

The Davis Bozeman Law Firm, PC

A T T O R N E Y S & C O U N S E L O R S A T L A W

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November 23, 2020

VIA CERTIFIED U.S. FIRST-CLASS MAIL NO.:8160.0931.8660

Colonel Gary Vowell, Commissioner
Georgia Department of Public Safety
Department of Administrative Services – Risk Management Division
959 United Avenue, S.E.
Atlanta, Georgia 30316

VIA CERTIFIED U.S. FIRST-CLASS MAIL NO.:8160.0931.8671

Wade Damron, Director
Georgia Department of Administrative Services
Risk Management Services
200 Piedmont Avenue, Suite 1220, West Tower
Atlanta, Georgia 30334

RE: Our Clients: The Estate of Julian Lewis, Betty Lewis, Brook Bacon
Date of Incident: August 7, 2020
Report No.: DPS00066031 (01)
Report Case/CAD No.: DPS00066031-01/GSPF20CAD032451

Notice of Claim

This notice of claim is sent pursuant to O.C.G.A. § 50-21-20 et seq., and involves state-law claims against former State Patrol Trooper Jacob Thompson,¹ the Georgia State Patrol, and the Georgia Department of Public Safety arising from the August 7, 2020 shooting death of Mr. Julian Lewis by then Georgia State Patrol Trooper Jacob Thompson. This claim, for violations of state law, that resulted in the death of Mr. Lewis, is brought under the Georgia Tort Claims Act as it is “the exclusive remedy for any tort committed by a state officer or employee,” O.C.G.A. § 50-21-25(a). Ms. Betty Lewis and Brook Bacon, Mr. Julian Lewis’s surviving spouse and son, respectively, are the claimants in this matter.

¹ It is understood that O.C.G.A. § 50-21-5(b) provides that “[a] person bringing an action against the state under the provisions of this article must name as a party defendant only the state government entity for which the state officer or employee was acting and shall not name the state officer or employee individually.”

Relevant Facts

On August 7, 2020 at approximately 8:43 p.m., Georgia State Patrol Trooper Jacob Thompson allegedly observed a vehicle with a broken tail light being operated on Stoney Pond Road in Sylvania, Georgia. Trooper Thompson activated his patrol car's blue lights and siren. The vehicle allegedly did not stop, resulting in Trooper Thompson engaging in a low-speed "pursuit" of it. The low speed pursuit was on Stony Pond Road, a rural dirt road. Stony Pond Road is positioned between two large plots of farmland, with no homes nearby, and no street lighting.

Shortly after the pursuit began, Trooper Thompson engaged in a PIT (precision immobilization technique) maneuver to force the vehicle to a stop. The PIT maneuver resulted in the vehicle crashing into a ditch and into a tree, as well. With the driver of the vehicle remaining in the driver's seat, with his seat belt in use, Trooper Thompson emerged from his patrol car. Going to the front of the vehicle, Trooper Thompson discharged his service weapon through the front window of the vehicle, striking the driver in the forehead and killing him. The shooting occurred less than two seconds after former Trooper Thompson placed his patrol car in park. The driver of the vehicle did not have a weapon, either on his person or inside his vehicle. The driver Trooper Thompson killed was sixty year old, Julian Lewis. Attached hereto as Exhibit "A" is a copy of the initial Georgia State Patrol Motor Vehicle Crash Report.

According to the Exhibit "A" Crash Report, "[t]here is a video account of the incident in Digital 4RE format recorded from Vehicle 2 (GSP 698)."

The Georgia Bureau of Investigation initiated an independent investigation of the fatal incident (see Exhibit "A"). The Georgia Department of Public Safety's Office of Professional Standards also conducted its own investigation of the fatal incident (see Exhibit "A").

Trooper Thompson completed a use of force report, as required by the Georgia Department of Public Safety, explaining that he discharged his weapon as a result of the motorist attempting an assault on his person with a motor vehicle (see Exhibit "B").

TROOPER THOMPSON'S DISMISSAL FROM GEORGIA STATE PATROL

On August 14, 2020, Trooper Thompson was fired by the Georgia Department of Public Safety for his "negligence or inefficiency in performing assigned duties; or commission of a felony."

AUTOPSY OF JULIAN LEWIS

An autopsy of Mr. Lewis’s body was conducted by the Georgia Bureau of Investigation Crime Lab. The autopsy report, attached hereto as Exhibit “C”, concludes that Mr. Lewis’s death was caused by a homicide.

CRIMINAL CHARGES AGAINST FORMER TROOPER THOMPSON

On August 14, 2020, the Georgia Bureau of Investigation charged former GSP Trooper Jacob Thompson with felony murder and aggravated assault in connection with the August 7th traffic stop that resulted in the death of Mr. Julian Lewis of Sylvania, Georgia.

The Georgia Bureau Investigation has reported that once its independent review is completed, it will be turned over to the Ogeechee Judicial Circuit District Attorney for review.

STATEMENT OF FACTS BASED ON BOND HEARING

On August 24, 2020, a bond hearing was held for former State Trooper Jacob Thompson before Screven County Superior Court Judge F. Gates Peed. A copy of the transcript of that hearing is attached hereto as Exhibit “D”.

The State opposed bond for Mr. Thompson at the hearing. In support of its opposition, the State presented the testimony of Georgia Bureau of Investigation Special Agent Dustin Peak (“SA Peak”), the main agent in charge of the GBI’s investigation into the death of Julian Lewis (Exhibit D, 9:23-25). In connection with the GBI’s investigation, Mr. Thompson declined to provide a statement (Exhibit D, 11:2-3).

During the bond hearing, SA Peak offered testimony that refuted Mr. Thompson’s written claim that he discharged his firearm because he believed that Mr. Lewis was about to drive his vehicle into his person once he alighted from his patrol car. SA Peak testified that following the PIT maneuver and Mr. Lewis’s vehicle crashing into a tree, the vehicle was not drivable and could not possibly have caused Mr. Thompson to fear that he would be run over by the vehicle.

SA Peak testified that on the night Mr. Lewis was killed the GBI examined Mr. Lewis’s vehicle, a 1996 Nissan Sentra, front wheel drive (Exhibit D, 10:24 – 11:1). Their examination determined that following the PIT maneuver and crash,

Mr. Lewis's vehicle was not operational (Exhibit D, 11:7-9). First, he explained, the wheels of Mr. Lewis's vehicle were turned away from where Mr. Thompson was standing (Exhibit D, 11:9-11). Importantly, the battery and air filter box of Mr. Lewis's vehicle were disabled (Exhibit D, 11:11-12). To move Mr. Lewis's vehicle from the scene, it was necessary to pop the hood and "wiggle the battery cable to get power back to the vehicle" (Exhibit D, 11:12-14). In other words, the GBI found that Mr. Lewis's vehicle had no power and could not have been used to run over Mr. Thompson. As such, Mr. Thompson's written statement that Mr. Lewis was revving the engine of his vehicle in a threatening manner could not possibly have been true as Mr. Lewis's vehicle was not operational.

Additionally, after gaining access the following day to the camera video from Mr. Thompson's patrol car, the GBI learned that two seconds after Mr. Lewis's foot came off of his vehicle's brake, Mr. Thompson fired his weapon, fatally striking Mr. Lewis (Exhibit D, 11:17-22). In sum, "after the PIT, the vehicle goes into park, foot comes off the brake, one shot is fired within one second" (Exhibit D, 11:22-23).

During Mr. Thompson's bond hearing, it was also learned that Mr. Thompson had prepared a written statement on August 10th after conferring with his attorney (Exhibit D, 12:9-25). SA Peak testified that there were multiple inconsistencies between Mr. Thompson's written statement and the video from Mr. Thompson's patrol car camera, including:

1. Mr. Thompson wrote that after getting out of his vehicle, weapon drawn, he heard Mr. Lewis revving his vehicle at a high rate of speed;
2. **Mr. Lewis's vehicle was rendered inoperable following the PIT maneuver and crashing of Mr. Lewis's vehicle into a ditch;**
3. Mr. Thompson wrote that Mr. Lewis revved his vehicle's engine at a high rate of speed, causing him to feel threatened;
4. **The disengaging of the snaps on the air filter of Mr. Lewis's vehicle would have "cut [Mr. Lewis's] car off" (Exhibit D, 19:9-15);**
5. Mr. Thompson wrote that Mr. Lewis revved his vehicle's engine at a high rate of speed, causing him to feel threatened;
6. **The battery cables having come loose on Mr. Lewis's vehicle would have rendered Mr. Lewis's vehicle inoperable (Exhibit D, 19:16-19; 20-22);**
7. Mr. Thompson wrote that Mr. Lewis revved his vehicle's engine at a high rate of speed, causing him to feel threatened;

8. **There is no evidence that the wheels of Mr. Lewis’s vehicle ever rotated in the soft sand where his vehicle came to a rest after the PIT maneuver (Exhibit D, 17:4-11);**
9. Mr. Thompson wrote that Mr. Lewis revved his vehicle’s engine at a high rate of aped, causing him to feel threatened;
10. **The indisputable evidence is that Mr. Thompson fired his weapon two seconds after Thompson engaged the brake of his patrol car, undermining Thompson’s claim that enough time transpired for Mr. Lewis to menacingly rev the engine of his disabled vehicle and make Thompson feel threatened for his life;**
11. Mr. Thompson was not positioned where he said he was at the time he discharged his weapon;
12. **The video camera evidence and the findings of the medical examiner as to the trajectory and positioning of the bullet show that Mr. Thompson was not physically positioned where he said he was at the time he discharged his weapon.**

Special Agent Peak’s conclusion in opposing bond for Mr. Thompson was that the shooting of Mr. Lewis was not justified.

OVERVIEW OF FACTS

The facts of this case show that Mr. Thompson, in his role as an agent and employee of the Georgia State Patrol/Department of Public Safety, shot and killed Mr. Julian Lewis, without any legal justification for doing so.

Mr. Thompson and the Georgia State Patrol/Department of Public Safety are legally liable for Mr. Julian Lewis’s death. Moreover, they are likewise financially liable, to the full extent the law allows, for Mr. Lewis’s death. Claims for Mr. Lewis’s injuries and damages are made herein based on the Georgia Tort Claims Act and violation of Mr. Lewis’s federal civil rights. As will be shown below, neither Mr. Thompson nor the Georgia State Patrol/Georgia Department of Public Safety has a viable defense to legal liability and financial accountability for Mr. Julian Lewis’s death.

The Georgia Department of Public Safety and Sovereign Immunity

The Georgia Department of Public Safety (“the Department”) is “the state agency that oversees the day-to-day operations of the Georgia State Patrol,” James v. Ga. Dep’t of Public Safety, 337 Ga. App. 864, 864 (2016).

“As a department of the State of Georgia, the Department of Public Safety is entitled to sovereign immunity provided to the State under the Georgia Constitution to the extent that such immunity has not been waived through an act passed by the General Assembly, Ga. Const. of 1983, Art. I, Sec. II, Par. IX(a), (e),” Georgia Forestry Commission v. Canady, 280 Ga. 825, 825-826 (2006); Dep’t of Public Safety v. Johnson, 343 Ga. App. 22, 22 (2017). The Georgia Tort Claims Act, set forth at O.C.G.A. § 50-21-20, et seq., provides for a limited waiver of sovereign immunity for the torts of State offices and employees acting within the scope of their official duties or employment and sets forth specific exceptions to the waiver under which the State retains sovereign immunity from suit, O.C.G.A. § 50-21-23; 50-21-24.

Sovereign Immunity is Waived Under the Facts of This Case

O.C.G.A. § 50-21-25(b) (the Georgia Tort Claims Act) provides that “the state waives its sovereign immunity for the torts of state officers and employees while acting within the scope of their official duties or employment and shall be liable for such torts in the same manner as a private individual or entity would be liable under like circumstance; provided, however, that the state’s sovereign immunity is waived subject to all exceptions and limitations set forth in this article.”²

The facts of this case show that Jacob Thompson was acting within the scope of his official duties as a state employee at the time of the alleged PIT maneuver and fatal shooting, and as such, the Georgia State Patrol and Department of Public Safety have waived sovereign immunity to the same extent as a private entity under like circumstances, “unless the alleged tortious act falls within one of the exceptions to the state’s waiver of sovereign immunity” set forth in O.C.G.A. § 50-21-24, Davis v. Standifer, 275 Ga. App. 769, 774-775 (2005)(held that the “Georgia State Patrol and the Department of Public Safety ha[d] waived their sovereign immunity and [were] liable for the harm suffered by Davis during the traffic stop to the same extent as a private entity under like circumstances unless the alleged tortious act [sexual assault during a traffic stop] [fell] within one of the exceptions to the state’s waiver of sovereign immunity”).

