stands up and displays an object in his right hand. Officer Burham announces over the police radio to other Officers that the suspect has a gun.



The red circle highlights the gun. Based on 3D scans, the distance from Burham to Morales at his point was 4.6 feet.



Burham backed up while giving commands, but Morales did not comply



Morales sat on the back of the pickup truck, straddling the tailgate. Officer Burham commands, "Drop the fucking gun." Morales said, "Nope."



Morales sat on the bed of the truck, with the gun in the right hand. Burham again commands, “Drop the fucking gun.” Morales again sayed “nope.”



The above photo is a zoomed-in screenshot with the gun highlighted by the red circle.



Officer Taylor is off to the left of the screen on the other side of the fence. Officer Burham fires.



Morales is struck and falls into the bed of the truck.



Officer Burham approached the bed, other officers arrive. In this screenshot, the Officer's opposite camera picks up Morales 'gun from the truck's bed and secures it.

Officer Devin Taylor's body camera. [Note: Officer Taylor had muted his body camera while talking to other officers just before Officer Burham locating the suspect. Therefore there is no audio associated with Taylor's camera. End of note.]



Officer Taylor approached the fence. By the time Taylor arrives, Morales is already straddling the truck bed.



The first shot fired. There is evidence to suggest that Officer Taylor fired; however because the audio was off, it is unclear who fired first.

Officer Ken Huckaby



Officer Huckaby was trailing behind Officer Taylor. The above photo is only used to give perspective to where Officer Taylor was standing in the field and related to the fence and truck.



Morales deceased in the bed of the truck.



The pistol was found at the scene, a Ruger LCP .380 serial number magazine. The weapon was fully loaded with round in chamber.

with extended ammo



Below barrel and trigger guard were damaged by bullets.



You are looking north. This is the angle that Officer Burham would have toward the suspect. Some of the yellow markers are shell casing locations.



You are looking east. This was the approximate location of Officer Taylor when he fired his weapon.



Above is a screenshot of the 3D scans, with two measurements identified—the estimated distance from Morales to Burham on initial encounter 4.6 feet. The second is the estimated distance at the time of shooting after Burham backed up 15.23 feet.

Interviews

Officer Ken Huckaby

Det. interviewed Officer Huckaby. Frawley, instead of him writing a supplementary report. The following was taken from Det. Frawley's report; this interview was recorded and can be reviewed if necessary.

Officer Huckaby told me about the vehicle theft in progress call they had prior in the afternoon. Sgt. Fisher attempted to stop a Mercedes SUV with a temp tag. The vehicle fled, so officers terminated at that

time. Officer Huckaby got a glimpse of the vehicle as it was traveling down Lincoln Ave, so he kinda knew what it looked like.

Later on, Officer Huckaby was driving down Washington Blvd and saw an SUV sitting at the Days Inn. Officer Huckaby made a U-turn while the SUV was starting to pull out. Officer Huckaby pulled over and waited because the SUV was being hesitant.

Eventually the SUV pulled out and passed Officer Huckaby's police vehicle. Officer Huckaby got behind it and he identified it as the correct vehicle. Officer Huckaby called for other units. The suspect vehicle then pulled into the Chevron at . It drove to the area of the gas pumps when officers initiated their lights. Officers attempted to conduct a felony stop. The male driver let a female passenger out of the vehicle. After the female exited the car, the male driver fled in the vehicle.

The SUV only drove around the corner to the 300 block. The nearest address was . Officer Huckaby knew this area was a dead end street. The male driver got out of the vehicle and looked directly at Officer Huckaby. The male driver fled westbound on foot jumping fences.

Officer Huckaby was trying to pass information along over the radio such as the suspect's physical description and last known direction. Officer Huckaby told me he got hung up on a fence which slowed him down in the pursuit. Officers Taylor and Barnum continued the pursuit on foot.

Officer Huckaby went down 30th Street to see if the suspect maybe cut back. Officer Huckaby located Officer Taylor in the 200 block. Huckaby was talking to Officer Taylor near the church when they heard an officer screaming "Let me see your hands!" The Officer was yelling commands. They could tell the noise was coming from the north of their location, so they ran toward the sound.

Officer Huckaby saw a flashlight shining under the carport. Officer Taylor went on ahead while Officer Huckaby was trying to call the information out over the radio. Officer Huckaby saw the Officer giving commands and shining his flashlight. The Officer yelled, "Let me see your hands!" Officer Huckaby saw a male subject who matched the same physical description of the male that ran from the SUV. The suspect was in the back of a truck bed. He stood up. When Officer Huckaby looked, the suspect had his hands in the air. This was at the same time Officer Huckaby was talking over the radio. Around this time, Officer Huckaby heard, "Drop the gun!" Officer Huckaby heard this command given a few times, and then gunshots.

