

## **MEMORANDUM**

### **DAKOTA COUNTY ATTORNEY'S OFFICE JAMES C. BACKSTROM COUNTY ATTORNEY**

#### **CRIMINAL DIVISION**

**Dakota County Judicial Center  
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**DATE:** November 5, 2019

**TO:** James C. Backstrom, Dakota County Attorney

**FROM:** Kathy Keena, Chief Deputy Dakota County Attorney *KMK*

**SUBJECT:** Regarding the Death of Isak Abdirahman Aden (DOB: 01/01/1996)  
BCA File No. 2019-554

### **Introduction**

As described fully below, Eagan Police Officer Jacob Peterson and Bloomington Police Officers Matthew Ryan, Anthony Kiehl, Adam Stier and Daniel Nelson used deadly force during an incident that resulted in the death of Isak Aden. At the request of the Eagan Police Department, the Minnesota Bureau of Criminal Apprehension (BCA) was the lead investigative agency for this incident. The Dakota County Attorney's Office reviewed the BCA investigation and the lawfulness of the actions of the above-named officers who discharged a firearm during the course of the incident. On September 3, 2019, the Dakota County Attorney's Office received investigative reports from the BCA. Additional investigative reports were received from the BCA on October 11, 2019. The investigative reports included the following items:

- BCA investigative reports
- Eagan Police Department Incident Reports (Eagan PD Case No. 19003745)
- Ramsey County Medical Examiner autopsy report and case file for Isak Aden
- Videos from squad cameras activated during the incident by Eagan Police Officers Todd Kirchgatter, Jeff Thul, James Logan, Chad Zastrow, Peter Meyer, Alison Burstein, Brian Rezny, Sean Farnham and Andrew Helgerson
- Videos from squad cameras activated during the incident by Minnesota State Patrol Troopers Anthony Mains, Brent Egan and Justin Armstrong

- Videos from body worn cameras and squad cameras activated during the incident by Burnsville Police Officers Paul Oelrich, Casey Smith, Tom Smith, Jacob Gribble, Timothy Pfaff and Steven Stoler
- Videos from body worn cameras and squad cameras activated during the incident by Bloomington Police Officers Brad Hydeen, Carter Lamers, Mike Perron, Joseph Spark and Mike Vonderharr
- Body worn camera of Officer Erik Hanson of the Columbia Heights Police Department
- BCA incident team scene report, photographs, video, forensic lab reports and results of forensic analysis performed by the BCA Lab
- Recordings, transcriptions, reports and hand drawn scene sketches related to statements taken from Bloomington Police Officers Anthony Kiehl, Daniel Nelson, Adam Stier and Matthew Ryan; and Eagan Police Officer Jacob Peterson
- BCA photographs of Bloomington Police Officers Anthony Kiehl, Daniel Nelson, Adam Stier and Matthew Ryan; and Eagan Police Officer Jacob Peterson
- Multiple search warrants and inventories of items seized during the execution of the search warrants (i.e., 1971 Seneca Road, 1979 Seneca Road and 1980 Seneca Road)
- Recordings, transcriptions, and reports related to statements taken from Eagan Police Officers Heather Berens, Steven Bolluyt, Alison Burstein, Chad Clausen, John Collins, Jacob Coulson, William Cytryszewski, Sean Farnham, Tracy Harrell, Andrew Helgersen, Todd Kirchgatter, Anthony Lejcher, James Logan, Steve Lounsbury, Aaron Machtemes, Dan Mason, Christopher Meade, Peter Meyer, Joseph Moseng, Krishina Mua, Luke Nelson, Roger New, Matthew Ondrey, Karin Pederson, James Proshek, Brian Rezny, Brian Rundquist, Joshua Sannes, Darrin Schultz, Andrew Speakman, David Streefland, Tony Sundgaard, Eric Tessmer, Jeff Thul, Jennifer Wegner and Chad Zastrow
- Eagan Police Department Crime Scene Log
- Eagan Police Department CAD Report
- Recording, transcription and report related to statement taken from Jeremy Klein, Eagan Police Department Support Services Manager
- Recordings, transcriptions and reports related to statements taken from Bloomington Police Officers Ryan Arbuckle, Erick Bengston, Benjamin Calhoun, Cory Cardenas, Jacob Gruber, Bradley Hydeen, Carter Lamers, Jacob Lucas, Nick Melser, Mike Perron, Jeremy Pilcher, Scott Sager, Josh Seifert, Michael Smith, Joseph Spark, Michael Utecht, Mike Vonderharr and Chris Yates
- Recordings, transcriptions and reports related to statements taken from Burnsville Police Officers Brian Beckstrom, Jef Behnken, Jacob Gribble, Shawn Mahaney, Paul Oelrich, Timothy Pfaff, Kyle Posthumus, Casey Smith, Matthew Smith, Tom Smith, Steven Stoler, Christopher Walswick and Max Yakovlev
- Recordings, transcriptions and reports related to statements taken from Edina Police Officers Chad Anderson and Ryan Schultz
- Recordings, transcriptions and reports related to statements taken from Apple Valley Police Officers Cory Christianson and Greg Neumann
- Recordings, transcriptions and reports related to statements taken from Lakeville Police Officers Shawn Fitzhenry and Nicholas Jacobson
- Recordings, transcriptions and reports related to statements taken from Minnesota State Patrol Troopers Justin Armstrong, Brent Egan and Anthony Mains

- Recordings, transcriptions and reports related to statements taken from: (1) Sean Qualy, Dakota County Sheriff's Office; (2) Michael Burrell, Ramsey County Sheriff's Office; and (3) Erik Hanson, Columbia Heights Police Department
- Recordings, transcriptions and reports related to statements taken from the following members of the Eagan Fire Department: Chris Hall, Kevin Kiewatt, Jason Marshall and Brian Jensen
- Recordings, transcriptions and reports related to statements taken from Bloomington SWAT team medics Michael Andrews, Josh Anderson and Patrick Sweany
- Recordings, transcriptions and reports related to statements taken from HealthEast employees Katherine Depuydt, Tom Edminson, Allison Hassler and Eric Scott
- Recordings, transcriptions, and reports related to statements taken from: (1) T.A. (Isak Aden's ex-girlfriend); (2) M.O. (witness to incident at intersection); (3) B.K. (witness to incident at intersection); (4) P.C. (witness to incident at intersection); (5) E.K. (heard gunshot near Anytime Fitness); and (6) B.A. (Isak Aden's brother)
- Video surveillance still photographs from 1971 Seneca Road, Suite B (Fox Ridge Printing)
- Video surveillance from 1971 Seneca Road, Suite H (North Star Beverage)
- Video surveillance from 1981 Silver Bell Road, #1800 (Anytime Fitness)
- Video surveillance from 2050 Old Highway 8 (Hank's Specialties, Inc.)
- Video surveillance from 1981 Silver Bell Road, #1300 (Hour Kids Childcare Center)
- Incident report from Dakota County Sheriff's Office regarding use of drone to obtain aerial photographs of scene and surrounding area on July 3, 2019 (Dakota County Sheriff's Office Case File No.: 19000950); and aerial photographs obtained by drone
- Minnesota State Patrol Field Reports (Minnesota State Patrol Case No. 19406122)
- Minnesota State Patrol radio communications and CAD Report
- Columbia Heights Police Department Incident Report (Columbia Heights PD Case No. 19163492)
- Recordings and transcriptions of negotiations conducted via cell phone
- Recordings and transcriptions of 911 calls
- Training records for Bloomington Police Officers Adam Stier, Daniel Nelson, Matthew Ryan and Anthony Kiehl; and Eagan Police Officer Jacob Peterson
- Bloomington Police Department Policies concerning: (1) Body Worn and Squad Car Cameras; (2) Response to Aggression and Resistance; and (3) Critical Incidents
- Eagan Police Department Policies concerning: (1) Critical Incidents; and (2) Use of Force
- E-Trace information associated with gun possessed by Isak Aden
- Photographs of Isak Aden taken in emergency room by Detective Darrin Schultz, Eagan Police Department
- Medical records from Regina Hospital concerning Isak Aden
- Cellbrite extraction reports concerning searches of: (1) negotiation cell phone provided to Isak Aden; (2) cell phone of Detective John Collins, Eagan Police Department; and (3) cell phone of Officer Anthony Kiehl, Bloomington Police Department

The following is a summary of the investigative file forwarded to the Dakota County Attorney's Office by the Minnesota Bureau of Criminal Apprehension.