Again, it is unquestioned that former Trooper Jacob Thompson was acting within the scope of his official duties or employment with the Georgia State Patrol/Department of Public Safety. Therefore, the only question that exists is

²Exceptions to the state’s sovereign immunity apply to claims based on alleged violations of state law and on alleged violations of the state’s constitution, Davis v. Standifer, 275 Ga. App. 769, 775 (2005).

whether the alleged tortious misconduct at issue, the PIT maneuver and fatal shooting, fell within one of the exceptions to the state’s waiver of sovereign immunity.

“In determining whether any exception under the State Tort Claims Act applies, [the] focus is not on which particular state law causes of action a plaintiff has set forth in [the] complaint, but rather on the underlying conduct that allegedly caused the plaintiff’s loss,”³ Davis v. Standifer, 275 Ga. App. 769, 774 (2005).

NO GTCA EXCEPTIONS APPLY TO THE FACTS OF THIS CASE

A review of the Georgia Tort Claims Act (O.C.G.A. § 50-21-24) shows that only three possible exceptions could even theoretically apply under the facts and circumstances of this matter. Those three possible exceptions involve subsections 2 (discretionary function), 6 (method of providing law enforcement), and 7 (assault or battery).

The Discretionary Function Exception Does Not Apply

O.C.G.A. § 50-21-24(2) provides as follows: “The state shall have no liability for losses resulting from the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretionary function is abused.”

The Georgia Tort Claims Act, at O.C.G.A. § 50-21-22(2), defines the term “discretionary function or duty” to mean “a function or duty requiring a state officer or employee to exercise his or her policy judgment in choosing among alternate courses of action based upon a consideration of social, political, or economic factors.”

The Supreme Court of Georgia has emphasized that the discretionary function exception applies only to “basic governmental policy decisions,” Brantley v. Dep’t of Human Resources, 271 Ga. App. 679, 680 (1999); Department of Transportation v. Brown, 267 Ga. 6 (1996). Our State’s highest court has contrasted the pre-GTCA definition of discretionary function found in the case law from the statutory definition of discretionary function in the GTCA. In Brantley, the Court explained that “the pre-existing case law focused on whether the state employee exercised his judgment or discretion,” while, “[o]n the other hand, the definition of discretionary

³ O.C.G.A. § 50-21-22(3) defines “loss” to mean “personal injury, disease, death; damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death; pain and suffering; mental anguish; and any other element of actual damages recoverable in actions for negligence.”

function set forth in § 50-21-22(2) plainly requires not only the exercise of discretion or judgment, but also that that discretion or judgment concern a ‘policy judgment choosing among alternate courses of action based upon a consideration of social, political, or economic factors,’ 271 Ga. at 682 (1999).

The Supreme Court’s interpretation of the discretionary act function is grounded in its view of the purpose of the discretionary act function exception, “to prevent judicial second-guessing of legislative and administrative decisions grounded in social, economic, and political policy through the medium of an action in tort and that, for that reason, when properly construed, the exception protects only governmental actions and decisions based on considerations of public policy,” Brantley v. Dep’t of Human Resources, 271 Ga. App. 679, 682-683 (1999).

Here, former state trooper Jacob Thompson’s actions resulting in the traffic stop through a PIT maneuver and the fatal discharge of his firearm do not involve decisions based on considerations of public policy based on social, political, or economic factors. As such, the discretionary function exception does not apply.

The Method of Providing Law Enforcement or Police Protection Does Not Apply

O.C.G.A. § 50-21-24(6) provides as follows: “The state shall have no liability for losses resulting from civil disturbance, riot, insurrection, or rebellion or the failure to provide, or the method of providing, law enforcement, police, or fire protection.”

In Ga. Dep’t of Public Safety v. Davis, 285 Ga. 203, 206 (2009) the Supreme Court examined the meaning of O.C.G.A. § 50-21-24(6) which provides that “[t]he state shall have no liability for losses resulting from civil disturbance, riot, insurrection, or rebellion or the failure to provide, or the method of providing, law enforcement, police, or fire protection.” In concluding that the Department of Public Safety was not immune from liability for a trooper’s negligent act under this Code section, the Supreme Court of Georgia held in Ga. Dep’t of Public Safety v. Davis, 285 Ga. 203, 206 (2009) that “[t]he state is not immune from liability where its employee is implementing a non-defective policy, but does so in a negligent manner. Although the state may be immune from liability for negligence in creating a certain policy which causes injury during its implementation, such immunity is unavailable for an employee’s allegedly negligent act or omission which is not authorized by any policy.”

In fact, the Georgia Department of Public Safety, in terminating Trooper Thompson, noted that he was being terminated for “negligence or inefficiency in performing assigned duties; or commission of a felony.” Under the facts of this matter, the method of policing exception does not apply, as former trooper Jacob Thompson’s allegedly negligent acts or omissions were not authorized by any policy.

The Assault or Battery Exception Does Not Apply

O.C.G.A. § 50-21-24(7) provides as follows: “The state shall have no liability for losses resulting from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, or interference with contractual rights.”

Here, the claimant asserts that two events were the proximate cause of their loss – the pursuit/traffic stop/PIT maneuver and the shooting.

Former Trooper Thompson Was Negligent in Implementing a Non-Defective Policy

As stated above, “[t]he state is not immune from liability where its employee is implementing a non-defective policy, but does so in a negligent manner. Although the state may be immune from liability for negligence in creating a certain policy which causes injury during its implementation, such immunity is unavailable for an employee’s allegedly negligent act or omission which is not authorized by any policy,” Ga. Dep’t of Public Safety v. Davis, 285 Ga. 203, 206 (2009).

Former Trooper Thompson was negligent in the manner in which he implemented two non-defective policies; one relating to the PIT maneuver, the other to the use of his firearm.

The Negligent PIT Maneuver

Policy Number 17.02.4(E)(7)(f) (see Exhibit “E”) of the Georgia Department of Public Safety Policy Manual prescribes in pertinent part that “[t]he PIT maneuver will only be executed when the need to stop the pursuit is immediate. The trooper/officer must be able to articulate the reason for his actions.” No objectively reasonable basis supports former trooper Thompson’s act of executing the PIT maneuver, as there was no immediate need to stop the pursuit. Under the undisputed facts, the state is legally liable for the physical injuries and property damage Mr. Lewis’s vehicle sustained as a result of the unauthorized PIT maneuver.

The Negligent Use of Deadly Force

Former trooper Thompson has stated that the basis for the discharge of his weapon into Mr. Lewis’s vehicle was an effort by Mr. Lewis, following the PIT maneuver and the crashing of Mr. Lewis’s vehicle into a tree and a ditch, was to prevent Mr. Lewis from striking him with the vehicle. More specifically, he stated that Mr. Lewis revved the vehicle’s engine and had both hands positioned on the steering wheel, moving the wheel from side to side, as if he intended to use the vehicle to strike the trooper. As has now been definitively established, Mr. Lewis’s vehicle was disabled by that time, disengaged from any power source, and could not have been used as any offensive weapon to endanger the trooper’s life or health. Because the vehicle was disengaged from any power source, former trooper Thompson could not have heard its engine being revved, an alleged observation that served as the primary predicate for the trooper’s fatal discharge of his firearm. No objectively reasonable basis supports former trooper Thompson’s act of discharging his firearm through the front windshield of Mr. Lewis’s vehicle. Indeed, it is clear that Thompson violated the deadly force protocol of Policy 10.01.6 of the Georgia Department of Public Safety Policy Manual (see Exhibit “F”). Under the undisputed facts, the state is legally liable for Thompson’s discharge of his firearm and Mr. Lewis’s death.

THERE MAY BE MORE THAN ONE PROXIMATE CAUSE FOR MR. LEWIS’S INJURY AND DEATH SO AS TO NEGATE ANY PROTECTION SOVEREIGN IMMUNITY MIGHT OFFER

The Supreme Court of Georgia made clear in Ga. DOT v. Heller, 285 Ga. 262, 266 (2009), that within the context of a GTCA claim, there may be more than one proximate cause that causes a loss. In Heller, the DOT argued that as long as any one of the proximate causes is one to which sovereign immunity applies, the State is immune from all claims relating to such loss. In response, the Supreme Court disagreed, countering, “this is not the case,” 285 Ga. at 266.

Interpreting the GTCA so as to provide for a waiver of sovereign immunity where there is more than one proximate cause for a loss, where one of the causes is not subject to immunity, is “consistent with the Tort Claims Act requirement that, where the State has waived its sovereign immunity for torts that it has committed, it ‘shall be liable for such torts in the same manner as a private individual would be liable under the circumstances, O.C.G.A. § 50-1-23(a),’” Ga. DOT v. Heller, 285 Ga. 262, 266 (2009).

Here, the Claimants have alleged at least two proximate causes for the loss that is the subject of this Notice. If one of these two proximate causes is a cause of the loss claimed herein, then the State has waived its sovereign immunity in the same manner as a private individual would under the circumstances.

Other Factors

At all times relevant to the underlying incident, Mr. Lewis was unarmed, having no weapon on his person or within his vehicle. Additionally, there were no other vehicles on the isolated dirt road where Thompson performed the PIT maneuver and fatally shot Mr. Lewis. As such, there were no other vehicles or pedestrians Mr. Lewis could have harmed while driving down the isolated dirt road.

Monetary Demand

The family and estate of Mr. Julian Lewis hereby make a monetary demand, for applicable state-based claims only, in the amount of \$1,000,000.00 (One Million Dollars), or the policy limit applicable to this wrongful death claim, whichever, is greater. This aspect of the demand is made under the Georgia Tort Claims Act.

Statutory Claim Information

As required by O.C.G.A. § 50-1-26(5)(a-f), the following information is provided to the extent of the claimants' knowledge and belief and as may be practicable under the circumstances:

- (A) The name of the state government entity, the acts or omissions of which are asserted as the basis of the claim;

Georgia Department of Public Safety and Georgia State Patrol

Georgia State Trooper Jacob Thompson executed a PIT maneuver on Julian Lewis's vehicle, allegedly for failing to stop due to a broken tail light, forcing it into a ditch and a tree before Trooper Thompson shot through the front windshield of the disabled vehicle, striking the seat-belted and weaponless Mr. Lewis in the forehead, killing him

- (B) The time of the transaction or occurrence out of which the loss arose;

August 7, 2020, at approximately 8:43 p.m. (see Exhibit "A" Georgia State Patrol Crash Report)

- (C) The place of the transaction or occurrence;

Stoney Pond Road, east of Cameron Road in Screven County, Georgia (see Exhibit "A" Georgia State Patrol Crash Report)

- (D) The nature of the loss suffered;

Mr. Julian Lewis, age 60, was shot and killed on August 7, 2020

(E) The amount of the loss claimed; and

The sum of \$1,000,000.00 (as it is the Claimants’ understanding that this is the liability limit for a claim of this type under the GTCA).

(F) The acts or omissions which caused the loss.

Georgia State Trooper Jacob Thompson executed a PIT maneuver on Julian Lewis’s vehicle, allegedly for failing to stop due to a broken tail light, forcing it into a ditch and a tree before Trooper Thompson shot through the front windshield of the disabled vehicle, striking the seat-belted and weaponless Mr. Lewis in the forehead, killing him

FEDERAL CLAIMS

The state of Georgia and its agencies are not “persons” subject to suit for damage under 42 USC § 1983, Davis v. Standifer, 275 Ga. App. 769, 776 (2005); Mattox v. Bailey, 221 Ga. App. 546, 547 (2) (1996). However, a claim against a state employee alleging a violation of the United States Constitution would support a claim against that employee in his individual capacity for damages pursuant to 42 U.S.C. § 1983, Davis v. Standifer, 275 Ga. App. 769, 776 (2005).

The claimant intends to pursue her federal claims in a separate civil rights lawsuit (against Thompson in his individual and official capacities) that is not subject to the Georgia Tort Claims Act. No aspect of any federal claim or claims that might exist are the subject of this Notice of Claim.