Once the scene was secured, Officer Huckaby returned to the location of the SUV to keep that area secured.

Officer Huckaby told me he activated his body camera when they attempted to stop the stolen SUV.

Rebekah Melton

Rebekah Melton was in the vehicle with Morales when police stopped him. Det interviewed Melton. John Frawley of the HTF. The following was taken from his report about his interview with Melton. This interview was also recorded and can be reviewed if necessary.

I spoke with Rebekah inside my police car at around 0151 hours. My body camera was activated. I began by reading Rebekah her rights as per Miranda and she decided to talk to me at that time.

Rebekah told me she was pan handling at the Days Inn on . She didn't know the guy she got a ride with and she never saw him before. She saw the unknown male walking to his vehicle in the parking lot and she asked him for a ride. She asked the guy to take her as far north as possible. Rebekah was trying to get to where her "Street Dad" lives. The unknown male never told Rebekah

what his name was. She described him as a young Hispanic male with a cocky attitude, and he was driving a light greenish SUV.

As they were driving down Washington Blvd, Rebekah saw police cars pulled off to the side of the road in the area of 30th Street. Rebekah told me, the male driver made some sort of comment about the cop cars which is what brought them to Rebekah's attention.

The male driver decided to pull into the Chevron parking lot. When Rebekah noticed the police car pull into the Chevron she thought to herself, I better start paying attention now. Rebekah saw the police car pulling up behind them.

Rebekah thought to herself, I am not going to be a part of this. She told me the male driver was not going to stop the car. I asked her how she knew that. Rebekah stated, he said he was not going to stop. Rebekah opened the door and the driver stopped long enough for her to get out of the car. She got out and was given verbal commands by officers. I asked Rebekah why she wanted to get out of the car. She said, I could tell that was a whole bunch of drama that I did not want to deal with.

I asked Rebekah if there was any mention of drugs or weapons in the vehicle, or anything strange? Rebekah said she thought she saw a weapon on the dashboard. She described the object as rattling across the dashboard as they were moving, but she was very non-specific about what the object was exactly. Rebekah told me she did not see the object. She went on to tell me how she was not scared of guns because she used to go hunting. Rebekah stated, half the time people are running around out here with BB guns claiming they are real, but it's too hard to tell.

Conclusion

This conclusion will address the actions of Officer Burham and Officer Taylor to determine if their use of deadly force was reasonable and justified under the law.

On February 5th, 2021, Dino Morales made a financial arraignment with Meagan Malan to have a sexual interaction. The two met at Malan's home in Ogden, where Malan reportedly changed her mind and asked Morales to leave. Morales refused and instead displayed a handgun and forced Malan to have oral sex with him and stole her car. The information of the crime occurring, a weapon being used, and to be on the lookout for the stolen vehicle was broadcasted over the police radio citywide.

Later that same evening, Officer Huckaby observed Malan's stolen vehicle driving in Ogden. Officer Huckaby attempted to stop the car. The driver (Morales) pulled the vehicle over but quickly exited and ran from uniformed police.

Officer Burham, who had responded to the call for backup, began searching for Morales in the area last seen. Burham eventually found Morales hiding in the bed of a pickup truck which was parked and unattended behind a home at .

Once located by Officer Burham and confronted, Morales failed to comply with arrest; instead, he stood up in the back of the pickup truck and displayed the handgun. Officer Burham recognized that Morales had a weapon by verbally announcing over the police radio. Burham then commanded Morales to drop the firearm twice before firing. Morales sat on the tailgate of the pickup truck with the handgun by his side. When told to drop the gun, Morales responded "nope" on both occasions. Officer Burham fired his weapon. It is unclear from the evidence and lack of an interview why Officer Burham decided to fire his gun at that particular moment. It does, however, seem clear that Morales did pose a threat of serious

bodily injury to Officer Burham, based on the way he was displaying the gun and his refusal to put it down.

Obtaining clear evidence from Officer Taylor's body camera footage was difficult. This was due to the camera's movement, the distance from the subject, and the absence of audio. From my review, I cannot tell if Officer Taylor saw the weapon in Morales' hand. In Officer Burham's video, Officer Taylor is heard yelling something, but it was unclear what was said. Since Officer Taylor declined to give an interview, I cannot say why he fired his weapon.

Based on the totality of all the evidence in the case, I believe it is fair to make certain inferences. I think it is safe to assume that, before contact, both officers had probable cause to believe that the suspect (Morales) had committed a violent felony and had done so while being armed with a deadly weapon. After discovering Morales in hiding, it is clear that Burham recognized that Morales had a handgun and was displaying the weapon. I believe it is also safe to assume that Taylor also knew this because Burham announced that Morales had a gun over the police radio. Taylor was also close enough to Burham to hear the verbal commands given by him to Morales to "drop the gun." Morales does not appear to point the weapon directly at Burham or Taylor; however, he did have it displayed in a threatening manner. Additionally, he failed to follow commands to drop the gun, and he also verbally told the officers he would not drop it.