## Case Summary

### 1. Report of Assault with Firearm

On July 2, 2019, at 6:05 p.m., a woman later identified as T.A. called 911 and reported her ex-boyfriend had “just pulled out a gun” on her. T.A. identified the suspect as Isak Aden (Aden) and described him as an African male wearing an orange shirt. During the 911 call, T.A. reported the following facts. T.A. and Aden were in her vehicle outside of her residence in Eagan. Aden had driven to her residence in his own vehicle. While sitting in her car they were engaged in a “tense” conversation at which point Aden pulled out a gun on her and instructed her to drive away from the residence. T.A. complied. When she got to an intersection near the Eagan Outlet Mall, she purposely drove her car into oncoming traffic at an intersection to create “a scene.” When she did this, Aden “hopped out” of the vehicle and started running. When the dispatcher sought more information as to the location of this incident, T.A. described it as being by the “Eagan Mall by the gas station.” T.A. went on to tell the dispatcher, “I know you don’t expect me to remember all these things. I literally had a gun pointing at me.”

Two other 911 calls were received concerning this incident.<sup>1</sup> One of the calls was placed by an adult male identified as P.C. who reported a disturbance near the intersection of Silver Bell Road and Highway 13 in Eagan near a McDonald’s restaurant.<sup>2</sup> During this 911 call, P.C. provided the following information. He saw a vehicle traveling the wrong way down the road. The vehicle stopped and a young African American woman and a young African American man both “jumped out” of the car and started running. P.C. was in the middle of the intersection when this occurred. The woman came over to P.C.’s vehicle and stated, “He’s got a gun.” P.C. observed the male run towards McDonald’s. P.C. drove out of the intersection and turned around to return to assist the woman. When he returned, the woman and the car were gone. In a subsequent interview, P.C. provided the following additional details of the incident. P.C. was stopped at a stoplight at the intersection when he heard honking. The honking was from a small green car facing oncoming traffic. There was a young couple inside the vehicle and he could see they were engaged in a discussion. The two front doors of the vehicle opened and the man exited from the passenger side. The woman exited from the driver’s side, ran to the passenger side of P.C.’s vehicle and attempted to get in. While doing so, the woman told P.C. that, “He’s got a gun.” When the woman saw that the man (Aden) was leaving the area, she returned to her car and drove away.

There were two other witnesses stopped at the intersection who provided statements. An adult male identified as B.K. reported he was stopped at the intersection waiting to make a left hand turn behind three other cars. He observed a vehicle stop near the middle of the intersection and shortly thereafter saw two people exit the vehicle – a woman from the driver’s door and a man from the front passenger side door. He saw the woman run about two lanes over and hide behind a SUV stopped at the intersection for a red light. He saw the man run towards a gas station. After the man ran off, B.K. observed the woman return to the car and drive away. An adult male identified as M.O. reported he was stopped at the intersection and observed a vehicle drive towards oncoming traffic and stop. Upon stopping, the driver’s door opened and a woman “ran out of the car screaming.” The passenger side of the vehicle was directly facing M.O. He observed a male exit the front passenger door. Upon exiting

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<sup>1</sup> Only one of these 911 callers was identified.

<sup>2</sup> From the descriptions of witnesses, it was determined this event occurred at the intersection of Silver Bell and Nichols Road approximately 1 block off Highway 13 in Eagan.

the vehicle, the male lifted up his shirt with his left hand and placed something under his shirt using his right hand. Thereafter the male took off running.

## **2. Initial Law Enforcement Response and Initial Negotiations by Officer Jeff Thul**

Officers from the Eagan Police Department and Minnesota State Patrol responded to the area and set up a perimeter to attempt to apprehend Aden. While doing so, Trooper Justin Armstrong received information from an employee of Anytime Fitness. The employee reported that while outside the business, she heard a gunshot in a wooded area near the strip mall in which the business is located. (i.e., The Shoppes of Cedar Grove). This information was shared with other officers at approximately 6:17 p.m. The Shoppes of Cedar Grove strip mall is adjacent to McDonald's. Surveillance video from July 2, 2019, was subsequently obtained from Hour Kids, a business located adjacent to Anytime Fitness within the mall. In reviewing the surveillance video, Aden is observed at approximately 6:05 p.m. running from the west to the east along the farthest north side of the parking lot, paralleling Highway 13.

At approximately 6:23 p.m., Eagan Police Department Officers Jeff Thul and Chris Meade were in an unmarked squad in a residential area on Burgundy Drive near the intersection of Burgundy Drive and Highway 13 searching for Aden. While driving on Burgundy Drive, they spotted a male walking towards them on the road matching Aden's description. Upon seeing the officers in the vehicle, Aden ran from them, cutting into a yard between two townhomes. Because the area was wooded and knowing Aden was armed, the officers did not pursue him on foot. The Eagan Police Department requested assistance from the Bloomington Police Department for a K9 unit to assist in the search of Aden. The Bloomington K9 unit (i.e., Officer Mike Perron) arrived at 6:34 p.m.

At approximately 6:44 p.m., Aden was spotted running across Highway 13 onto Seneca Road. Officers pursued him in squad cars and on foot. A Minnesota State Patrol SUV driven by Trooper Anthony Mains, the Eagan unmarked squad car containing Officers Thul and Meade, and two other squad cars pursued Aden onto Seneca Road and stopped their vehicles near a building located at 1971 Seneca Road. Upon reaching 1971 Seneca Road, Aden stopped running and immediately put a gun to his head. Aden walked to the parking lot located immediately behind and adjacent to 1971 Seneca Road; and sat down on the curb of the parking lot with the gun to his head. This occurred at approximately 6:45 p.m.

Officer Thul exited his vehicle as did other officers and several times commanded Aden to drop the gun. Aden did not comply with the orders and instead repeatedly stated, "Fuckin' shoot me." Sergeant Matt Ondrey of the Eagan Police Department was present at the scene having been involved in the pursuit of Aden to that location. Sergeant Ondrey gave the directive that Officer Thul was to be the only officer who spoke with Aden. Officer Thul took cover behind the passenger door of his squad and continued talking to Aden trying to convince him to drop the gun. Officer Thul was not equipped with bodycam, but his squad was equipped with video, including audio. The squad video captured what Officer Thul stated to Aden, but did not capture what Aden stated to Officer Thul. It can be gleaned from listening to the audio that at the 6:47:40 p.m. mark, Aden requested that T.A.<sup>3</sup> be brought to the scene. In response, Officer Thul told Aden if he put the gun down and surrendered, he would bring her to the scene if she was willing to come, but that he wasn't bringing anyone else to the scene as long as he was in possession of the gun.

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<sup>3</sup> In this video, T.A. is referred to as "Sabrina"; however, from the context, it's clear that Aden is referring to T.A.

While Officer Thul was talking to Aden, Sergeant Ondrey stepped back from the immediate scene and began coordinating resources that were responding to the scene. Sergeant Ondrey is one of two sergeants in charge of Eagan's SWAT team. At 6:46 p.m., a page went out for a negotiator. At approximately 6:54 p.m., the Eagan SWAT team was paged out to the scene and BearCats (i.e., armored vehicles) were requested from the Bloomington Police Department and South Metro SWAT. Sergeant Ondrey also requested that the Burnsville Police Department tactical team be paged out. Concerned for public safety in the event Aden broke through the perimeter of officers, Sergeant Ondrey instructed that an Everbridge notification (i.e., community notification) be sent to businesses and residences within a one-half mile of 1971 Seneca Road. This notification was sent at 7:05 p.m. While this coordination was taking place, Chief Roger New and Lieutenant Andy Speakman of the Eagan Police Department arrived separately at the scene. Lieutenant Speakman is the commander of Eagan's SWAT team. Sergeant Ondrey conferred with Lieutenant Speakman about needing more law enforcement personnel at the scene, so a mutual aid request was placed to the Bloomington SWAT team, who also responded to the scene.

A command post was set up near the scene using command post vehicles from the cities of Eagan and Burnsville. During the course of the incident, there were several officers in the Eagan command post vehicle monitoring the situation including Chief New, Lieutenant Speakman, Sergeant Cory Carenas of the Bloomington Police Department (Bloomington SWAT supervisor) and Sergeant Max Yakovlev of the Burnsville Police Department (tactical commander for Burnsville's tactical team).

As the scene coordination was being conducted, Officer Thul continued talking to Aden from outside his squad car and repeatedly requested Aden put the gun down. At 7:07:53 p.m., Aden complied by placing the gun down on the parking lot pavement close to his right foot. After putting the gun down, Officer Thul told Aden he made a "good decision" and instructed Aden to stand up and place his hands up. Aden did not comply. Officer Thul again asked Aden to stand up (several times), to walk towards him and lay on the grass. Aden did not comply with these directives. At 7:10:12 p.m., Aden picked the gun up and again pointed it at his head.