Notwithstanding, the Claimant is willing to accept the additional sum of \$12,000,000.00 (Twelve Million Dollars) for the violation of Mr. Lewis’s federal civil rights that resulted in his death.

CONCLUSION

This Notice of Claim is presented for the injuries to and death of Mr. Julian Lewis, age 60.

Respectfully submitted this 23rd day of November, 2020.

/s/ Francys Johnson
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cc: Ms. Betty Lewis
Mr. Brook Bacon
Tiffiney D. Hodge, Esq.
Melissa Claude Miller
D. Dejakamah

EXHIBIT “A”

GEORGIA STATE
PATROL
MOTOR VEHICLE
CRASH REPORT



DPS INCIDENT REPORT

GEORGIA DEPARTMENT OF PUBLIC SAFETY
329 ROCKY FORD RD
SYLVANIA, GA 30467

Report Date / Time 8/7/2020 11:31:56 PM	Report Number DPS00066031 (01)	Report Case/CAD Number DPS00066031-01 / GSPF20CAD032451	Reporting Officer Rank / ID TFC2 / 0698	Reporting Officer Name THOMPSON, JACOB G
Originating Agency ORI GAGSP0000	Reported to Agency Date 8/7/2020 8:43:00 PM	Occur Date Range 08/07/2020 20:43:00 -	Jurisdiction GADPS	Status: Clearance: EXCEPTIONAL
Offense Description 1080 CHASE IN PROGRESS				

LOCATION(S)

County SCREVEN	Location Type INCIDENT LOCATION	Location Description GEORGIA 73						
Street Number	Street GEORGIA 73	Apt/Lot/Bldg	City SYLVANIA	State GA	Zip Code 30467	Phone Number	Ext.	

Person: SUSPECT

First Name JULIAN	Middle Name E	Last Name LEWIS	Suffix	Race BLACK	Sex MALE	Height 5'10"	Weight 173	Hair BLK	Eyes BRO
MNI #	SSN	Date of Birth 06/16/1960	Age 60	ID Type C	Drivers License or other ID 055348296	State GA	OCA / Agency ID		
Place of Birth:									
Addresses • / 2855 EFFINGHAM HWY, SYLVANIA, GA 30467 /									

Vehicle: USED IN CRIME

Year 1996	Make NISSAN	Model SENTRA XE/GXE	Style 4S	Color SIL	State GA	License Plate # PD90P8	Tag Expiration 01/01/2021	VIN 3N1AB41D1TL024602	
Vehicle Owner Type OTHER	Vehicle Value (\$)	<input type="checkbox"/> CMV	DOT Number		Placard Hazardous Material #		Placard Hazard Class #		
Vehicle Owner		Vehicle Released to Person				Vehicle Released by Officer			

Narrative: SUPPLEMENT

Narrative Date/Time 8/10/2020 3:46:17 PM	Narrative Synopsis		
Reporting Officer THOMPSON, JACOB G	Officer Rank TFC2	Officer ID No 0698	Officer Org/Unit GSPF\POST 21
Officer Signature 	Officer Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY		

To the best of my recollection, on August 7, 2020, at approximately 9:00 p.m., while on patrol, I observed what appeared to be a silver Nissan Sentra traveling south on U.S. Highway 301. The vehicle appeared to be traveling approximately 50 miles per hour. As the vehicle passed my location, I

Report Date / Time 8/7/2020 11:31:56 PM	Report Number DPS00066031 (01)	Report Case/CAD Number DPS00066031-01 / GSPF20CAD032451	Reporting Officer Rank / ID TFC2 / 0698	Reporting Officer Name THOMPSON, JACOB G
Originating Agency ORI GAGSP0000	Reported to Agency Date 8/7/2020 8:43:00 PM	Occur Date Range 08/07/2020 20:43:00 -	Jurisdiction GADPS	Status: Clearance: EXCEPTIONAL
Offense Description 1080 CHASE IN PROGRESS				

observed a broken taillight. Based on the equipment violation, I got behind the vehicle. While following the vehicle, I observed the vehicle speed up to what appeared to be around 65 miles per hour or more. I activated my emergency lights at or near Gilgal Road to initiate a stop of the vehicle. The violator activated his turn signals in both directions but otherwise gave no indication that he intended to stop. As we approached Simmons Branch Road, the driver motioned out of his driver's side window. After turning onto Simmons Branch Road, however, he made no attempt to stop his vehicle. I continued following the violator down Simmons Branch Road. It became apparent to me that the violator did not intend to stop his vehicle. I radioed dispatch that I was involved in a pursuit and activated my siren. As I pursued the violator, I observed him start to smoke a cigarette. As we approached the stop sign at the intersection of Simmons Branch Road, Cameron Road, and Stoney Pond Road, the violator passed through the intersection and did not come to a complete stop. As we crossed Cameron Road onto Stoney Pond Road, for safety reasons, I decided to perform a PIT maneuver to safely end the pursuit. I drove beside the vehicle and performed a PIT maneuver. The violator's vehicle spun and crashed along the side of Stoney Pond Road before coming to rest. I stopped my patrol vehicle approximately even with the violator's vehicle. Being concerned for my safety, I drew my weapon as I got out of the vehicle. At some point, I heard the engine on the violator's vehicle revving at a high rate of speed. I activated the light on my weapon and observed the violator with both hands on the steering wheel. I saw him wrenching the steering wheel in an aggressive back and forth manner towards me and my patrol vehicle. It appeared to me that the violator was trying to use his vehicle to injure me. Being in fear for my life and safety, I discharged my weapon once. After I fired, the violator sat back motionless. I recall ordering him to show me his hands, but he remained motionless. I advised dispatch that shots had been fired. I looked at the violator and observed that the shot struck the violator in the forehead. Dispatch asked for my final location. To get first responders to our location as quickly as possible, I sprinted to the end of the road and radioed that our final location was down Stoney Pond Road from the intersection at Cameron Road. I radioed our location to dispatch. I did what I could to render first aid to the violator. At some point, volunteer firefighter Adam McDonough arrived at the scene. Dwight Singleton was the first fellow law enforcement officer to arrive at the scene. I ultimately turned the scene over to Trooper Corporal Robbie Scott upon his arrival.

Narrative: INITIAL

Narrative Date/Time 8/10/2020 3:56:15 PM		Narrative Synopsis		
Reporting Officer THOMPSON, JACOB G	Officer Rank TFC2	Officer ID No 0698	Officer Org/Unit GSPF\POST 21	
Officer Signature 	Officer Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY			

To the best of my recollection, on August 7, 2020, at approximately 9:00 p.m., while on patrol, I

Report Date / Time 8/7/2020 11:31:56 PM	Report Number DPS00066031 (01)	Report Case/CAD Number DPS00066031-01 / GSPF20CAD032451	Reporting Officer Rank / ID TFC2 / 0698	Reporting Officer Name THOMPSON, JACOB G
Originating Agency ORI GAGSP0000	Reported to Agency Date 8/7/2020 8:43:00 PM	Occur Date Range 08/07/2020 20:43:00 -	Jurisdiction GADPS	Status: Clearance: EXCEPTIONAL
Offense Description 1080 CHASE IN PROGRESS				

observed what appeared to be a silver Nissan Sentra traveling south on U.S. Highway 301. I observed the driver of the vehicle commit numerous traffic infractions.

The violator refused to stop and led me on a brief chase down several county roads. I performed a PIT maneuver and the violator's car came to a stop along the side of Stoney Pond Road. Being in fear for my life and safety, and as a result of the violator's actions, I discharged my weapon.

See the supplemental report for additional details.

Officer: Approving Supervisor (Supplement 01)

Officer Name R.P. BALKCOM	Officer Rank CAPTAIN	Officer ID No 0016	Officer Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY
Approval Date / Time 8/14/2020 9:45:22 AM	Officer Signature <i>Capt. R. P. Balkcom #16</i>		

Sup #	Officer Name Rank / ID #	Involvement On Report / Reporting Role	Officer Agency Org/Unit
01	DIGIACOMO, A. TFC 550	ASSISTING OFFICER	GSP POST 45
01	SCOTT, R CPL. 925	ASSISTING OFFICER	GSP POST 45
01	SINGLETON, D. SGT. 1-2	ASSISTING OFFICER	SCREVEN COUNTY SHERIFF'S OFFICE
01	THOMPSON, JACOB G TFC2 0698	REPORTING OFFICER	GEORGIA DEPARTMENT OF PUBLIC SAFETY GSPF\POST 21
01	R.P. BALKCOM CAPTAIN 0016	APPROVING SUPERVISOR	GEORGIA DEPARTMENT OF PUBLIC SAFETY GSPF\COMMAND

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the narratives associated with this report:

Officer: Reporting Officer (Supplement01)

Officer Name THOMPSON, JACOB G	Office Rank TFC2	Officer ID No 0698
Officer Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY		
Officer Signature <i>J. Thompson #698</i>		

EXHIBIT “B”

USE OF FORCE REPORT

-JACOB THOMPSON



DPS INCIDENT REPORT - Use Of Force

GEORGIA DEPARTMENT OF PUBLIC SAFETY
329 ROCKY FORD RD
SYLVANIA, GA 30467

Date / Time 8/7/2020 9:00:00PM	Reason For Initial Encounter TRAFFIC STOP	Reason For Force / Control ATTACKED OFFICER	Report Number DPS00066031	Report Case / CAD Number DPS00066031-01 / GSPF20CAD032451	Originating Agency ORI GAGSP0000
Lighting Condition DARK	Weather Condition UNKNOWN	Location OUTSIDE	Description STONEY POND ROAD		
Actual Location (INCIDENT LOCATION) GEORGIA 73, SYLVANIA, GA (GEORGIA 73)					

Subject: SUSPECT

Subject Name JULIAN E LEWIS	Age 60	Race BLACK	Sex MALE	Height 5'10"	Weight 173
Subject Impairment UNKNOWN	Description of Impairment				
Subject Clothing NORMAL CLOTHING	Subject History of Violence UNKNOWN	Subject Criminal History UNKNOWN	Subject Disposition NOT IN CUSTODY		
Weapons • OTHER / 1996 NISSAN / SENTRA / / MOTOR VEHICLE /					
Subject Injury Status FATALITY	Subject Injury Disposition FATALITY	Subject Injury Synopsis			
Injuries					
Subject Injury Treatment UNKNOWN	Subject Transported for Treatment UNKNOWN	Transport Date/Time			
Subject Transported By LAW ENFORCEMENT	Transport Description	Transport Run #	Subject Transported To Location		

Event: ATTACK ON OFFICER

Person Type on Report SUSPECT	Subject Name JULIAN E LEWIS	Age 60	Race BLACK	Sex MALE	Height 5'10"	Weight 173
Subject Demeanor UNCOOPERATIVE	Effect of Control Measures OTHER					
Rank TFC2	Officer Name JACOB G THOMPSON	ID # 0698	Org/Unit GSPF\POST 21	Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY		
Subject Resistance / Harmful Events • MOTOR VEHICLE - AS DEADLY WEAPON / / OTHER / 1996 NISSAN / SENTRA / / MOTOR VEHICLE / / / ASSAULT ON OFFICER / NO INJURY						
Officer Control Measures • FIREARM (HANDGUN) / DEPLOYED AND FIRED / DUTY WEAPON (PISTOL) / GLOCK / 45 / GSP00698 / GLOCK 45 / AGENCY ISSUED / 1 / / EFFECTIVE / FATALITY						

Officer: INVOLVED

Rank TFC2	Officer Name JACOB G THOMPSON	ID # 0698	Org/Unit GSPF\POST 21	Agency GEORGIA DEPARTMENT OF PUBLIC SAFETY			
Age 27	Race WHITE	Sex MALE	Height 510	Weight 190	Officer Uniform Type UNIFORM	Body Armor Worn BODY ARMOR WORN	Body Armor Effectiveness NOT A FACTOR
Officer Weapons • DUTY WEAPON (PISTOL) / GLOCK / 45 / GSP00698 / GLOCK 45 / AGENCY ISSUED							
Officer Injury Status NOT INJURED	Officer Injury Disposition	Officer Injury Synopsis					
Injuries							
Officer Injury Initial Treatment NOT APPLICABLE	Officer Transported for Treatment	Transport Date/Time					
Officer Transport By	Transport Description	Transport Run #	Officer Transported to Location				

Date / Time 8/7/2020 9:00:00PM	Reason For Initial Encounter TRAFFIC STOP	Reason For Force / Control ATTACKED OFFICER	Report Number DPS00066031	Report Case / CAD Number DPS00066031-01 / GSPF20CAD032451	Originating Agency ORI GAGSP0000
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EXHIBIT “C”

JULIAN LEWIS AUTOPSY REPORT

James M. Strickland, Coroner

Screven County, Georgia

P.O. Box 166 Sylvania, Georgia 30467

912-564-2331

Email: tswstrickland@gmail.com

August 21, 2020

Kannette King
Francys Johnson, Attorney
Statesboro, Georgia 30458

This cover page plus 4 additional pages

FAX: 888-360-6516

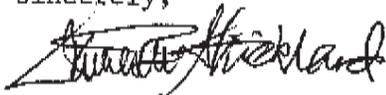
Ms. King:

Enclosed please find a copy of the Official Report of the autopsy performed on the body of Julian Edward Roosevelt Lewis which you requested from me.