In that circumstance, it would only take fractions of seconds for Morales to raise the barrel of the gun toward officers and fire. The Officer's ability to recognize this movement, process it, and return fire in enough time would be severely compromised and could ultimately lead to them being fatally injured.

All of the information and factors should be considered when determining if Officer Patrick Burham and Officer Devin Taylor were justified in using deadly force against Dino Morales.

Steve Zaccardi
Chief Criminal Investigator
Force Investigations/Homicide Task Force



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August 25, 2021

Chief Eric Young
Ogden City Police Department
[REDACTED]

RE: OFFICER-INVOLVED SHOOTING; OFFICERS PATRICK
BURNHAM AND DEVIN TAYLOR

Dear Chief Young:

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 officers Patrick Burnham and Devin Taylor. CSI processed evidence from the scene, and officers involved in the investigation of this case provided statements. However, Officer Burnham exercised his constitutional rights in refusing to provide a statements 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 February 5, 2021, at 1911 hours, Officer A. Clark was dispatched to a vehicle theft at [REDACTED]. At that location, Officer Clark met with the vehicle owner. During his investigation, he learned that this was an aggravated robbery, not just a vehicle theft.

The woman told Officer Clark that she had placed a personal ad on a mega-personals website looking for men interested in a sexual encounter. Dino Morales responded to the ad by calling her from his cell phone. The two agreed to meet at her Ogden home. The woman said she was outside when Dino arrived. The two met and went inside the house. The woman told Officer Clark that she was "creeped out" by Morales and told him that she would not have sex with him. Morales then pulled out a gun and ordered her to perform a sex act on him. The woman said she was fearful, so she did what he demanded. She said that Morales then grabbed her car keys off her dresser and left the house. She followed him outside and saw him get into her 2002 silver-colored Mercedes SUV and quickly leave the area. That is when she called 911 and reported the incident. She told Officer Clark that Morales never pointed the gun at her, but he implied that he would use it to hurt her if she did not comply with his demands. She described it as a small automatic handgun.

Later, Sergeant Fisher attempted to stop a vehicle matching the description of the stolen Mercedes SUV. However, the vehicle fled so Fisher terminated the chase. Sometime thereafter, Officer Ken Huckaby noticed the silver Mercedes SUV near the Days Inn motel in the 3300 block of Washington Boulevard. The vehicle was traveling north on Washington with Officer Huckaby following. Huckaby was waiting for other units to respond to help conduct a traffic stop. However, before this could happen, the driver, Morales, pulled the vehicle into the Chevron gas station at 30th and Washington. Huckaby and other officers turned on their overhead emergency lights to indicate that they were stopping the car. Inside the vehicle was a female passenger who jumped out of the car without prompting from police. This person told investigators that she had encountered Morales (whom she had never met before) at the Days Inn on Washington Boulevard and asked him for a ride. The woman stated that she saw what she thought was a weapon on the dashboard while she was in the vehicle. She also said Morales told her he was not going to stop for the police when they pulled into the Chevron. However, she opened the door anyway and Morales stopped just long enough for her to get out of the car.

The driver then put the car into gear and fled out of the parking lot, but then pulled quickly into another parking lot at [REDACTED]. The driver drove to the end of the parking lot, then got out of the vehicle and ran west behind the house located there. Officer Devin Taylor pursued the suspect on foot but lost sight of him. Other officers in the area set up a perimeter in an attempt to locate the suspect.

Around 23:40 hours, Officer Patrick Burnham located Dino Morales hiding in the bed of a parked and unoccupied pickup truck. This truck was discovered under a carport behind a residence at [REDACTED]. Upon discovery, Burnham ordered Morales to show him his hands. Morales instead stood up in the back of the truck and pulled a handgun out of his waistband. Burnham radioed that the suspect had a gun then

repeatedly yelled at Morales to “show me your hands!” and “drop the gun!” Morales responded to the orders by simply saying “nope”, and he refused to drop the gun. Officers Huckaby and Taylor were searching the area near where Burnham had located Morales when they heard Burnham shouting commands at Morales. Officer Taylor ran to the area and approached the truck from the other side of a chain-link fence. When Morales refused to comply after multiple orders, Officers Burnham and Taylor both fired their duty weapons at Morales striking him several times. Morales was fatally wounded and fell into the back of the pickup truck bed.

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.

The question then becomes whether there is evidence to support that both officers reasonably believed that the use of deadly force was necessary to prevent death or serious bodily injury to himself or to the other officer.