For purposes of officer safety and so that Officer Thul could use a PA system to speak to Aden, the decision was made to bring a BearCat into the inner perimeter of the scene. Bloomington's BearCat was first to arrive at the scene and was utilized for this purpose. At 7:24:45 p.m., Officer Thul advised Aden he was getting into the BearCat and would continue to speak to him from that vehicle. Officer Thul got into the BearCat and commenced communicating with Aden using the PA system at 7:26:32 p.m. The Bloomington BearCat was not equipped with any video or audio recording system.

### **3. Negotiations between Eagan Police Officer Joseph Moseng and Aden**

At 7:21:22 p.m., negotiators from the Eagan Police Department arrived on scene. The negotiators were Detective Heather Berens, Detective Karin Pederson, and Officer Joseph Moseng. Shortly thereafter, the South Metro BearCat arrived on scene. The three negotiators were transported to the inner perimeter of the scene in the South Metro BearCat to take over negotiations with Aden. The decision was made to have Officer Moseng act as the primary negotiator. The South Metro BearCat entered the parking lot at 7:34:31 p.m. Over the PA from the Bloomington BearCat, Officer Thul advised Aden someone in the second BearCat (i.e., South Metro BearCat) was going to talk with him. Thereafter Officer Moseng began speaking to Aden using the PA system in the South Metro BearCat. The BearCat was not



equipped with any video or audio recording system; however Officer Moseng can be heard on video obtained from other officers on scene.

In speaking with Aden, Officer Moseng repeatedly told him officers wanted to help him and make sure he was safe. Officer Moseng repeatedly asked Aden to put the gun down and to listen to the commands of the officers on scene. Aden did not comply with these directives. Officer Moseng told Aden they were attempting to get a phone to him so they could communicate. Officer Moseng continued talking to Aden; and at 8:55:59 p.m., Aden set the gun down on the pavement between his legs. This was the first time Aden had set the gun down since 7:07:53 p.m. when Officer Thul was speaking to him.

At 8:10:50 p.m., a mutual aid request was made to the Edina Police Department for its BearCat. The Edina BearCat arrived at the scene at 8:53:50 p.m. A plan was devised to use the Edina BearCat to deliver a cell phone to Aden to assist in communications between him and Officer Moseng. A cell phone was obtained from a Burnsville police officer who was at the scene and placed into a cardboard box. The Edina BearCat drove into the parking lot, pulled up adjacent to where Aden was sitting and Officer Jacob Peterson of the Eagan Police Department threw the cardboard box out of the turret of the BearCat to Aden. This delivery was made at 9:22:49 p.m. Prior to the cell phone being delivered, a mobile app<sup>4</sup> was put in place that automatically recorded the conversations between Officer Moseng and Aden.

After the cell phone was delivered to Aden, Officer Moseng was unable to connect with Aden because Aden called someone else. In a subsequent search of the cell phone provided to Aden, it was determined upon receiving the phone he immediately called T.A. The duration of the call was 2 minutes and 10 seconds. After terminating the call, Aden accepted an incoming call from Officer Moseng. The duration of the call was 1 minute and 15 seconds. During this call, Aden told Officer Moseng, "Dude the only way I'm gonna be able to do this is if she, she is here and she's, she's on the phone with me right now. You gotta get her to come down here." When asked who he was referring to, Aden told Officer Moseng, "The girl that called you guys." Aden provided Officer Moseng with T.A.'s phone number and first name. The call was then terminated.

At 9:25:47 p.m., Aden again called T.A. The duration of this call was 27 seconds. At 9:26:24 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 4 minutes and 1 second. During this call, Officer Moseng advised Aden he talked to his "bosses" and that they were going to attempt to make arrangements to bring T.A. to the scene. Thereafter, the following colloquy took place between the two:

Moseng:	Um hey I appreciate you, I appreciate you putting the gun down. Would you be willing to slide a little bit away from it? To your left?
Aden:	(inaudible). I'm okay where I'm at.
Moseng:	Okay. Okay that's fine. Um, so can you tell me a little bit about what happened here today?
Aden:	We were just arguing and shit. And then she saw the gun on, in my pocket and she just, she thought I was, oh I had it because of her or whatever.

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<sup>4</sup> The mobile app is referred to as Callyo in the reports. The app allows for automatic recording and also allows other officers to listen in on the conversations.

And then as we were driving she got out of the car and started screaming that I was gonna shoot her. And then I ran.

Moseng: Okay. To me it doesn't seem like, it seems like it's a misunderstanding okay? So like I told you when I was talking to you um there was a report from one of the neighbors that maybe the gun accidentally fired while you were running?

Aden: Yeah it fell and it went off and then I had to pick it up.

...

Moseng: Okay, so um what I would like is if you could stand up and keep your hands up. Listen to the officers instructions. And if she is nearby....

Aden: Uh, I'm not doing any of that. I'm not trying to go to jail man. She needs to get down here.

Moseng: Okay. Well what, what happens when she gets here?

Aden: And I want to talk to her.

Moseng: And, but then what? What's your plan after talking to her.

Aden: Then its fine you guys can have the gun.

Moseng: So, (sigh) so you'll, is if she comes down here you want to talk with her and then you'll give us the gun?

Aden: Yeah she needs to tell you guys the truth.

Moseng: Okay. Well it sounds like one of my partner's has been trying to talk to her but she won't talk to my partner. So the fact...

Aden: Okay, I'll....

Moseng: ...that she's not even willing to talk with us, whatever happened in the car I mean she's not telling us what happened.

Aden: Okay give me a second I'll uh (inaudible) she's calling

Moseng: Okay

While Officer Moseng and Aden were engaged in the above conversation, Aden's brother B.A. placed a call to the cell phone being used by Aden. The time of the call was 9:27:56 p.m. After hanging up with Officer Moseng, Aden placed a call to T.A. at 9:30:39 p.m. The duration of this call was 17 seconds.

At 9:32:46 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 2 minutes and 28 seconds. During this call, Aden again told Officer Moseng he wanted T.A. to be brought to the scene. When told T.A. was not being cooperative with police, Aden told Officer Moseng he just talked to her and that police were with her. Officer Moseng advised Aden that whatever happened, T.A. was downplaying the event and that it was "just an argument." In response, Aden stated, "I mean that's what it was. But, but she, the way she acted in traffic made it seem like I was gonna shoot her." During this conversation, Aden told Officer Moseng that the gun he was in possession of belonged to his brother A.A.<sup>5</sup>

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<sup>5</sup> During the course of these negotiations, Detective Karin Pederson spoke with Aden's aunt and Aden's brother B.A. in an attempt to gather more information about Aden that may assist officers in the negotiations. After speaking with them, Aden's brother A.A. called Detective Pederson and told her Aden had stolen his gun. A.A. described the gun as being a 9mm Smith & Wesson and reported he believed there were 8 rounds in the gun when Aden took it.



According to the call log obtained from the cell phone provided to Aden, he missed two calls from his brother B.A. made at 9:34:15 p.m. and 9:34:50 p.m. respectively.<sup>6</sup> According to the call log, Aden made an outgoing call to T.A. at 9:35:44 p.m. (duration of 9 seconds); and an outgoing call to T.A. at 9:36:01 p.m. (duration of 27 seconds).

At 9:36:31 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 1 minute and 52 seconds. During this call, Aden reiterated he was speaking to T.A. by phone and that an officer was at T.A.'s residence.

While these negotiations were taking place, Officer Peter Meyer of the Eagan Police Department made contact with T.A. at her residence in Eagan. While there, Officer Meyer confirmed she was the woman who had called 911 earlier about having a gun pointed at her. T.A. told Officer Meyer she had an argument with her boyfriend (i.e., Aden) earlier in the day and when she arrived home from work, Aden was waiting for her. They argued about some personal photographs of Aden that had been distributed earlier that day.<sup>7</sup> T.A. reported Aden told her to drive her vehicle and that she drove into oncoming traffic to get attention because she was afraid. After Aden ran from her car, she returned to her car and drove home where she called 911 and reported the incident. After speaking with T.A. at her residence, Officer Meyer transported her in his squad car to the outer perimeter of the scene to speak with a negotiator. They left T.A.'s residence at 9:38:21 p.m. and arrived at the scene at 9:40:13 p.m. When they arrived at the scene, Officer Meyer exited the vehicle and T.A. remained in the back seat of the squad car.