This report does not include the Toxicology nor Blood Alcohol Reports for Mr. Lewis. These two reports usually take several weeks to be completed.

I will be glad to forward these reports to you when I receive them if you wish. Just let me know if you need them as well.

Sincerely,



James M. Strickland
Coroner, Screven County, Georgia

Official Report



Division of Forensic Sciences
Georgia Bureau of Investigation
State of Georgia

Coastal Regional Lab

DOFS Case #: 2020-6004741

Report Date: 08/11/2020

Cleveland Miles
Deputy Director

ANAB Accredited ISO/IEC 17025
Testing Laboratory

**Requested Service:** Autopsy

Agency: Screven Co. Coroner
Agency Ref#:
Requested by: J. Strickland

Case Individuals:

Victim: Julian Edward Roosevelt Lewis

Evidence:

2020-6004741-001 Decedent

Results and Conclusions:

Evidence Submission: 001

DATE, TIME, AND LOCATION OF EXAMINATION:

A complete autopsy examination was performed on the body of JULIAN LEWIS at the Georgia Bureau of Investigation, Coastal Regional Medical Examiner's Office, in Pooler, Georgia on the 10th day of August 2020, commencing at 0910 hours, pursuant to the Georgia Death Investigation Act. The examination was performed by Joni B. Skipper, M.D.

EXTERNAL EXAMINATION:

The body is received in the supine position within a white zippered transport bag. A tag affixed to the transport bag is inscribed with the decedent's name.

The body is wearing a gray t-shirt, blue denim pants with a black belt in the belt loops, blue and white boxer shorts, and a pair of white socks. Two blue athletic shoes accompany the body. Personal effects include a black pocketknife, a screw, a cigarette butt, a black wallet with multiple cards, and \$49 in US currency. The clothing is submitted as evidence, and the remaining items are released with the body.

The body is that of a normally developed adult Black male which appears consistent with the reported age of 60 years. The body measures 70 inches in length and weighs 172 pounds. There is good preservation in the absence of embalming. Rigor mortis is present and breaks with difficulty in the extremities. Livor mortis blanches on the posterior surfaces, except in areas of pressure. The body is cool to the touch.

The scalp hair is black and gray, tightly curled, and short. The hairline is unremarkable. Facial hair consists of a short mustache and goatee-style beard. The irides appear brown, and the corneas are clouded. The ears, nose, and lips are unremarkable. The mouth is edentulous with upper and lower denture plates. The neck is without masses or unusual mobility. The chest and back are normally developed. The abdomen is flat. The extremities are symmetric with all digits present. The external genitalia are those of an adult male with testes bilaterally descended within the scrotum.

IDENTIFYING MARKS AND SCARS:

A tattoo is on the lateral right arm (documented photographically). Scars include a 3-1/4 inch linear scar on the left side of the groin, a 6 inch linear scar on the anterolateral left arm, and a 2 inch linear scar on the posterior left forearm.

EVIDENCE OF TREATMENT:

Division of Forensic Sciences
Georgia Bureau of Investigation

Continued
2020-6004741: Autopsy

None.

EVIDENCE OF ACUTE INJURY:

PENETRATING GUNSHOT WOUND OF THE HEAD: A 1/4 inch round entrance wound is on the left lower forehead located 2-1/2 inches below the top of the head and 1/2 inch left of the anterior midline. An eccentric marginal abrasion from 3 to 6 o'clock is up to 3/16 inch, and there is a 1/8 inch skin tear at 10 o'clock. No soot or gunpowder stippling is on the skin.

The bullet perforates the skin, subcutaneous tissue, musculature, left frontal bone (with internal beveling), dura, bilateral frontal lobes, right basal ganglia, right temporal lobe, dura (again), and posterior right temporal bone (with external beveling) before coming to rest in the posterior right temporal lobe where a deformed, jacketed, medium caliber projectile is recovered. Resultant injuries include left periorbital edema, collapse of the right orbit and scleral hemorrhage of the right eye, displaced fractures of the anterior cranial fossa and right middle cranial fossa, radiating fractures of the calvarium, intracranial hemorrhage, and blood in the airways.

In anatomic position, the trajectory is from front to back, left to right, and downward.

OTHER INJURIES: A 1/4 inch linear abrasion is on the left lower abdomen. The proximal dorsomedial right thumb has a 5/16 inch scabbed lesion.

POSTMORTEM IMAGING STUDIES:

Radiographs (anterior-posterior of the body and lateral of the head) show a radiopaque projectile and numerous fragments in the head and surgical hardware in the cervical spine.

INTERNAL EXAMINATION:

BODY CAVITIES: The thoracic and abdominal organs are in their normal anatomic positions. The body cavities contain no adhesions or abnormal collections of fluid. The left inguinal region has surgical mesh.

HEAD: See "EVIDENCE OF ACUTE INJURY". The brain weighs 1200 grams. The leptomeninges are thin and delicate. Excluding injury, the cerebral hemispheres are symmetric with an unremarkable gyral pattern, and the cranial nerves and blood vessels are unremarkable. Sections through the cerebral hemispheres, brainstem, and cerebellum reveal no evidence of natural disease. The spinal cord as viewed from the cranial cavity is unremarkable.

NECK: The soft tissues, large vessels, and prevertebral fascia are unremarkable. The hyoid bone and laryngeal cartilages are intact. The lumen of the larynx is not obstructed.

CARDIOVASCULAR SYSTEM: The heart weighs 360 grams. The intimal surface of the abdominal aorta has mild atherosclerosis. The aorta and its major branches and the great veins are normally distributed. The pulmonary arteries contain no thromboemboli. The pericardium, epicardium, and endocardium are smooth and glistening. There are no thrombi in the atria or ventricles. The coronary arterial system has diffuse, mild atherosclerosis. The atrial and ventricular septa are intact. The cardiac valves are unremarkable. The myocardium is dark red-brown and firm, without focal abnormalities. The ventricular walls appear normal in thickness.

RESPIRATORY SYSTEM: The right and left lungs weigh 640 and 460 grams, respectively. The laryngeal mucosa is smooth and unremarkable. The pleural surfaces are smooth and dull with severe anthracotic pigment deposition. The major bronchi are unremarkable. The parenchyma is dark red-blue and moderately congested on sectioning; no focal abnormalities are seen.

HEPATOBIILIARY SYSTEM: The liver weighs 1600 grams. The liver is covered by a smooth, glistening capsule. The parenchyma is dark red-brown and moderately congested. The

Division of Forensic Sciences
Georgia Bureau of Investigation

Continued
2020-6004741: Autopsy

gallbladder contains a small amount of green bile; no calculi are seen.

GASTROINTESTINAL SYSTEM: The mucosa of the tongue is intact, and there is no hemorrhage within the underlying musculature. The esophageal mucosa is gray and smooth. The stomach contains approximately 50 ml of tan granular fluid; there are no discernible tablets or capsules. The gastric mucosa has normal rugal folds, and there are no ulcers. The serosae of the small bowel and colon are unremarkable. The appendix is present. The pancreas is tan and lobulated with diffuse fat necrosis.

GENITOURINARY SYSTEM: The right and left kidneys weigh 160 and 180 grams, respectively. The capsules of both kidneys strip with ease to reveal mostly smooth cortical surfaces. The right kidney has a single 3 cm cyst, and the left kidney has 4 cysts up to 3 cm. The cortices are of normal thickness, with well-demarcated cortico-medullary junctions. The calyces, pelvis, and ureters are unremarkable. The urinary bladder contains approximately 30 ml of clear yellow urine; the mucosa is gray and smooth. The prostate gland is unremarkable.

LYMPHORETICULAR SYSTEM: The spleen weighs 100 grams. The spleen is covered by a smooth, blue-gray, intact capsule. The parenchyma is dark red. The cervical, hilar, and peritoneal lymph nodes are not enlarged.

ENDOCRINE SYSTEM: The thyroid and adrenal glands are unremarkable.

MUSCULOSKELETAL SYSTEM: The clavicles, ribs, sternum, pelvis, and vertebral column have no fractures. The diaphragm is intact. The anterior cervical spine has surgical hardware. The skeletal muscles are unremarkable.

OTHER PROCEDURES:

1. Documentary photographs are taken.
2. Blood (aorta and heart) and urine are submitted to the toxicology laboratory at the Georgia Bureau of Investigation; results are reported separately.
3. A bloodstain card is retained at the Georgia Bureau of Investigation.
4. Small sections of the internal organs are retained in formalin in the Medical Examiner's Office; all other portions are released with the body.
5. Postmortem fingerprints, pulled scalp hair, and the recovered projectile are submitted as evidence.
6. Dashboard camera footage from the officer's vehicle was reviewed.

SUMMARY OF FINDINGS:

1. Penetrating gunshot wound of the head:
 - a. Entrance: Left lower forehead
 - b. Range: Indeterminate
 - c. Injuries: Skin, subcutaneous tissue, musculature, skull, dura, cerebrum; intracranial hemorrhage
 - d. Recovery: Deformed, jacketed, medium caliber bullet from right temporal lobe
 - e. Trajectory: Front to back, left to right, and downward
2. Other findings:
 - a. Mild coronary and aortic atherosclerosis
 - b. Emphysematous changes of the lungs
 - c. Severe pulmonary anthracosis
 - d. Bilateral renal cysts
 - e. Remote left inguinal hernia repair
 - f. Cervical spine surgical hardware

CASE SUMMARY AND OPINION:

The decedent was a 60-year-old man who was the driver of a vehicle being pursued by law enforcement during the evening hours on 8/7/2020. The officer performed a PIT maneuver, and the decedent's vehicle came to a stop. The officer then exited his vehicle and fired a

Division of Forensic Sciences
Georgia Bureau of InvestigationContinued
2020-6004741: Autopsy

single shot at the decedent's vehicle, striking the decedent in the head. No resuscitative attempts were performed, and he was pronounced dead at the scene soon thereafter.

Autopsy examination was significant for an indeterminate range, penetrating gunshot wound of the left lower forehead resulting in injuries to the brain as well as multiple fractures of the base of the skull and the calvarium. A deformed, jacketed, medium caliber bullet was recovered from the posterior right temporal lobe of the brain. The trajectory of the bullet through the head was from front to back, left to right, and downward.

Other findings included mild coronary and aortic atherosclerosis, emphysematous changes of the lungs, severe pulmonary anthracosis, bilateral renal cysts, surgical mesh within the left inguinal region, and surgical hardware within the anterior cervical spine.

In light of the history provided and the autopsy findings, it is my opinion that the decedent died as the result of a gunshot wound of the head. Furthermore, the manner of death is certified as homicide.

CAUSE OF DEATH:

Gunshot wound of the head

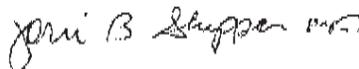
MANNER OF DEATH:

Homicide

Only those items discussed in the results above were analyzed for this report. The above represents the interpretations/opinions of the undersigned analyst. Unless noted above, evidence analyzed in this report will be returned to the submitting agency. Biological evidence (body fluids and tissues) and proof determination evidence will be destroyed after one year. This report may not be reproduced except in full without written permission of the laboratory.

Technical notes and data supporting the conclusions and findings in this report are maintained within the laboratory case records.

This case may contain evidence that must be preserved in accordance with O.C.G.A. § 17-5-56.