Officer Burnham: Ogden City Police officers were called to respond to an aggravated robbery in which Morales threatened a woman with a firearm. Because Officer Burnham chose not to provide any statement, we do not know if he knew about the earlier callout, and whether he knew he was searching for an armed and dangerous man when he discovered Morales hiding in the bed of a truck. However, we do have Burnham’s bodycam footage which shows that Burnham ordered Morales to show his hands upon finding him in the truck. From the video we also know that Morales stood up in the truck bed and pulled a handgun from his waistband. Burnham radioed that Morales had a gun and shouted at Morales to drop the gun multiple times. Morales is seen holding the gun, and he can be heard saying “nope” twice in response to Burnham’s orders to drop it. It is clear from the video that Morales is very close to Officer Burnham, and that he could very easily point the gun and shoot either Burnham or Officer Taylor, who had just approached from the other side of the chain link fence near the truck. Officer Burnham opened fire on Morales only after shouting multiple times for him to drop the gun, and after Morales refused to drop the weapon. Under the circumstances, there really is no legitimate question that Burnham reasonably perceived a threat to himself and/or to Officer Taylor. Further, if Burnham were aware of the fact that Morales had recently used a firearm to engage in an aggravated robbery, this knowledge would further bolster his belief that Morales presented a threat to his safety or to the safety of Officer Taylor.

Officer Taylor: Unfortunately the bodycam footage from Officer Taylor is fairly unhelpful because it is very shaky and blurry and the sound function was not operating. However, it is evident from his bodycam that Officer Taylor arrived very shortly after Burnham discovered Morales hiding in the truck bed. Although Taylor was separated from the incident by a chain link fence, he was clearly close enough that he would have heard Burnham shouting at Morales to show his hands and drop the gun.

Furthermore, Officer Taylor provided an interview and statement to Weber County Attorney's Office investigators. In his interview Taylor explained that he was working his regular patrol shift that night. He said that he heard the original call of a stolen car over the police radio in progress. Taylor said that the call notes on his computer showed that the suspect had used a gun during the robbery. Officer Huckaby eventually located the stolen SUV again on Washington, and Taylor responded to assist Huckaby as he followed the vehicle. Officer Taylor observed the driver pull into the gas station on the corner of 30th and Washington. A female passenger got out of the vehicle and the driver pulled back out onto 30th street and headed west. The driver then pulled into the first driveway west of Washington, which was a dead-end. Taylor said that the driver jumped out of the car and jumped the fence running to the west. Taylor said that he pursued the driver west through the alley but lost sight of him around Grant Avenue.

Taylor ended up meeting up with Officer Huckaby on 30th Street near Lincoln Avenue. He was speaking with Officer Huckaby, so he muted his body camera microphone. As they were talking, he heard Officer Burnham on the radio saying he had contacted the suspect. Taylor could hear Burnham shouting in the direction that Taylor had just come from. Taylor ran toward the yelling. As he approached, he could see the suspect sitting on the back of the truck's tailgate. Taylor said he could see the gun in the suspect's right hand, down by his right thigh. He could hear Burnham yelling at the suspect to drop the weapon. He listened to the suspect say "no" at this command. Taylor said that he saw the gun start to come up along the suspect's thigh. Believing that Officer Burnham's life was in immediate danger, he fired his weapon.

CONCLUSION

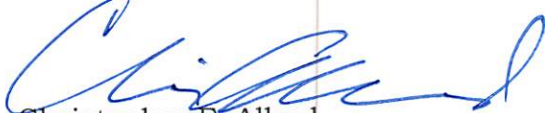
An objective evaluation of all of the circumstances and evidence in this case demonstrates that Officers Burnham and Taylor were in danger of death or serious bodily injury. At a very minimum we know that these officers were confronted with a man whom they knew was running from police. Officer Taylor knew the man had recently committed an aggravated robbery in which he used a gun to threaten a woman. We know that when confronted by Officer Burnham, Morales pulled a handgun from his waistband and refused to drop it despite multiple commands to drop the gun. We know that Burnham was in very close proximity to Morales. We know that Officer Taylor was also very close to Morales – close enough to see Morales holding a gun in the bed of the truck and to hear Burnham shouting at Morales to drop the gun. Taylor explained that he fired his weapon at Morales because he believed Officer Burnham's life was in danger at that moment. We know Morales' gun was loaded and that he could have easily turned it on the officers in a split-second and killed one or both of them. Under the totality of these circumstances we can infer that

both officers reasonably believed that deadly force was necessary to prevent death or serious bodily injury to themselves or others.

Therefore, based on statements made by Taylor and other officers involved, video evidence, and the totality of the circumstances; and recognizing that police officers are often forced to make split-second judgments, we conclude that both officers were justified in their 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