According to the call log from the cell phone provided to Aden, from 9:37:37 p.m. to 9:39:49 p.m., he called T.A.'s cell phone six times. All the calls were of short duration – 1 or 2 seconds each. At 9:40:40 p.m., Aden accepted an incoming call from Officer Moseng. This call was 4 minutes and 54 seconds in duration. During this conversation, Aden told Officer Moseng T.A. was no longer answering her phone. Officer Moseng inquired if there was anything else they could get Aden and he replied there wasn't. Officer Moseng reiterated the officers wanted to make sure he was safe and that no one wanted to hurt him nor did they want to see him hurt himself. Officer Moseng again asked Aden if he'd be willing to stand up and listen to the officers' commands and move to a safe spot so they could "get his side of the story." Officer Moseng also told Aden even if they could get T.A. to the scene, it was going to be a "hard sell" to allow him to see her given he was in possession of the gun. Aden responded that T.A. could remain with officers and that he just needed to talk to her without her hanging up the phone. Upon hearing this, Officer Moseng clarified with Aden, "Oh, she keeps hanging up the phone on you?" Aden replied, "Yes."

At 9:48:27 p.m., T.A. was removed from the back seat of Officer Meyer's squad car to speak with Officer Steve Lounsbury, a member of Eagan Police Department's crisis negotiation team. During this conversation, T.A. related events that occurred earlier in the day with Aden. T.A. reported a picture/video of Aden's genitalia had been distributed and Aden believed T.A. was responsible. During the day, she and Aden had a conversation via text messages about it while she was at work. When she got home from work, Aden was outside her residence waiting for her. She and Aden had a conversation

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<sup>6</sup> The search of the cell phone used by Aden during the negotiations showed B.A. also texted Aden 14 times during the timeframe of 9:28:33 p.m. to 10:14:47 p.m. In several of the messages, B.A. attempted to persuade his brother to stop what he was doing. All these messages were denoted as having been read during the timeframe of 9:31:03 p.m. to 10:14:47 p.m.

<sup>7</sup> Based on a later description provided by T.A., it is believed these photographs were of Aden's genitalia.

in her car for approximately 20 to 30 minutes and at some point, he told her to drive. She drove the vehicle and saw a gun in his waistband. T.A. now reported Aden never threatened her with it, but she was concerned because she'd never seen him with a gun before. When she reached the intersection of Silver Bell and Nichols, she pulled out into the intersection against a red light and honked her horn. When she stopped, Aden ran from her vehicle. At the conclusion of this conversation with Office Lounsbury, T.A. was returned to the backseat of Officer Meyer's squad car.

From 9:46:08 p.m. to 9:49:32 p.m., Aden called T.A.'s cell phone 12 times. All the calls were of short duration – 0 to 2 seconds. At 9:50:18 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 7 minutes and 55 seconds. During this call Officer Moseng attempted to persuade Aden to move away from the gun. Aden told Officer Moseng he'd "walk away from the gun" when T.A. arrived. Aden further stated he would kick the gun and get away from it once T.A. was present. Officer Moseng asked if it was something Aden would be willing to do that moment. Aden kicked the gun, but Officer Moseng went on to ask Aden if he'd be willing to "scoot a little bit more away from it." In response, Aden told Officer Moseng, "I'm not gonna touch the gun until she's here." Officer Moseng again told Aden the officers wanted him safe and asked him to stand up, put his hands in the air and follow officers' commands. In response, Aden stated, "I really don't want to do that right now." Later in the conversation, Officer Moseng again asked Aden to stand up and put up his hands. Aden replied, "No, I don't want to do that just yet."

At 9:58:33 p.m. and again at 9:58:57 p.m., Aden called T.A.'s cell phone. The first call was three seconds in duration and the second was 0 seconds in duration. At 9:59:42 p.m., Aden again called T.A.'s cell phone. The duration of this call was 1 minute and 27 seconds. At the time of this call, T.A. was located in the back seat of Officer Meyer's squad car. The vehicle was equipped with squad video and was activated while T.A. was in the backseat. In the video, T.A. is heard speaking to Aden. The following colloquy took place between T.A. and Aden:

T.A.:	Isak, what are you doing?
Aden:	(inaudible) Can you please just comply with the officers and come here?
T.A.:	They won't, they won't let me come over there and they're mov.... Please don't do anything, please Isak please. Please.
Aden:	(inaudible)
T.A.:	I don't, I don't know. It's a, it's a bunch of like SWAT team and I feel like this is their phone so they could hear me. Please don't do anything. I'm begging you, okay?
Aden:	Are you at your house?
T.A.:	No, I'm at the scene.
Aden:	You're at the ahh intersection?
T.A.:	Isak.
Aden:	What scene are you at?
T.A.:	How many scenes are there?
Aden:	You're here? You can see me?
T.A.:	I can't see you, but can you not do anything dumb please?
Aden:	(inaudible) Like you need to tell them that (inaudible).
T.A.:	No, I did not. I told them that it was, it was just, it was, it was in the, in your waist and I saw it and I got scared. I didn't even mention (inaudible).

I feel like they can hear me like, could you like...I'm about to hang up.  
Can you, can you just cooperate? I'm begging you.  
Aden: You have to straighten this out bro. Like you have to tell them that, you  
know (inaudible). [T.A. interrupts and apologizes for interrupting].  
They're calling me right now. (inaudible).

After this call was terminated, an officer can be heard on the video telling T.A. he was taking her phone because they did not want her and Aden talking to each other while negotiations were taking place. At 10:01:09 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 1 minute and 21 seconds. During this call Officer Moseng told Aden he (Moseng) was the "last to know" and that one of his partners was with T.A. Aden told Officer Moseng "she's here" but she can't see him. Officer Moseng related to Aden T.A. was telling officers she didn't want to be involved, she wanted Aden to be safe, but she didn't want to be involved until everything was safe. Aden responded that he needed to talk to her and terminated the call.

From 10:02:36 p.m. to 10:03:08 p.m., Aden called T.A.'s cell phone 5 times. All the calls were of short duration – 1 to 3 seconds. At 10:03:38 p.m., Aden accepted a call from Officer Moseng. This call was 30 minutes and 32 seconds in duration. Immediately prior to this conversation, officers noted Aden had moved back closer to the gun and that it was located approximately one foot from him. At the start of the conversation, Officer Moseng asked Aden if there was a reason he moved back closer to the gun. Aden did not answer the question. Officer Moseng asked Aden several times whether he was willing to stand up and put his hands up. Aden did not comply. Officer Moseng requested Aden to move away from the gun. Aden would not move and expressed frustration that the officers were not holding up their side by bringing T.A. to the scene. After some further conversation, Aden expressed he just wanted to talk with T.A. and asked if he could do so by phone. He also told Officer Moseng he was not "willing to go to jail" that night and that was one thing that Officer Moseng had to "truly understand." Later in the conversation, Officer Moseng played a recorded message from T.A. another officer had obtained. In it, T.A. asked Aden to please cooperate, to do what the officers requested and then the two of them could talk. Aden told Officer Moseng he could not hear it, so it was played again for him. Aden stated he still could not hear it, so Officer Moseng related to him what T.A. stated in the message. At the end of the conversation, Officer Moseng again told Aden he needed to move further away from the gun. Aden did not comply and stated, "That's not happening man. You guys are not listening to anything that I'm saying."

At 10:35:54 p.m., Aden accepted an incoming call from Officer Moseng. The duration of this call was 2 minutes and 54 seconds. At the beginning of this conversation, Aden asked Officer Moseng whether he would send a message to T.A. Officer Moseng stated he would. When asked what message he wanted sent to T.A., Aden stated, "Tell her that I, I need a blunt." Officer Moseng said they could make that happen but before officers would consider the request, Aden needed to move further away from the gun. In response, Aden stated, "I'm as far as I need to be from the gun." Officer Moseng again told Aden officers wanted him further away from the gun. In response, Aden stated, "That's not happening man. You guys are not listening to anything I'm saying." At the 2:19 mark of this call, the below described tactical plan was initiated. Sounds of flashbangs, less lethal munitions and gunfire are audible in the background.



#### **4. Tactical Plan to Apprehend Aden**

When SWAT teams initially arrived on scene, they were advised of the rules of engagement set by command staff of the Eagan Police Department. In the early evening hours of this incident when Aden was still holding the gun to his head, officers were directed that if Aden did not surrender, but stood up with the gun, officers were to subdue him by shooting him with less lethal munitions and deploying K9 units. The use of deadly force was authorized depending on the actions of Aden. If Aden stood up without the gun and attempted to run from the scene, officers were directed to deploy K9 units.