Joni Skipper
Regional Medical Examiner
joni.skipper@gbi.ga.gov

Related Agencies:

GBI-Medical Examiner Coastal
GBI-Reg. 05-Statesboro

ACN: DR. SKIPPER
ACN: 0500273421

End of Official Report

EXHIBIT “D”

JASON THOMPSON BOND HEARING TRANSCRIPT

SUPERIOR COURT OF SCREVEN COUNTY
OGEECHEE JUDICIAL CIRCUIT OF GEORGIA

STATE OF GEORGIA

V.

JACOB GORDON THOMPSON

CASE NO. SU20WR080P

TRANSCRIPT of proceedings heard during the **BOND HEARING** in the above-styled case at the Screven County Courthouse, Sylvania, Georgia, on the 24th day of August, 2020, before the **Honorable F. Gates Peed**, Chief Judge, Superior Court, Ogeechee Judicial Circuit of Georgia.

APPEARANCES:

For the State:

J. BARCLAY BLACK
Assistant District Attorney
Statesboro, Georgia

For the Defendant:

ROBERT L. PERSSE
Attorney at Law
Savannah, Georgia

DUFF B. AYERS
Ayers Law Office, P.C.
Millen, Georgia

SAM DENNIS
Sam Dennis Law, P.C.
Valdosta, Georgia

Court Reporter:

KELLY S. CLAXTON, CCR, CVR-M
Certificate Number 2504
Post Office Box 1172
Statesboro, Georgia 30459

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I N D E X

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Argument by Mr. Black 8
STATE’S CASE:
GBI SPECIAL AGENT DUSTIN PEAK
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 Cross-Examination by Mr. Persse 20
BETTY LEWIS
 Direct Examination by Mr. Black 24
Argument by the State 27
Further Argument by the Defense 28
Comments of the Court 28
Certificate of Court Reporter 30

(NOTE: In the following transcript, a dash (--) is used to indicate an unintentional or purposeful interruption of a sentence; an ellipsis (...) is used to indicate halting speech or an unfinished sentence in dialogue, or an omission of word(s) when reading written material.)

1 (NOTE: Whereupon, the Defendant was brought out.)

2 THE COURT: We're here today in the matter of the State
3 of Georgia versus Jacob Gordon Thompson. And Mr. Black, is
4 the State ready to proceed?

5 MR. BLACK: We are, Your Honor.

6 THE COURT: And is the Defense ready to proceed?

7 MR. PERSSE: We are, Your Honor.

8 THE COURT: All right. And Mr. Persse, you're
9 answering. Are you lead?

10 MR. PERSSE: Today I am.

11 THE COURT: All right. Let's begin by, Mr. Black, if you
12 would state who you are and whether anybody else is here
13 with you for the State.

14 MR. BLACK: Thank you, Judge. My name is Barclay
15 Black. I'm an Assistant District Attorney here on behalf of the
16 State of Georgia. We are here on the specific warrants today
17 to address any preliminary issues and bond for Jacob Gordon
18 Thompson. We have with us today -- Special Agent Peak will
19 be our witness for the preliminary, and we are ready to
20 proceed.

21 THE COURT: All right. And on behalf of the Defense,
22 Mr. Persse, if you would, for the record, announce your name
23 and introduce the other counsel for Defense.

24 MR. PERSSE: My name is Robert L. Persse. I'm from
25 Savannah. I think the court reporter knows how to spell it.

1 I'm joined at counsel table by the Defendant, Mr. Thompson,
2 and Co-Counsel Duff Ayers and Sam Dennis. And we're here
3 for a bond hearing.

4 THE COURT: Is preliminary waived?

5 MR. PERSSE: I don't think there was ever a request for a
6 preliminary hearing. It was just a motion for bond.

7 THE COURT: Okay. All right. Is the State ready to
8 proceed with regard to bond?

9 MR. BLACK: We can, Your Honor.

10 THE COURT: All right. And Mr. Persse, in that it's your
11 motion, you may proceed.

12 MR. PERSSE: Thank you, Your Honor. Your Honor, just
13 for the record, this is the State of Georgia versus Jacob
14 Gordon Thompson here in the Superior Court of Screven
15 County. The only case number I know of right now is Warrant
16 Number 1S20WR080P.

17 We're here for a question about bond. This is a situation
18 that arose recently with a chase and pursuit of a vehicle, with
19 an unfortunate death occurring. Arrest warrants were issued
20 by the Georgia Bureau of Investigation actually before the
21 complete conclusion of the investigation. The charges as we
22 know them at this point are felony murder and aggravated
23 assault.

24 We are here, pursuant to O.C.G.A. 17-16-1, seeking
25 bond for the Defendant in this case. And I would like to

1 direct my remarks to the four basic factors with respect to
2 bond that are described in that statute, and I know the
3 Court's aware of that statute.

4 Mr. Thompson poses no significant risk of fleeing or
5 failing to appear in court when required. In *Pullin versus*
6 *Dorsey*, 271 Georgia 882, a 2000 opinion of the Supreme
7 Court of Georgia, the court held the foremost consideration
8 when fixing bail is the probability that the accused, if freed,
9 will appear at trial. In this case, that's the foremost
10 consideration, and there should be absolutely no question
11 that Mr. Thompson will appear.

12 He has extremely deep roots in this community. He's a
13 lifelong resident of Screven County. His family's connections
14 to this community don't speak in terms of years, they speak
15 in terms of generations. He owns property in Screven County.
16 He has a wife and a small child in Screven County, and he's a
17 member of several community organizations. Virtually all of
18 his family resides in this area. And he doesn't own a
19 passport, so he's no threat to leave the country.

20 And it's important for the Court to know that he knew he
21 was under a GBI investigation right after this incident
22 occurred. He did not flee the jurisdiction. If he were a flight
23 risk, that probably would have been the time to do so.
24 Instead, he hired private counsel to defend the charges. And
25 when he was notified that the warrants were issuing, he

1 turned himself in voluntarily, early. He poses no significant
2 threat or dangers to any person, to the community or any
3 property in the community. He poses no significant risk of
4 committing any felony pending trial.

5 These warrants arose from his performance as a Georgia
6 State Trooper, a law enforcement officer. We think the
7 incident was escalated by the actions of Mr. Lewis and that
8 eventually, we think, will be established at trial. But in terms
9 of Mr. Thompson, he has no criminal history and an
10 impeccable service record as a state trooper. He has been a
11 law enforcement officer every day for the ten years of his
12 working history. No criminal history. Never been arrested
13 even for a traffic violation. I can't even say that.

14 There's absolutely nothing to indicate he would be a risk
15 to anyone. He poses no significant risk of intimidating
16 witnesses or obstructing justice. There's simply no evidence
17 of that. He's retained legal counsel with an investigator in
18 order to aggressively defend the case in the right way, which
19 is allowed by the Constitution of the United States.

20 And there are other miscellaneous considerations we'd
21 ask the Court to consider. Mr. Thompson is no longer
22 employed as a state trooper. Yet, he's married and has a
23 child, and they depend on him, both for income but other
24 things connected to employment like health insurance. He's
25 the sole breadwinner of the family. And we ask the Court to

1 consider him – – we have been in contact with about five
2 people in the Screven County area who already said if he's
3 given bond, they'd be willing to employ him.

4 One other point that occurred to me today, if bond is
5 denied – – and certainly, it's a serious case – – Mr. Thompson
6 will sit in jail waiting. The next step would be for a possible
7 grand jury consideration of this case. But if the judicial
8 emergency order issued by the Chief Justice in March remains
9 in effect, that would be an interminable wait, since no grand
10 jury has been summoned or held here since March. That is
11 not a criticism at all of the clerk of superior court; it's simply
12 a statement of the reality of the COVID virus impact on the
13 court system here as well as generally.

14 Based on these factors, we ask that Trooper Thompson
15 be granted bond. If the Court wants to impose specific
16 restrictions, he'll abide by them and we'll accept them. The
17 Court may want to impose a high bond. He can live with that,
18 and he will abide by any other conditions. And although this
19 is a serious case, if there is any person who would be the
20 perfect candidate to receive a bond in a criminal case, it's
21 Jacob Gordon Thompson.

22 In preparing for today, we assembled some fifty good
23 character letters. I have them here, and I'll tender them if the
24 Court wants to look at them or not. And I'm going to hand a
25 copy to Mr. Black at this time.

1 May I approach?

2 THE COURT: Mr. Black, any objection to the letters
3 being offered?

4 MR. BLACK: The State does not oppose the tendering of
5 these letters.

6 THE COURT: You may. And first, I'm going to hand
7 these to the clerk – –

8 MR. PERSSE: Yes, sir.

9 THE COURT: – – for her to receive. If you have another
10 copy, please?

11 MR. PERSSE: Yes, sir.

12 THE COURT: Thank you, sir.

13 MR. PERSSE: That concludes my remarks at this time.
14 We'd ask the Court to set bond with conditions and an
15 amount the Court deems fit. Thank you.

16 THE COURT: Thank you, sir. Mr. Black?

17 MR. BLACK: Thank you, Judge. The State must, at this
18 time, oppose bond in this particular case as we consider the
19 two warrants of aggravated assault and felony murder. The
20 State is concerned, due to the gravity and level of impact that
21 this particular case has, that such a thing, inextricably, is
22 wrapped up with the possibility of flight. And we stand ready
23 to present witnesses, or a witness, to the Court to
24 demonstrate our concerns. Thank you.

25 THE COURT: You may. Call your witness.

1 MR. BLACK: Thank you, Judge. We'll call Special Agent
2 Peak.

3 THE COURT: Agent Peak, if you would come up.

4 (NOTE: Whereupon, the witness approached the stand and
5 was sworn by the Court.)

6 THE COURT: Thank you, sir. You can be seated.

7 SPECIAL AGENT DUSTIN PEAK, HAVING BEEN DULY SWORN,

8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. BLACK:

10 Q You are Special Agent Dustin Peak?

11 A Yes, sir.

12 Q Agent Peak, are you the affiant on the particular
13 warrants that we are before the Court today on, in particular,
14 referring to 1S20WR080, charging Jacob Gordon Thompson with
15 aggravated assault against the person of Julian Edward Roosevelt
16 Lewis on the evening of August the 7th of this year?

17 A Yes, I am.

18 Q And then also, are you the affiant of the warrant for
19 felony murder, charging Jacob Gordon Thompson with causing the
20 death of Julian Edward Roosevelt Lewis, shooting Lewis with a
21 firearm during the commission of the aggravated assault?

22 A Yes, I am.

23 Q Okay. Now, are you the main case agent in charge of
24 this investigation?

25 A Yes, sir. I am.

1 Q All right. Now, can you give the Court a little
2 background of how you became involved in this particular case?

3 A Yes. So on Friday, August 7th, 2020, approximately
4 9:20 p.m., the Georgia Bureau of Investigation was requested to
5 investigate an officer-involved shooting that occurred in Screven
6 County. That request came with Georgia State Patrol.

7 Upon arrival at the scene, the only information we knew at the
8 time is that there was an attempted traffic stop on Highway 301
9 South heading out of Sylvania towards Statesboro which led to a
10 pursuit down Simmons Branch Road and then a PIT maneuver,
11 which is a precision immobilization technique, that occurred on
12 Stoney Pond Road, and then which resulted in a shot being fired.
13 Up until -- at that time, we didn't know the identity of Mr. Lewis.
14 That was found out after we investigated. But at the time, that was
15 the facts known at the time.

16 Q All right. And so what did you do at that time? How did
17 you become involved directly?

18 A Okay. So we responded to the scene, myself and three
19 other agents and a crime scene tech. We began our investigation,
20 processing the scene and interviewing any witnesses that were
21 there. There were no witnesses that saw the incident. It was --
22 Trooper Thompson and Mr. Lewis were the only people at the
23 scene at the time the use of force occurred.

24 At that point, we began processing the scene. We noted that
25 the vehicle that Mr. Lewis was driving was a 1996 Nissan Sentra,

1 front-wheel drive, and Trooper Thompson's vehicle was a Dodge
2 Charger. That night, Trooper Thompson did not provide a
3 statement to us that night. We photographed him and collected his
4 firearm, and we began processing the scene. We finished up early
5 the next morning.

6 And through that crime scene processing, we were able to
7 determine that the vehicle was front-wheel drive. There was no
8 indication that after the crash occurred, that the vehicle was
9 operational. The wheels on the vehicle were slightly towards --
10 pointed towards the right of Mr. Lewis's vehicle, which would have
11 been away from Trooper Thompson. And the battery and the air
12 filter box on the vehicle became disabled. To get the vehicle to
13 move from the scene, we had to pop the hood and wiggle the
14 battery cable to get power back to the vehicle so we could let the
15 windows roll up so the vehicle could be secured and moved from
16 the scene.

17 We gained access to the patrol cam video, which was the dash
18 camera inside the vehicle, at approximately four a.m. on Saturday
19 morning. And what we found out through that is that the --
20 approximately one second after Mr. Thompson's foot came off the
21 brake and the vehicle went into park, the shot -- one shot was
22 fired. So after the PIT, the vehicle goes into park, foot comes off
23 the brake, one shot is fired within one second.

24 Q Now, subsequent to this particular stop and PIT
25 maneuver -- and I believe the location to be Stoney Pond Road in

1 Screven County?

2 A Yes, sir.

3 Q That y'all began collecting both physical evidence from
4 the scene as well as the dash cam data from analyzing Mr. Lewis's
5 vehicle and analyzing the Trooper's vehicle as well?

6 A Yes, sir.

7 Q Is that all part of your investigation?

8 A Yes, sir.

9 Q Now, in doing that, it's my understanding that you've
10 been able to review all of that. But also, at any time during this
11 particular investigation, did the Defendant present you with a
12 statement as to what happened?

13 A A written statement was provided to us on Monday.

14 Q Okay. This occurring on a Friday night?

15 A Yeah. The incident occurred on a Friday night.

16 Approximately 8:38 is when Trooper Thompson got behind Mr.
17 Lewis.

18 Q Okay. And that written statement was prepared by Jacob
19 Thompson?

20 A Yes, sir.

21 Q And was it done while he had access to or conference
22 with an attorney?

23 A Yes, Mr. Keith Barber.

24 Q Okay. And did Mr. Barber turn that statement over to
25 you?

1 A He did. He emailed it to me and my supervisor.

2 Q All right. Now, did Trooper Thompson also prepare a
3 report?

4 A Yes, he did.

5 Q Okay. And have you been able to both read his written
6 statement, as provided to you by his attorney, and the written
7 report that he made?

8 A I have.

9 Q Okay. And how are they similar?

10 A They're verbatim, basically.

11 Q They're an identical statement?

12 A Yes, sir.

13 Q Okay. Now, in reading his statement, you had an
14 opportunity to go through that statement and analyze exactly what
15 his explanation was for what occurred that evening?

16 A Yes, sir.

17 Q Okay. Now, having read that statement and reviewed it,
18 have you -- and as you said, you had an opportunity to review the
19 video from the dash cam in Trooper Thompson's vehicle?

20 A Yes, sir.

21 Q Okay. And I believe you made a statement that from the
22 time he took his foot off the brake to put it in park and stop the
23 vehicle and the time that shot was fired is a single second?

24 A Approximately one second. Yes, sir.

25 Q Okay. Is that review of the video consistent with

1 Trooper Thompson's written statement to you?

2 A It is not consistent.

3 Q In what way?

4 A Mr. Thompson explains in his written statement that
5 upon pitting Mr. Lewis's vehicle, that he gets out of his vehicle with
6 his weapon drawn, he hears the engine of Mr. Lewis's vehicle
7 revving at a high rate of speed. At that point in time, he operates
8 his weapon light that is mounted on his firearm and visually sees
9 Mr. Lewis's hands, both hands on the steering wheel. And Trooper
10 Thompson states that Mr. Lewis is wrenching his hands left to
11 right, and he feared that the vehicle was going to come at him so
12 he fired one round.

13 Q Okay. And the timing of the shot being fired, you say, is
14 inconsistent with that explanation?

15 A Yes, sir.

16 Q All right. Now, in this particular case, you obviously, in
17 doing these sort of investigations -- is it part of your investigation
18 to look to see if a shooting, and particularly an officer shooting, is
19 a justifiable shooting or proper under the law?

20 A Yes, sir.

21 Q Okay. And in doing that and looking at that, is the use
22 of a weapon against an officer -- can that create a justifiable
23 shooting?

24 A Yes, sir.

25 Q Okay. And could a vehicle be considered to be an

1 offensive weapon that could be – – could authorize deadly force?

2 A Yes, sir. It could.

3 Q Okay. In your analysis of this crime scene and your
4 analysis of his statement and your watching of all the video and the
5 data collected, did you come to that conclusion?

6 A No, sir.

7 Q All right. Now, I'd also like to talk to you about the
8 angle of the bullet itself. Have you had an opportunity to review
9 the autopsy that was performed?

10 A Yes, sir. I have.

11 Q All right. And could you give the Court a description of
12 the findings of the medical examiner as to the trajectory and
13 positioning of the bullet in this case?

14 A Yes, sir. According to Medical Examiner Dr. Joni Skipper
15 with the GBI in Pooler, Mr. Lewis had a single gunshot wound to his
16 forehead. It was slightly towards the left side of his head. The
17 angle of that was from front to back, left to right, and downward.
18 So coming through here, front to back, left to right, and downward
19 (indicated).

20 Q All right. Now, during this time, have you had an
21 opportunity to interview the Defendant, Jacob Thompson?

22 A Yes, sir. I have.

23 Q Okay. And did he have counsel present?

24 A Yes, he did.

25 Q All right. And can you tell the Court when that occurred?

1 A That occurred on Wednesday – – I can't recall the date,
2 but it was on the Wednesday. So Monday, we received a written
3 statement, then that Wednesday we interviewed him in person.

4 Q Okay. Now, after that interview that you conducted with
5 counsel present, did you discuss his position of where he was when
6 he fired the shot?

7 A Yes, we did.

8 Q All right. Now, based on his representations of where he
9 – – where did he say he was when he fired the shot?

10 A Initially, he stated he couldn't recall where he was
11 standing at. When we asked him again, he consulted with his
12 attorney and they came back into the room and at that point, he
13 stated that he was towards the back of his patrol car and in front of
14 the violator's car, kind of in between the two.

15 Q All right. Is the angle of the bullet and the finding of the
16 medical examiner consistent with that explanation by Jacob
17 Thompson?

18 A No, not in review of that and the video evidence. No, sir.
19 It's not.

20 Q Okay. Now, there was also some investigation as to the
21 potential of the vehicle being able to be in motion or be used as a
22 weapon?

23 A Yes, sir.

24 Q In particular, whether the vehicle's tires were operable or
25 spinning or attempting to spin. Did you do any analysis or

1 checking about the physical evidence of the tires in this case?

2 A Yes, we did.

3 Q All right. What did you find?

4 A So like I said, the vehicle is a front-wheel drive car. And
5 based off the resting position of the car after the crash and this is
6 soft sand that the driver's side of the vehicle was in, there's no
7 indication that that front tire was ever rotated. There's no signs or
8 evidence of that at the scene.

9 Q And is that consistent with Trooper Thompson's
10 statement?

11 A No, it's not.

12 Q Now, you also said that you looked at the angle of the
13 tires as they were pointed from the vehicle or coming out of that
14 ditch. You said you made a notation of that. What did you find
15 there?

16 A The front wheels of the vehicle were slightly turned
17 toward the passenger's side of Mr. Lewis's vehicle, which would
18 have been away from Trooper Thompson.

19 Q All right. And so is that consistent with Trooper
20 Thompson's statement?

21 A No, it's not.

22 Q Also, I think you did some analysis as to the interior of
23 the victim's car in this case, in which you discovered something
24 about both the battery and the air filter in this case. Can you tell
25 the Court about that?

1 A Yeah. So upon having the vehicle removed from the
2 crime scene, it wouldn't turn over. There was no power to the car.
3 Once the hood was popped, the negative terminal on the battery
4 cable was loose. And once you made a better connection, that
5 gave power to the car, which allowed for the windows to roll up on
6 the vehicle so we could secure the vehicle.

7 Q All right. And so when you discovered this vehicle, did it
8 have that brake -- I'm sorry, that battery cable loose at that time?

9 A Yes, it was. And the battery was kind of -- the bracket
10 was kind of broken, and the battery was kind of pushed towards
11 the firewall.

12 Q All right. Now, to sort of -- to be more specific, when
13 the PIT maneuver occurred, did it cause Lewis's vehicle to slide into
14 the ditch on that dirt road?

15 A Yes, sir.

16 Q All right. And as it did that, did it then point the
17 opposite direction it was initially traveling?

18 A Yes, sir.

19 Q All right. And then when it came to a final rest there,
20 you analyzed the car as it sat in the ditch?

21 A Yes, sir.

22 Q And that's when you saw that the battery cable had
23 come loose?

24 A Yes, sir.

25 Q All right. And to your knowledge, nobody else had

1 touched or interfered with that vehicle?

2 A No, sir. Not based off everything we reviewed and the
3 people we interviewed.

4 Q Okay. And watching the dash cam as well and
5 everybody that was there?

6 A Yes, and of other vehicles as well.

7 Q Right. All right. And so also did you discover -- I think
8 you mentioned something about the air filter in that case?

9 A Yes, sir. This vehicle has an air intake that has a plastic
10 shroud over where the air filter goes, and it has metal snaps that
11 secure that. What we determined is at the time of -- after the
12 crash and upon towing the vehicle, those snaps were undone and
13 the air filter was loose. We done some testing on the vehicle and if
14 the battery cable has a good connection and if you undo that air
15 filter, it cuts the car off.

16 Q All right. And so in this particular car as driven by the
17 victim in this case, if the battery cable came loose, would it cause
18 the vehicle to be inoperable?

19 A Yes, sir.

20 Q And also in this case, as to the air filter, if the air filter
21 came loose, would it cause the vehicle to be inoperable?

22 A Yes.

23 Q And was that the state in which you discovered this
24 vehicle on the scene?

25 A Yes.

1 Q And is that consistent with the statement of Jacob
2 Gordon Thompson?

3 A It is not.

4 Q And based on that, did that cause you to come to your
5 conclusions about your testimony as it pertains to the justification
6 of shooting?

7 A Yes.

8 Q And then also, then, as a result, did that cause you to
9 swear out the warrants that we've stated earlier for the aggravated
10 assault and felony murder?

11 A Yes, sir.

12 MR. BLACK: Thank you. That's all the questions I have.

13 THE COURT: Questions?

14 CROSS-EXAMINATION BY MR. PERSSE:

15 Q Agent Peak, you've talked about, I'll say, problems with
16 the vehicle that you say rendered it inoperable?

17 A Yes, sir.

18 Q Okay. And you were required -- you and whatever
19 other agents were out there -- to inspect the vehicle to determine
20 these issues?

21 A Yes, sir.

22 Q And that would have required you to lift the hood and
23 look at the engine?

24 A Yes, sir.

25 Q Among other things. And inspect different parts of the

1 vehicle as well?

2 A Can you clarify what you mean?

3 Q Well, you had to go inside the interior of the vehicle?

4 A Yes, sir.

5 Q You had to open the hood and look at that battery and
6 all this other stuff?

7 A Yes, sir.

8 Q And look at the wheels and things. How long did that
9 take?

10 A We were there, like I said, you know, sometime after
11 around ten o'clock. We didn't get done until the early morning
12 hours. I want to say somewhere around four, four o'clock. Four or
13 five o'clock.

14 Q So you're talking about, give or take, five or six hours?

15 A At least.

16 Q Okay. Now, you referenced this one second, and your
17 conclusion it was one second is from the dash cam on the
18 trooper's vehicle?

19 A Yes, sir.

20 Q Okay. And is it fair to say in your conclusion, you're
21 assuming that that machinery was working properly?

22 A Yes, sir.

23 Q Now, you searched the interior of the vehicle. Can you
24 tell us what you discovered?

25 A Mr. -- in Mr. Lewis's vehicle?

1 Q Yes, sorry.

2 A Mr. Lewis was seated in the driver's seat of the vehicle.

3 We discovered that the car was in drive. Keys were still in the

4 ignition. Mr. Lewis's hands were in his lap. We didn't find any

5 firearms. We found a cell phone that was in the driver's side

6 pocket of the door. A lot of blood on the backside of the car and

7 the center of the seat between the front seat and the back seat.

8 But in terms of evidence, the only thing we found was a cell phone

9 inside the pocket of the door. There was no firearms found.

10 Q Any indication of alcohol or drugs?

11 A Yes, sir. There was a beer that was in the center console

12 that was unopened.

13 Q Okay. And with respect to drugs?

14 A No, sir. No drugs were found.

15 Q Now, of course, I'm not a police officer. But I think you

16 would admit when an officer in any agency has to use deadly force

17 in a traumatic moment, it can be a traumatic event?