When Aden put the gun down while negotiations were being conducted by Officer Moseng, Lieutenant Speakman, in coordination with Sergeant Carenas and Sergeant Yakovlev, devised a tactical plan to apprehend Aden. If Aden was far enough away from the gun, the plan was to deploy flashbangs to distract Aden followed by the firing of less lethal munitions to get Aden further away from the gun and take him into custody. As part of the plan, they wanted Aden on the phone with the negotiator at the time the flashbangs were deployed to serve as an additional distraction from the gun. This plan was reviewed with and approved by Chief New with the proviso that Aden had to be far enough away from the gun. Thereafter, Chief New instructed the negotiators to get Aden to move away from the gun.

Following approval of the plan, steps were taken to implement it. At 9:38:08 p.m., it was reported by officers on scene the gun was located approximately one foot north of Aden's feet (to his right). At 9:51:58 p.m., Aden was requested to slide further away from the gun and it was reported by officers on scene the gun was two feet away from Aden. At 9:59:06 p.m., officers on scene reported the gun was lying on the pavement about three feet to the right of Aden.

At 10:02:31 p.m., the Bloomington BearCat drove into the parking lot and took position approximately 30 to 40 feet from Aden.<sup>8</sup> The Bloomington BearCat was driven by Officer Scott Sager of the Bloomington Police Department. Sergeant Christopher Yates of the Bloomington Police Department was seated in the passenger seat. Also present in the BearCat were Bloomington Officers Matthew Ryan, Jacob Lucas, Ryan Arbuckle; and Bloomington SWAT medic Patrick Sweany. For purposes of initiating the plan, Officer Lucas and medic Sweany were tasked with deploying flashbangs; and Officers Ryan and Arbuckle were tasked with providing those officers lethal coverage. At the time the plan was initiated, Officer Lucas and medic Sweany were positioned on the driver side of the BearCat; Officer Arbuckle was positioned in the turret of the BearCat; and Officer Ryan was positioned on the passenger side of the BearCat.

There were several other vehicles located in the inner perimeter of the scene. At the time the plan was initiated, vehicles were positioned as depicted in the picture below. The below picture was taken on July 3, 2019, after the incident. The Bloomington and Edina BearCats had been moved from the scene, so their approximate location is depicted in the picture.

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<sup>8</sup> The South Metro BearCat exited the parking lot at 10:04:21 p.m. and went to the command post area, but Officer Moseng continued to speak to Aden via phone.



The Edina BearCat was driven by Officer Chad Anderson of the Edina Police Department. Officer Ryan Schultz of the Edina Police Department was seated in the passenger seat. Other officers associated with the Edina BearCat included Eagan Officers Eric Tessmer, Jacob Peterson, and Tony Sundgaard. For purposes of initiating the plan, Officer Tessmer was tasked with deploying a flashbang; and Officer Peterson was tasked with providing lethal coverage. At the time the plan was initiated, Officer Tessmer was positioned on the passenger side of the BearCat; Officer Sundgaard was inside the BearCat in the back; and Officer Peterson was positioned in the turret of the BearCat.

There were two officers associated with the Eagan squad car – Officers Nick Melser and Mike Perron of the Bloomington Police Department. For purposes of initiating the plan, both officers were tasked with less lethal alternatives. Officer Melser was tasked with firing less lethal munitions; and Officer Perron was tasked with deploying a K9, if necessary. At the time the plan was initiated, both officers were located on the driver side of the squad car.

The Dakota County MRAP armored vehicle arrived on scene at 9:26:15 p.m. It was driven by Detective Sean Qualy of the Dakota County Sheriff's Office. Other officers associated with the MRAP included Bloomington Officers Jeremy Pilcher, Jacob Gruber, Daniel Nelson and Michael Smith. For purposes of initiating the plan, Officer Pilcher was tasked with firing less lethal munitions; and Officers Smith, Gruber and Nelson were tasked with providing lethal coverage. At the time the plan was initiated, Officers Pilcher, Gruber and Nelson were positioned on the passenger side of the MRAP; and Officer Smith was positioned in the turret of the MRAP.

There were two officers associated with the Minnesota State Patrol SUV – Officers Mike Vonderharr and Eric Bengston of the Bloomington Police Department. For purposes of initiating the plan, Officer Vonderharr was tasked with deploying a K9 if necessary; and Officer Bengston was tasked with



providing lethal coverage. At the time the plan was initiated, both officers were located on the passenger side of the Minnesota State Patrol SUV.

There were four snipers in position at the scene at the time the plan was initiated. Officers Adam Stier and Anthony Kiehl of the Bloomington Police Department were positioned on a rooftop of a building located across Seneca Road from Aden's position. Officer Chad Clausen of the Eagan Police Department and Officer Kyle Posthumus of the Burnsville Police Department were positioned on the ground near the intersection of Seneca Road and Kennebec Drive.

At 10:03:06 p.m., officers at the scene reported Aden had moved closer to the gun and that it was within one foot of Aden's reach. At 10:05:18 p.m., it was reported the gun was located approximately one foot from Aden's right foot. Given the location of the gun, the command unit issued a directive to the units to "stand by." At 10:15:37 p.m., Aden was still on the phone and it was reported the gun was still located approximately one foot from Aden's right foot. At 10:23:25 p.m., Aden was still on the phone and the units were instructed to hold their positions. At 10:31:43 p.m., it was reported Aden was approximately 18 inches away from the gun. The decision was made by command staff to initiate the plan. At 10:35:46 p.m., command staff verified with the units they were ready. At 10:36:15 p.m., it was reported Aden had the phone to his ear. At 10:38:02 p.m., Sergeant Yakovlev asked an unknown officer whether he was comfortable initiating the plan given Aden's position from the gun. The officer responded, "That's affirmative." At 10:38:25 p.m., Sergeant Yakovlev directed the units to initiate the plan.

## **5. Sequence of Events Following Command to Initiate Tactical Plan**

When the command to initiate was issued, a flashbang was ignited by Officer Lucas from the Bloomington BearCat. A second flashbang was ignited by Officer Tessmer from the Edina BearCat. After the first two flashbangs were ignited, Officers Pilcher and Melser fired less lethal munitions at Aden.<sup>9</sup> A third flashbang was ignited by medic Sweany from the Bloomington BearCat. As these less lethal options were being deployed, Aden stood up from his sitting position and picked up the handgun.<sup>10</sup> Thereafter, several shots were fired, including at least one by Aden. Several of the shots fired by officers struck Aden causing him to fall to the ground. After the shots were fired, Officer Melser fired one more less lethal munition at Aden because he saw Aden's arm in the air. Approximately six seconds elapsed from the time the first flashbang was deployed to the time Officer Melser fired the final less lethal round. It was determined five officers discharged their weapons. What each officer observed prior to discharging his weapon is detailed below.

After the shooting, the Bloomington BearCat moved in closer to Aden's location and the assigned reaction team approached Aden on foot. As the reaction team neared Aden, the team heard a hissing sound and smelled gas. It was determined a gas line located on the 1971 Seneca Road building had been punctured during the shooting. For safety purposes, Aden was carried by stretcher to the Edina BearCat and placed in the back. The Edina BearCat exited the inner perimeter of the scene and delivered Aden

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<sup>9</sup> Officer Melser reported he believed he shot a total of five less lethal rounds. It is unknown whether any of the rounds fired by Officer Melser struck Aden. Officer Pilcher reported he fired two less lethal rounds and that both rounds struck Aden. According to Officer Daniel Nelson, he saw Officer Pilcher shoot a less lethal round he believed struck Aden in his left hip area. According to Officer Adam Stier, he saw a less lethal round strike Aden's leg.

<sup>10</sup> When Aden picked up the gun, an unknown officer yelled out, "He's got the gun."



to a waiting ambulance where life-saving measures were undertaken. Aden was transported to Regions Hospital in St. Paul where he was pronounced dead.

## **6. Summary of Statement of Bloomington Police Officer Daniel Nelson**

Officer Daniel Nelson (Nelson) has been a police officer with the city of Bloomington for ten years. At the time of the incident he was assigned to the patrol division and was a member of Bloomington's SWAT team. At the time of the incident, he was not equipped with a body worn camera. He did not review any video prior to giving his statement to investigators. He did not discuss any details of the incident with other law enforcement officers who were directly involved in the incident prior to providing his statement.