18 A Sure, it can be a traumatic event.

19 Q And is it unusual for that to happen that the officer may

20 not have a hundred percent total recall exactly what all happened?

21 A I'm sure it's possible.

22 Q Okay. I mean, a serious incident like that has got to

23 affect somebody.

24 A I'm sure.

25 Q Okay. Now, I want to ask you a couple of questions. I

1 think you heard my presentation, but I'll narrow this down, okay.
2 Do you have any evidence that this man poses a risk of fleeing
3 from this jurisdiction?

4 A I personally don't have any evidence.

5 Q Any evidence that he's a significant threat or danger to
6 anybody or the community?

7 A Well, he just committed a crime of aggravated assault
8 and felony murder. That would be my --

9 Q That's your contention. My question is, do you have
10 evidence that he's a threat to anyone right now?

11 A I don't know what he intends to do when he leaves us,
12 but I have no direct knowledge of what --

13 Q Okay. So your answer is you don't have any evidence?
14 You have your thoughts about it, but I want to know if you have
15 factual evidence to back that claim up.

16 A Of something happening in the future? No, sir.

17 Q Okay. So basically, you can't say, based on real, factual
18 evidence, that he's a risk to anybody or any claim of obstructing
19 justice or anything like that in the future until this case is resolved?

20 A I have no direct knowledge of what he intends to do in
21 the future, so I can't say on that.

22 Q Right. That's what I mean. Thank you.

23 THE COURT: Other questions?

24 MR. BLACK: Nothing further for this witness.

25 THE COURT: Thank you, sir. You can step down. Other

1 evidence?

2 MR. BLACK: Yes, Your Honor. I believe one of the family
3 members wanted to address the Court as it pertains to bond.
4 His wife, Ms. Lewis, has asked to address the Court as to
5 bond.

6 THE COURT: Mr. Brinson, why don't you bring Ms. Lewis
7 up in front of the box? And Mr. Brinson, if you would position
8 a mic so that it might amplify her voice.

9 (NOTE: Whereupon, the witness and Mr. Johnson approached
10 the stand and was sworn by the Court.)

11 THE COURT: Thank you. Mr. Johnson, you can have a
12 seat.

13 MR. JOHNSON: Yes, sir.

14 THE WITNESS: Okay. Your Honor --

15 MR. BLACK: If you would --

16 THE COURT: Let me ask you, if you would, respond to
17 questions that Mr. Black might have.

18 THE WITNESS: Oh, okay.

19 BETTY LEWIS, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY MR. BLACK:

21 Q No problem. Okay. Could you tell everyone what your
22 name is?

23 A Betty Lewis.

24 Q All right. And where do you live?

25 A I live in Screven County.

1 Q All right. And how are you related to this case?

2 A It's my husband. Julian was my husband.

3 Q All right. The victim in this particular case?

4 A Yes.

5 Q And it's my understanding that as family of the victim,
6 you asked to address the Court --

7 A Yes.

8 Q -- as to the Court's consideration for bond?

9 A Yes.

10 Q Okay. Do you have any specific things relevant to what
11 we've been discussing that you would like to address the Court on?

12 A Yes.

13 Q If you would, please.

14 A Okay. (Reading document.) Your Honor, my name is
15 Betty Lewis, like I said. My husband was Julian Lewis. I made our
16 home here in Screven County. Julian's son, Brook Bacon, lives in
17 New Hampshire, but he was unable to get here today. We both are
18 brokenhearted. Nights are lonely. Our sorrowful is within, without
19 end.

20 I do not believe Jacob Thomas (sic), his characterization of
21 Julian as threatening in his life.

22 THE COURT: Ms. Lewis?

23 THE WITNESS: Yes.

24 THE COURT: Do you feel comfortable speaking without
25 your mask on?

1 THE WITNESS: No, I can take it off.

2 THE COURT: All right. That will help me hear you
3 better.

4 THE WITNESS: Okay.

5 THE COURT: I'm about half hard of hearing anyhow.

6 THE WITNESS: Okay.

7 A I don't believe Jacob Thomas (sic), his characterization of
8 Julian as threatening his life, reviving (sic) the engine and moving
9 the steering back and forth, as Julian was going to kill Jacob
10 Thomas was his last words. That was a lie. It was the ugliest kind
11 of lie that endangered black people when it comes to the police. It
12 plays on the stereotypes that black men are violent.

13 Deny his bond because he is a flight risk. He has powerful
14 friends who have raised thousands of -- for him almost overnight.
15 Deny his bond because he is a danger to our community. He has
16 -- he is accused of felony murder and aggravated assault, some of
17 the most serious crimes under law. This is compound by the facts.
18 The day he was given -- the day he was given a badge and gun
19 and to whom much was given, much more is required.

20 Deny his bond because he will intimidate witnesses. We
21 already feel that intimidation from power people, whom support
22 for his law enforcement blindly leads them to say hurtful things
23 about Julian.

24 The Lewis family, our attorney, and even law enforcement like
25 the GBI -- deny his bond and send a signal to the community by

1 justice is real in the Southeast Georgia. If it was Julian asking for
2 no bond instead of Jacob, that answer would be no. We all know
3 that. We know that even as we don't want it admitted to.

4 Q Is that all you have to address the Court?

5 A That's all I have.

6 Q Thank you for being here. If you'll answer any questions
7 that Mr. Persse has, please.

8 A Okay.

9 THE COURT: Mr. Persse?

10 MR. PERSSE: I don't have any questions for Ms. Lewis.

11 THE COURT: Thank you. Thank you, Ms. Lewis.

12 THE WITNESS: Thank you.

13 THE COURT: Mr. Brinson, if you would take her back to
14 her seat.

15 Mr. Black, any other evidence?

16 MR. BLACK: Nothing further to offer at this time on this
17 issue.

18 THE COURT: All right. Argument? And Mr. Persse, do
19 you reserve?

20 MR. PERSSE: Yes, sir.

21 THE COURT: Thank you.

22 MR. BLACK: Judge, it's an unfortunate situation all
23 around, and it is unfortunate that we are all here dealing with
24 this, but we will continue to stand on our recommendation.
25 We must oppose bond in this particular case. The best

1 reading of future events is past behavior, and we feel that the
2 facts in this particular case, the gravity of it and the
3 seriousness of it, indicates a possibility of violation of the
4 factors before the Court. And therefore, we would ask the
5 Court to deny bond. Thank you.

6 THE COURT: Thank you. Mr. Persse?

7 MR. PERSSE: My presentation was -- obviously has
8 already been presented, but I do want to speak to one thing.

9 THE COURT: Sure.

10 MR. PERSSE: Mr. Black mentioned, you know, the
11 possibilities of something that might happen. Well, the State
12 has not provided any facts. They have not produced any
13 evidence that refutes the four factors listed in the statute.
14 The GBI agent was pretty fair about that. You know, they're
15 serious charges and you never know what somebody will do.
16 But the fact of the matter is there is no factual evidence in the
17 record that shows he is not absolutely qualified for a bond in
18 this case.

19 We'd ask that he be granted bond. The Court can put as
20 many restrictions on it, can make it as large as he wants. But
21 we just ask that a bond be set. Thank you.

22 THE COURT: Thank you, Mr. Persse. The Court would
23 consider the matter, the evidence presented and the
24 arguments made, and enter an order.

25 MR. PERSSE: Yes, sir.

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MR. BLACK: Thank you, Judge.

THE COURT: Thank you.

END OF PROCEEDINGS.

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CERTIFICATE

STATE OF GEORGIA)
COUNTY OF BULLOCH)

This is to certify that the foregoing twenty-nine (29) pages of typewritten material were taken down and transcribed by me, and that the same contain a true and accurate transcript of the proceedings as stated in the caption.

I further certify that I am not of kin nor counsel to any of the parties hereto, nor am I an interested party to these proceedings.

IN WITNESS WHEREOF, I affix my hand and seal this 10th day of August, 2020.



KELLY S. CLAXTON, CCR, CVR-M
GEORGIA NO. 2504



EXHIBIT “E”

GEORGIA DEPARTMENT OF PUBLIC SAFETY POLICY MANUAL

Policy Number 17.02.4(E)(7)(f)

Georgia Department of Public Safety

Policy Manual

SUBJECT PURSUIITS	POLICY NUMBER 17.02
DISTRIBUTION ALL EMPLOYEES	REVISED DATE 5/15/2019
	POLICY REVIEWED 5/15/2019

17.02.1 Purpose

To maximize the Member’s safety, the safety of the motoring public, and to minimize exposure to liability. With this in mind, this policy shall serve as a framework for sworn officers of the Department to make a reasonable determination, consistent with the provisions of policy and in accordance with their training, whether to engage in, or continue, a pursuit. It is intended to provide guidance to all employees in evaluating circumstances, responsibilities, roles and restrictions with regard to pursuits. In an effort to achieve this purpose, requirements for reporting and reviewing the circumstances of each pursuit are established herein.

17.02.2 Policy

Sworn members of the Department are expected to make reasonable efforts to apprehend violators who flee or otherwise attempt to elude. However, the Department recognizes and respects the value and special integrity of each and every human life. In vesting members with the lawful authority to use force in the protection of the public welfare, a special balancing of all human interests is required. Members, in the performance of their duty, must use only the force that is reasonably necessary to bring an incident under control. It is paramount that members exercise prudent and sound judgment in their actions when engaging in pursuits. Members must comply with existing laws governing vehicle pursuits. At the same time, they must use sound discretion and good judgment in each pursuit. It must be understood that every violator will not be apprehended. In some situations the most professional and reasonable decision would be to terminate a pursuit in the interest of their own and the public’s safety.

17.02.3 Definitions

- A. **Deadly Force** - The application of any instrument that is likely to produce death or serious physical injury under the circumstances of its use. Such instruments include but are not limited to: firearms, flashlights, riot batons, knives or automobiles.
- B. **Primary Pursuit Unit** - The sworn member who assumes control of the pursuit as the principle vehicle immediately following the pursued vehicle.
- C. **Pursuit** - An active attempt by a sworn member in an authorized emergency vehicle to apprehend fleeing suspects who are attempting to avoid capture.
- D. **Precision Immobilization Technique (PIT)** The intentional act of using a patrol vehicle to physically force a fleeing vehicle from a course of travel in order to stop it. The PIT maneuver is a specific, technical maneuver which requires advanced practical

training prior to use. When executed by properly trained members under reasonable and prudent circumstances, the PIT maneuver does not constitute deadly force. In other circumstances, the PIT maneuver may constitute deadly force and may only be used when authorized by law.

- E. Roadblock – A physical blocking of the road with law enforcement vehicles, barricades or other obstructions to stop the pursued vehicle.
- F. Rolling Roadblock or "Boxing In" - A technique designed to stop a pursued vehicle by surrounding it with law enforcement vehicles and slowing all vehicles to a stop.
- G. Secondary Pursuit Unit - A sworn member operating a patrol car actively involved in the pursuit other than the primary unit.
- H. Serious Bodily Injury – Bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- I. Termination of a Pursuit – Any overt action taken by a member to end a pursuit. This includes the decision to discontinue the pursuit, roadblocks, tire deflating devices, PIT maneuvers or other actions. An incident report shall be completed for all pursuits in which a termination is attempted.
- J. Tire Deflating Device - Tire deflating spikes utilized to deflate a pursued vehicle's tires.
- K. Channelization – A tactic used to re-direct the path of a pursuit. It is a technique similar to a Stationary Roadblock in which objects or vehicles are positioned in the anticipated path of a pursuit in a manner intended to direct or re-direct a fleeing vehicle into a clearly identifiable and unobstructed path.
 - 1. A Trooper/Officer may use his/her vehicle in motion for channelization. A departmental vehicle will not initiate any contact with a violator's vehicle while using Channelization in an effort to force a vehicle from its anticipated path.

17.02.4 Procedures

- A. In determining the appropriateness, speed and extent of a pursuit, the sworn member must exercise great care to ensure that his or her actions are objectively reasonable. In doing so, members should consider the following:
 - 1. The nature of the offense committed by the suspect, the potential danger to the public if the suspect is not immediately apprehended and the probability of the suspect's arrest at a later date;
 - 2. The existing traffic conditions, road surface and width, weather, visibility, road familiarity, type of area (urban, residential, rural) or any condition that would create additional dangers for present traffic or the public;
 - 3. The limitations and conditions of both the sworn member, the patrol car, the patrol motorcycle, and
 - 4. Other factors that indicate the possible commission of a felony.