On July 2, 2019, at approximately 7:40 p.m., Nelson received a SWAT page to assist the Eagan Police Department with an armed gunman. He responded to the Bloomington Police Department where he received a short briefing during which he was advised the incident stemmed from a domestic; an armed male suspect ran and shot off a round while running; and the suspect was currently contained in an industrial park in Eagan. The SWAT team responded to the scene. Upon reaching the scene, they reported to the command post where they were instructed to wait for assignment.

Their team was subsequently instructed to split into two teams. One team was instructed to remain with Bloomington's BearCat and the other team was assigned to the reaction/arrest team. Nelson was assigned to the reaction/arrest team. Before splitting into two teams, the officers were advised the suspect had a phone and negotiators were talking to him. The officers were briefed about what the plan was to take the suspect into custody, including what actions would be taken if the suspect did not surrender. If the suspect did not surrender, the plan, in part, provided that certain officers would shoot less lethal munitions at the suspect.

Nelson, along with Bloomington SWAT team members Jeremy Pilcher and Jacob Gruber, moved into position on the rear corner of the passenger side of the Dakota County MRAP vehicle that was on scene. Nelson observed the suspect sitting on a curb and saw a handgun on the ground located approximately 18 inches from the suspect's right foot. While in this position, Nelson observed the suspect talking on the phone at times and also saw the suspect reach down near where the gun was located on more than one occasion. He also observed the suspect looking around him and believed the suspect was looking for an escape route. At this point in time, he did not see the suspect pick up the gun.

While still positioned by the MRAP, the officers were instructed to initiate the plan. In Nelson's group, Pilcher was assigned to shoot less lethal munitions and Nelson and Gruber were assigned to provide lethal cover for Pilcher. Nelson saw Pilcher shoot a less lethal round and believed it hit the suspect in his left hip area. Based on his training and experience, after being hit with the less lethal munition, Nelson expected the suspect to fall backwards, scream and give up, and officers would move in and arrest him. That did not happen. He saw the suspect lunge right and grab the handgun. He saw the suspect start standing up with the gun pointed as if he was going to shoot. He believed the suspect was going to start shooting; or was going to try and run toward officers and shoot them as he ran by because that was the closest avenue of escape. He believed he needed to shoot the suspect. He fired one shot and was approximately 30 to 35 yards from the suspect when he did so. He saw the suspect on the ground so did not fire any additional shots.

## **7. Summary of Statement of Bloomington Police Officer Adam Stier**

Officer Adam Stier (Stier) has been a police officer with the city of Bloomington for four years. Prior to that, he was a police officer with the city of Lakeville for six years. At the time of the incident he was assigned to the patrol division and was a member of Bloomington's SWAT team. He is a sniper on the SWAT team. At the time of the incident, he was not equipped with a body worn camera. He did not review any video prior to giving his statement to investigators. He did not discuss any details of the incident with other law enforcement officers who were directly involved in the incident prior to providing his statement.

On July 2, 2019, Stier received a SWAT page to report to the Bloomington Police Department to assist the Eagan Police Department. Stier responded to the Bloomington Police Department. Upon arrival, he got his gear ready and went to the department's briefing room with other SWAT team members where they received a quick briefing. During this briefing, they were advised the original call was for a domestic incident possibly involving a firearm; the male suspect had fled and at some point fired a round; and officers had the suspect cornered in an outside setting. The SWAT team responded to the scene and reported to the command post. Upon reaching the command post, the SWAT team was told to "stand down" and wait to be deployed to relieve other officers. Approximately 10 to 15 minutes later, Stier and Officer Anthony Kiehl (also a sniper with the Bloomington SWAT team) were instructed to relieve a sniper team that was currently in position, which they did. Stier and Kiehl took position on the roof of a building located across Seneca Road from where the suspect was located. Stier was in the left position and Kiehl was to his right a couple of feet. When they initially took their positions, Stier did a rangefinder and determined they were located 84 yards from the suspect.

While in this position, Stier was under the impression negotiations were occurring with the suspect via phone. Through his rifle scope, Stier observed the suspect sitting on a curb and could see him talking on a phone at times. Initially, Stier observed a handgun on the pavement located two to three feet to the right of the suspect. At times, the suspect would "scoot closer" to the handgun (within 18 inches), but would then "scoot back away" from the handgun if the negotiators convinced him to do so. Stier believed the suspect to be extremely nervous because he continuously bounced his feet.

After some further negotiations, he heard the command post talking to the "reaction teams" asking them if they were ready to deploy flashbangs and less lethal munitions. He was not told what the specific plan was, but based on his experience as a SWAT team member, he believed the command post had developed an arrest plan to deploy flashbangs and less lethal munitions to try and take the suspect into custody or get him away from the gun. After hearing this, negotiations continued with the suspect. At some point, the command post got back on the radio and asked the reaction teams if they were ready to execute to which they responded they were. A short time thereafter, the command post got on the radio again and instructed officers to execute the plan.

After hearing the command, Stier knew an offensive action was going to take place to try and take the suspect into custody. He "went bolt down"<sup>11</sup> so his gun was ready to fire if necessary. He was "on his gun" looking through the scope at the suspect. While in that position, he saw a flashbang go off near the suspect's feet. He also saw what he believed to be a 40 mm baton round (i.e., less lethal munition) strike

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<sup>11</sup> Officer Stier was armed with a bolt action rifle. Prior to the command being given, he and Officer Kiehl were in "cover safe" meaning the bolts on their respective rifles were in "bolt up" position so the guns could not be discharged.

the suspect's leg. When the suspect was struck by the less lethal round, Stier saw the suspect stand and saw him lunge to his right and pick up the handgun with his right hand. The suspect moved very fast so while Stier was trying to track the suspect in his scope; he heard officers on the ground shooting and heard someone yelling the suspect had the gun. He saw the suspect stagger and observed the suspect appeared to be "going down" as if he'd been hit by the initial gunfire; however, Stier observed the suspect still had his arm extended and still appeared to have the gun in his hand. At this point, Stier fired one round and observed the suspect drop to the ground. He shot because he knew there were multiple officers out of the armored vehicles to execute the plan and he believed they were in danger of being shot when the suspect grabbed the handgun.

## **8. Summary of Statement of Bloomington Police Officer Anthony Kiehl**

Officer Anthony Kiehl (Kiehl) has been a police officer with the city of Bloomington for approximately 6 ½ years. At the time of the incident he was assigned to the investigation division having worked in that division since April 2019. Prior to that, he was assigned to the patrol division. Kiehl is a member of Bloomington's SWAT team and is a sniper on the team. At the time of the incident, he was not equipped with a body worn camera. He did not review any video prior to giving his statement to investigators.

On July 2, 2019, at 7:38 p.m., Kiehl received a SWAT page to report to the Bloomington Police Department to assist the Eagan Police Department with an armed gunman. Kiehl went to the Bloomington Police Department where he changed into his uniform and grabbed both his "entry gear" and "sniper gear." Prior to leaving the department, a briefing was conducted. Officers were told there had been a domestic between the suspect and his girlfriend or wife during which the suspect had a gun; and the suspect fled on foot and while running, either intentionally or negligently discharged the gun. After receiving the briefing, the SWAT team left the department and responded to the scene in Eagan.

Upon reaching the scene, Kiehl heard over the radio the suspect had put the gun on the ground next to him and they were working on negotiations with him. Kiehl waited at the command post for instructions. Approximately 10 to 15 minutes after his arrival, Sergeant Yates instructed Kiehl and Officer Adam Stier (also a sniper with the Bloomington SWAT team) to relieve a sniper team. Kiehl and Stier took position on the roof of a building located across Seneca Road from where the suspect was located. Stier used his rangefinder and told Kiehl they were located 84 yards from the suspect.

Kiehl got into position on his gun and looked through his optics. He could see the suspect sitting on a curb and talking on a phone. Kiehl could clearly see a black handgun located on the ground approximately two feet to the right of the suspect. Kiehl observed the suspect appeared nervous because his hands and feet "kept kinda fluttering." Kiehl was aware negotiations were ongoing and that the negotiators were trying to convince the suspect to move further away from the gun. At one point, Kiehl saw the suspect slide closer to the gun so that he was within one foot or less of the gun. Kiehl observed the suspect look at the gun and look to his right as if looking for an exit.

Kiehl saw the suspect slide a bit further away from the gun, "[b]ut not really all that far." Negotiations continued for a little while. Kiehl observed the suspect put the phone down. Thereafter, negotiations continued and he saw the suspect move a bit further away from the gun, but not much. While the negotiations were taking place, Kiehl was aware the command post was devising a tactical plan to



apprehend the suspect. The full plan was not conveyed to Kiehl, but from his training and experience, he and Stier were able to determine the plan consisted of using a flashbang as a distraction device followed by shooting less lethal munitions to drive the suspect away from the gun and to have a "reaction team" move in and take him into custody.

The plan was not immediately put into action because the command post wanted the suspect further away from the gun. In that regard, the last distance Kiehl remembered hearing was the suspect was 12 to 18 inches away from the gun. At this point, Kiehl heard someone from the command post ask someone else whether he was comfortable initiating the plan given the suspect's distance from the gun. Someone responded he was.

Kiehl heard the command to initiate the plan. Kiehl saw the first flashbang go off and when it did, he observed the suspect get up, grab the gun and point it towards the BearCat in the parking lot. Kiehl observed a muzzle flash from the gun (i.e., Aden's gun). Kiehl heard rounds fired and saw the suspect "stagger down" towards the steps of the building he had been sitting by. As the suspect was "falling, staggering away," Kiehl fired one round. When asked what his thoughts were when the flashbang went off and the suspect got up, Kiehl stated that when he saw the "gun come up" he was immediately in fear for the officers that were on the ground.

## **9. Summary of Statement of Bloomington Police Officer Matthew Ryan**

Officer Matthew Ryan (Ryan) has been a police officer with the Bloomington Police Department for approximately 12 years. At the time of the incident he was assigned to the patrol division and was a member of Bloomington's SWAT team. At the time of the incident, he was not equipped with a body worn camera. He did not review any video prior to giving his statement to investigators. He did not discuss any details of the incident with other law enforcement officers who were directly involved in the incident prior to providing his statement.

On July 2, 2019, Ryan received a SWAT page to assist the Eagan Police Department with an armed gunman. Ryan went to the Bloomington Police Department where he changed into his SWAT uniform. While at the department, officers were provided with a short briefing. They were told a male was involved in a domestic assault with his girlfriend involving a gun; the suspect had fled and while doing so, either intentionally or accidentally discharged the gun; and was sitting at a business with the gun.

Ryan and other SWAT officers responded to the scene and were placed on standby. Approximately 20 to 30 minutes later, the Bloomington SWAT team was placed into action. The team was divided into two groups – a BearCat team and a reaction team. Ryan was assigned to the BearCat team (Bloomington BearCat). Using the BearCat, the reaction team was dropped off at the Dakota County MRAP vehicle and the BearCat team continued into the parking lot and parked just north of where the suspect was sitting.

Ryan observed the suspect sitting on a curb with a phone in his hand and gun on the pavement next to the curb where the suspect was sitting. After parking, Ryan and two others exited the back of the BearCat and waited there. Ryan was able to observe the suspect from this location. Ryan observed the suspect on and off the phone; observed him constantly looking around at everyone; and when he wasn't on the phone, observed him brush his hand down close to the gun, but not reach for it. Ryan was aware

negotiations were taking place. While the negotiations were taking place, Ryan observed the suspect scoot away from the gun and then scoot back towards it. As the negotiations continued, Ryan observed the suspect make more of a significant movement away from the gun describing it as being "two butt scoots" away from the gun.

Ryan was aware of the tactical plan devised by command staff to apprehend the suspect and knew the initiation of the plan was dependent on getting the suspect a sufficient distance away from the gun. Ryan described the plan. The BearCat was tasked with deploying several flashbangs to the suspect's right side (gun side) as a distraction to dissuade the suspect from going for the gun. The reaction team located by the MRAP was tasked with deploying less lethal 40 mm munitions at the suspect in hopes that striking him would cause pain and result in the suspect's compliance and arrest by the reaction team.

Ryan heard the command to initiate the plan. At the time the command was given, Ryan saw the suspect put the phone to his ear. The BearCat deployed some flashbangs. At the time the flashbangs were deployed, Ryan was located on the passenger side of the BearCat and was tasked with providing lethal coverage. He estimated he was located 15 to 25 yards from the suspect. When the first flashbang was deployed, Ryan saw the suspect look up to the north with a look of surprise on his face. When the second flashbang was deployed, he observed the suspect still had the phone in his hand and had "kind of covered" up his head. Ryan also observed less lethal munitions being fired, but was unsure of the number. Ryan next saw the suspect grab the gun from the ground and raise it to his mid-waistline and point it towards where the Edina BearCat was parked and where he knew officers were located. Ryan heard someone on the radio call out the suspect had the gun in his hand. Thereafter, Ryan heard numerous shots fired. Ryan fired his rifle two or three times at which point it jammed. Ryan stated he fired his weapon because he did not want the suspect to shoot at officers.

#### **10. Summary of Statement of Eagan Police Officer Jacob Peterson**

Officer Jacob Peterson (Peterson) has been a police officer with the city of Eagan for 2 ½ years. At the time of the incident he was assigned to the patrol division and was a member of Eagan's SWAT team. At the time of the incident, he was not equipped with a body worn camera. He did not review any video prior to giving his statement to investigators. He did not discuss any details of the incident with other law enforcement officers who were directly involved in the incident prior to providing his statement.

On July 2, 2019, at approximately 8:00 p.m., Peterson responded to the Eagan Police Department in response to a page for the department's SWAT team. Peterson changed into his SWAT uniform and he and Officer Eric Tessmer drove to the scene and reported to the command post. Upon reaching the command post, he received a short briefing from Lieutenant Speakman and received additional information from Officer Sundgaard. Peterson was told there had been a domestic assault incident during which the suspect threatened his girlfriend with a handgun inside of a car; the girlfriend jumped out of the car and reported the assault to 911; when officers arrived they located the suspect and pursued him; while running, the suspect fired a round from his gun; while preparing to start a K9 track, the suspect had broken the officers' perimeter and continued fleeing to the current location; and they were presently in a standoff.

At the command post, Peterson and Tessmer were assigned to evacuate a civilian who was trapped inside a building located directly across the parking lot from where the suspect was located. (i.e., Lehman's Garage). The officers evacuated the civilian from the building. They did so by accessing the building from the back of Mark's Towing where they used ladders to scale two separate fences to the civilian's location.

After completing this assignment, Peterson and Tessmer were instructed to return to the command post. Upon reaching the command post, they were assigned to the Edina BearCat to deliver some communication equipment to the negotiators and to the suspect. Peterson and Tessmer were given an iPhone that was to be delivered to the suspect. They obtained a cardboard box and taped the phone inside. Peterson and Tessmer entered the Edina BearCat along with other officers. The BearCat entered the parking lot and first stopped at the South Metro BearCat in which the negotiators were located and dropped off some communication equipment. Thereafter, the Edina BearCat pulled up adjacent to the suspect and Peterson threw the cardboard box to the suspect from the turret.

After delivering the phone to the suspect, the Edina BearCat parked in the inner perimeter of the scene approximately 50 yards from the suspect. The BearCat was parked on the "grassy peninsula" adjacent to the parking lot. They maintained this position while the negotiators spoke with the suspect. While the negotiations were taking place, Peterson took turns with other officers providing lethal coverage from the turret. While in the Edina BearCat, Peterson was also able to observe the suspect through the windshield.

While watching the suspect, Peterson observed a handgun near the suspect's right foot. Peterson knew the negotiators were trying to get the suspect to move away from the gun. Peterson observed that during the negotiations, the suspect moved away from the gun a distance of maybe two to three or four feet away, but would then inch back towards the gun so that it was within one foot of him.

Officer Sundgaard was in the Edina BearCat with Peterson and at some point, Sundgaard received a phone call from the command post relaying an apprehension plan. After completing the phone call, Sundgaard relayed the plan to Peterson. Peterson was told flashbangs were first going to be deployed followed by less lethal munitions. As part of this plan, Peterson was assigned to provide lethal coverage from the turret of the Edina BearCat. Tessmer was assigned to deploy a flashbang from outside the BearCat.

Peterson heard the command to initiate the plan. He saw a flashbang land on the pavement in front of the suspect and "quite simultaneous" to its deployment; he saw the suspect jump up from his seated position and grab the gun with his right hand. Peterson saw the suspect move laterally to his [suspect's] right while simultaneously lifting the gun up off the ground. From his vantage point, Peterson believed the suspect was starting to point the gun in the direction of officers located to Peterson's left. Believing the suspect was "imminently going to start shooting" at his partners, Peterson fired his weapon at the suspect. Peterson believed he shot three or four times.



## **11. Summary of Ramsey County Medical Examiner's Autopsy Report**

The autopsy performed on Aden determined he died as a result of multiple gunshot wounds. The gunshot wounds (in no particular order) were as follows:

- a. A gunshot wound to Aden's left upper arm which re-entered his chest. A deformed bullet was recovered from Aden's right chest wall. This bullet was turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 60. Subsequent forensic analysis determined the bullet was fired by the duty firearm of Officer Peterson (BCA Item 51).
- b. A gunshot wound to Aden's left abdomen. A deformed bullet was recovered from Aden's anterior right chest associated with this wound. This bullet was turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 59. Through subsequent forensic analysis, it could not be determined if this bullet was fired by BCA Item 40 (the duty firearm of Officer Ryan), by BCA Item 50 (the duty firearm of Officer Nelson) or by BCA Item 51 (the duty firearm of Officer Peterson). It was determined the bullet was not fired by BCA Item 23 (Smith & Wesson pistol), BCA Item 32 (the duty firearm of Officer Stier) nor by BCA Item 35 (the duty firearm of Officer Kiehl).
- c. A gunshot wound to Aden's left upper arm. This was a perforating gunshot wound and no bullet or bullet fragments were recovered at autopsy.
- d. A gunshot wound to Aden's left wrist/forearm. A deformed bullet jacket and a small bullet fragment were recovered. These were turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 56. It could not be determined if BCA Item 32 (the duty firearm of Officer Stier) or BCA Item 35 (the duty firearm of Officer Kiehl) fired the bullet jacket fragment. It was determined BCA Item 23 (Smith & Wesson pistol), BCA Item 40 (the duty firearm of Officer Ryan), BCA Item 50 (the duty firearm of Officer Nelson) and BCA Item 51 (the duty firearm of Officer Peterson) did not fire BCA Item 56.
- e. A gunshot wound to Aden's left lower chest. A deformed bullet was recovered from Aden's back right shoulder associated with this wound. This bullet was turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 62. Subsequent forensic analysis determined the bullet was fired by the duty firearm of Officer Peterson (BCA Item 51).
- f. A gunshot wound to Aden's left upper back. This was a perforating gunshot wound and no bullet or bullet fragments were recovered at autopsy.
- g. A gunshot wound to Aden's left posterior thigh. A deformed bullet was recovered from Aden's right groin area associated with this wound. This bullet was turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 61. Through subsequent forensic analysis, it could not be determined if BCA Item 40 (duty firearm of Officer Ryan), BCA Item 50 (the duty firearm of Officer Nelson) or BCA Item 51 (the duty firearm of Officer Peterson) fired this bullet. It was determined BCA Item 23 (Smith & Wesson pistol), BCA Item 32 (the duty firearm of Officer Stier) and BCA Item 35 (the duty firearm of Officer Kiehl) did not fire this bullet.
- h. A gunshot wound to Aden's left posterior upper thigh. A deformed bullet was recovered from Aden's right lower abdomen associated with this wound. This bullet was turned

over to the BCA and submitted to the BCA forensic laboratory as BCA Item 58. Subsequent forensic analysis determined the bullet was fired by the duty firearm of Officer Peterson (BCA Item 51).

- i. A gunshot wound to Aden's left anterior thigh. A deformed bullet fragment and jacket were recovered from this wound. These were turned over to the BCA and submitted to the BCA forensic laboratory as BCA Item 57. Through subsequent forensic analysis, it could not be determined if BCA Item 32 (the duty firearm of Officer Stier) or BCA Item 35 (the duty firearm of Officer Kiehl) fired the bullet jacket fragment. It was determined BCA Item 23 (Smith & Wesson pistol), BCA Item 40 (the duty firearm of Officer Ryan), BCA Item 50 (the duty firearm of Officer Nelson) and BCA Item 51 (the duty firearm of Officer Peterson) did not fire BCA Item 57.
- j. A gunshot wound to the front of Aden's right lower leg. This was a perforating gunshot wound and no bullet was recovered at autopsy.
- k. A gunshot wound to the bottom of Aden's left foot. This was a perforating gunshot wound and no bullet was recovered at autopsy.

## **12. BCA Incident Scene and Forensic Analysis Summary**

A BCA Crime Scene Team arrived at the location of the incident on July 3, 2019, at approximately 1:18 a.m. and completed processing the scene at 2:00 p.m. The following is a summary of the items collected at the scene and submitted to the BCA Forensic Laboratory for analysis:

- Item 1: One REM 15 FC 223 cartridge case. Subsequent forensic analysis determined the casing was fired by the duty firearm of Officer Nelson (Item 50).
- Item 2: One FC 08 cartridge case. Subsequent forensic analysis determined the casing was fired by the duty firearm of Officer Peterson (Item 51).
- Items 3, 6 and 8: Three REM 11 FC 223 cartridge casings. Subsequent forensic analysis determined the casings were fired by the duty firearm of Officer Peterson (Item 51).
- Item 4: One REM 18 FC 223 cartridge case. Subsequent forensic analysis determined the casing was fired by the duty firearm of Officer Peterson (Item 51).
- Items 5 and 7: Two 223 REM FC cartridge casings. Subsequent forensic analysis determined the casings were fired by the duty firearm of Officer Peterson (Item 51).
- Items 9 and 10: Two REM 15 FC 223 cartridge casings. Subsequent forensic analysis determined the casings were fired by the duty firearm of Officer Ryan (Item 40).
- Item 11: One REM 15 FC 223 cartridge case. Subsequent forensic analysis determined the casing was cycled or chambered in the duty firearm of Officer Ryan (Item 40).
- Item 20: One Hornady 9mm Luger cartridge case. Subsequent forensic analysis determined the casing was fired by the Smith & Wesson pistol (Item 23).

- Item 21: Bloodstain on grass. Subsequent DNA analysis determined a single source male DNA profile matching Isak Aden's DNA profile.
- Item 23: Smith & Wesson pistol. The magazine of the pistol was loaded with 3 cartridges and there was one round in the chamber of the gun.
- Item 32: Rifle – Accuracy International MKIII SN 16193 – Officer Stier's duty firearm.
- Item 33: One Hornady WIN 308 cartridge case. Subsequent forensic analysis determined the casing was fired by the duty firearm of Officer Stier (Item 32).
- Item 35: Rifle – Accuracy International MKIII SN 17888 – Officer Kiehl's duty firearm.
- Item 36: One Hornady WIN 308 cartridge case. Subsequent forensic analysis determined the case was fired by the duty firearm of Officer Kiehl (Item 35).
- Item 38: One bullet fragment collected from ground. Subsequent forensic analysis determined it was fired by the Smith & Wesson pistol (Item 23).
- Item 39: Apparent tissue from the north wall of 1971 Seneca Road. Subsequent DNA analysis determined a single source male DNA profile matching Isak Aden's DNA profile.
- Item 40: Rifle – SIG Sauer SIG516 SN 20J029224 – Officer Ryan's duty firearm.
- Item 41: Bloodstain from the floor of the Edina BearCat. Subsequent DNA analysis determined a single source male DNA profile matching Isak Aden's DNA profile.
- Item 42: Apparent bullet fragment collected from near gas meter. This was deemed not suitable for comparative examination.
- Items 43 and 44: Apparent bullet fragments from under stairs. These were deemed not suitable for comparative examination.

The following is a summary of items collected at the scene which were not submitted to the BCA Forensic Laboratory for analysis:

- Item 12: Apparent flashbang pull ring
- Item 13: Apparent flashbang pull ring
- Item 14: Apparent flashbang safety lever
- Item 15: Apparent less lethal round
- Item 16: Apparent flashbang safety lever
- Item 17: Apparent spent flashbang
- Item 18: Apparent spent flashbang
- Item 19: Apparent less lethal round
- Item 22: Apparent less lethal round
- Item 24: Apparent less lethal round
- Item 25: Apparent spent flashbang
- Item 26: Apparent less lethal round



- Item 27: Apparent less lethal round
- Item 28: Apparent flashbang safety lever
- Item 29: Backpack
- Item 30: Backpack
- Item 31: Facemask
- Item 34: Facemask

### **13. Toxicology Results**

Toxicology reports from blood samples taken from Officers Anthony Kiehl, Daniel Nelson, Matthew Ryan, Adam Stier and Jacob Peterson did not indicate the presence of ethyl alcohol or any controlled substances.

The toxicology report from a blood sample taken during the autopsy of Isak Aden tested positive for Delta-9 THC (2.3 ng/mL).