5. Deadly force will only be used against a fleeing vehicle or its occupants as set forth in the Use of Force policy.

B. Use of Emergency Warning Devices During Pursuit

1. Blue lights and siren shall be used from the time the pursuit starts until the pursuit ends. Wigwags shall be used if equipped and operational.
 - a. The law permits sworn members who are engaged in pursuits to exceed the speed limit and to disregard other traffic regulations as necessary in apprehending the violator, but only:
 - 1) If the emergency lights and siren are employed, and
 - 2) The officer exercises due regard for the safety of all persons.
 - b. It is understood that the sworn member's ability to supervise or control other motorists is limited by the nature of existing circumstances, but troopers/officers should avoid contributing to the danger that has already been created by the violating motorist.

C. Pursuit Restrictions

1. Sworn members will not engage in pursuits under the following conditions when:
 - a. Emergency equipment or the radio is not functioning properly, or
 - b. An inmate(s) or person(s) in custody occupy his vehicle.
2. When practical, video equipment should be operational during pursuits.

D. General Pursuit Procedures

1. The primary pursuit unit will immediately notify a DPS Communications Center of the pursuit and give the following information, if possible:
 - a. Location and direction of travel;
 - b. Description of the pursued vehicle;
 - c. Number and description of occupant(s);
 - d. Any information concerning the use of firearms, threat of force, or other hazard,
 - e. Observed danger to public safety,
 - f. Options for terminating the pursuit (i.e. tire deflation devices and "boxing in"), and
 - g. Any need for assistance.
2. Consideration for safety shall govern the number of units that participate in a pursuit.

- a. A secondary unit should stay back a safe distance from the primary unit and handle all radio traffic.
- b. If the primary unit is an unmarked car, it will yield the primary position to a marked patrol car as soon as practical.
- c. If the primary unit is a patrol motorcycle, it will yield primary position to a marked patrol car. The patrol motorcycle will discontinue pursuit when a secondary patrol car becomes involved, but will proceed to the termination point of the pursuit to provide guidance and information required for arrest.
- d. In the event the pursuit crosses into another Post's/Region's territory, the primary unit, if possible, will yield the primary position to a sworn member who is more familiar with the roads.
- e. Unless approved by an appropriate supervisor, no more than three patrol cars should be engaged in the pursuit at one time. Other sworn members will not join in the pursuit, but shall monitor the progress of the pursuit and be prepared to assist by positioning themselves at possible intersecting routes and shall exercise due regard for the safety of all persons.
- f. In the event the patrol car, which initially engaged in the pursuit, has yielded the primary position to another patrol car, the initial car will proceed to the termination point of the pursuit to provide guidance and information required for arrest.

E. Terminating a Pursuit

1. Discontinuing a Pursuit

- a. The pursuit shall be discontinued if, in the sworn member's opinion, the risk of continuing outweighs the danger of permitting the suspect to escape.
 - 1) Under most circumstances the sworn member should exercise his discretion to discontinue a pursuit when:
 - a) The suspect is positively identified and there is no longer a need for immediate apprehension;
 - b) The pursued vehicle's location is no longer definitely known;
 - c) Emergency equipment or radio of the sworn member's vehicle fails to work properly;
 - d) Traffic volume and/or road conditions dictate that it is too hazardous for the pursuit to continue, and
 - e) A patrol motorcycle in a pursuit is unable to obtain assistance from a marked patrol car.
- b. A decision to discontinue a pursuit shall be reported immediately to the Communications Center and recorded on the Communications Log.

2. Tire Deflating Devices

- a. The use of tire deflating devices will be governed by sound professional judgment and only under the following circumstances:
 - 1) The sworn member has reasonable cause to believe the suspect has committed an offense justifying the suspect's arrest.
 - 2) The pursuing sworn member has attempted to apprehend the suspect by means of both a blue light and siren, and the suspect has ignored the attempt.
 - 3) The sworn member utilizing tire deflating devices has received training on the use of the devices. Only tire deflating devices, which have been approved by the department, shall be utilized in accordance with the training received.
 - b. When other law enforcement agencies request a sworn member to assist by using the Department's tire deflating devices, the provisions of this policy shall be followed.
 - c. The use of tire deflating devices shall not be used to stop a pursuit with a motorcycle or vehicle with less than four wheels.
3. Roadblocks
- a. Rolling roadblocks or "boxing in" may be used to stop a vehicle that refuses to stop for blue lights and siren.
 - 1) Members shall use extreme caution if passing the violator's vehicle, and/or when positioning the vehicles to execute the maneuver.
 - 2) This maneuver shall only be attempted when all units involved have received appropriate training in the use of this procedure, and when effective communications between the units is possible.
 - b. Stationary roadblocks will be used only in extraordinary circumstances and only with the permission of an NCO or a commissioned officer. No stationary roadblock shall be set up on a hillcrest or in a curve. The roadblock must be visible from a sufficient distance to allow the suspect the opportunity to safely stop.

When setting up a roadblock, sworn member shall take measures to protect and warn other motorists. Whenever possible, a minimum of three units should be used: two units to block the lanes of travel and one to warn and direct traffic approaching from the opposite direction.
 - c. Private vehicles shall not be used to establish a stationary roadblock.
4. PIT Maneuver
- a. If the trooper/officer or troopers/officers in the pursuit determine that the fleeing vehicle must be stopped immediately to safeguard life and preserve public safety, the PIT maneuver may be used.
 - b. The PIT maneuver shall only be used by troopers/officers in accordance with Department training received on the PIT maneuver.

- c. The PIT maneuver should not be used until other methods for stopping a fleeing vehicle (e.g. tire deflation devices and roadblocks) have been considered and determined to be not feasible.
- d. The PIT maneuver should be used only when the danger from the continued pursuit is greater than the danger associated with the using the maneuver to end the pursuit. Before the PIT maneuver is used, factors that affect the safety of using the technique should be considered. These factors include:
 - 1) Condition of the road:
 - a) Wet or dry
 - b) Width
 - c) Divider or other obstruction
 - d) Roadside obstructions (trees, ditches, buildings, etc.)
 - 2) Visibility:
 - a) Distance ahead
 - b) Darkness
 - 3) Traffic volume:
 - a) Anticipated volume due to time of day (school hours, commuter traffic)
 - b) Actual volume based upon observation
 - 4) Pedestrian traffic:
 - a) Anticipated volume due to location (school or college nearby, industrial area)
 - b) Actual volume based upon observation
 - 5) Type of fleeing vehicle:
 - a) Pickup truck (high center of gravity, narrow wheel base)
 - b) Small car (narrow wheel base, small tires)
 - c) Van (high center of gravity, narrow wheel base)
 - 6) Occupants:
 - a) Number of people in the vehicle
 - b) Whether children are visible in the vehicle
 - c) Whether the occupants are wearing seatbelts
 - d) Whether the windows are down

- 7) Reasonable speed as determined by the following factors:
 - a) Whether the violator is showing total disregard for public safety
 - b) Whether the violator is slowing but not stopping for stop signs or other traffic control devices
 - c) Whether the violator is darting at other vehicles
 - d) Whether the violator is driving on the wrong side of the road
 - e) Whether the violator is running other motorists off the road
 - e. The PIT maneuver is considered a use of force and the trooper's/officer's individual actions must be objectively reasonable. The trooper/officer will consider all the factors listed above, including his experience, his abilities, and the danger of continuing the pursuit. The PIT maneuver will only be executed when the need to stop the pursuit is immediate. The trooper/officer must be able to articulate the reason for his actions.
 - f. The PIT maneuver shall not be used to stop a pursuit with a motorcycle or All-Terrain Vehicle (ATV).
5. Reporting and Review of Terminated Pursuits
- a. Whenever possible, the member who attempts to terminate a pursuit shall notify the Communications Center in the Post territory where the termination will occur prior to the attempt. In any event, the member, or another member involved in the pursuit, shall notify the Communications Center as soon as possible following the termination.
 - b. When a pursuit passes through multiple troops or regions, the Troop/Region/Unit Commander shall coordinate in the completion of all necessary paperwork. The report shall be filed by the most involved member. Copies of the report shall be maintained in all Troops/Regions/Units.
 - c. Terminated pursuits that do not result in a death or a serious bodily injury,
 - 1) The member using the technique shall complete an Incident Report on the terminated pursuit and submit it to his Post Commander. The original or a copy of any video recordings from units involved shall be submitted with the Incident Report.
 - 2) The report must be filed within twenty-four (24) hours after the pursuit.
 - 3) The Post Commander shall refer the report to his Troop Officer or Unit Commander.
 - 4) The Troop Officer or Unit Commander, after reviewing the report, shall conduct a meeting with the member who terminated the pursuit, an NCO in whose territory the pursuit was terminated, the member's immediate supervisor, and such other personnel as the Troop Officer or Unit Commander deems appropriate to critique the method of terminating the pursuit in that situation.

- 5) A critique report evaluating the termination of the pursuit will be prepared by the Troop Officer or Unit Commander and sent to the Commanding Officer.
- d. Terminated pursuit resulting in a death or a serious bodily injury
- 1) Any member who terminates a pursuit resulting in a death or a serious bodily injury shall immediately notify his supervisor. The supervisor shall notify the Troop/Unit officer on duty, who shall notify the Commanding Officer.
 - 2) The member using the technique shall complete an Incident Report on the termination of the pursuit and submit it to his Post Commander. The original or a copy of any video recordings from units involved shall be submitted with the Incident Report.
 - 3) The report must be filed within twenty-four (24) hours after the pursuit.
 - 4) The Troop/Unit officer will notify the Office of Professional Standards and the appropriate Specialized Collision Reconstruction Team.
 - 5) The incident shall be investigated by the Office of Professional Standards.
 - 6) The Office of Professional Standards will have the overall responsibility of investigating whether the termination of the pursuit was in accordance with this policy. The Specialized Collision Reconstruction Team will provide technical assistance and support to the Office of Professional Standards in conducting its investigation.
 - 7) The crash scene should not be unnecessarily disturbed until the Specialized Collision Reconstruction Team has had an opportunity to view the site.
 - 8) The Office of Professional Standards shall issue a report containing its findings on the investigation to the member's Troop Officer or Unit Commander.
 - 9) The Troop Officer or Unit Commander, after reviewing the report, shall conduct a meeting with the member who terminated the pursuit, an NCO in whose territory the pursuit was terminated, the member's immediate supervisor, and such other personnel as the Troop Officer or Unit Commander deems appropriate to critique the method of terminating the pursuit in that situation.
 - 10) A critique report evaluating the termination of the pursuit will be prepared by the Troop Officer or Unit Commander and sent to the Commanding Officer.
 - 11) The Troop/Region/Unit Commander shall ensure that the member submits to a blood test in the following circumstances:
 - a) When there is contact between the member's vehicle and the seriously injured/deceased party's vehicle, and/or

- b) Any other circumstance deemed appropriate by the Troop/Region/Unit Commander or the Commanding Officer.
- e. A Troop or Unit Commander may request the assistance of the Office of Professional Standards and/or the Specialized Collision Reconstruction Teams to investigate any pursuit termination without regard to injuries or fatalities if he feels the situation warrants.
- f. Any termination of a pursuit which results in contact between the member's vehicle and the vehicle of the violator or another person shall be reported to the Post in whose territory the collision occurred. An NCO from that Post shall complete a crash report in accordance with Policy Statement 17.03, "Traffic Crash Investigations", Section 17.03.5(A).
- g. A member who terminates a pursuit resulting in death or serious bodily injury, may be placed on paid administrative leave for a minimum of three days or until approved for return to duty by Commanding Officer or Division Commander.
 - 1) This period of leave is intended to provide the department sufficient time to conduct an initial investigation of the incident and to provide the member time to participate in a post incident debriefing or seek professional counseling, if necessary.
 - 2) Placement on paid administrative leave, as outlined above, shall not be interpreted to imply the member has acted improperly.
- h. The Pursuit and/or PIT critique and determination(s) shall be entered into the Employee Tracking System (ETS) by the appropriate Troop/Region/Unit.

6. Use of Firearms

a. General guidelines in pursuits:

- 1) Firearms will only be used against a fleeing vehicle or its occupants, when the sworn member reasonably believes the occupants of the fleeing vehicle are using deadly physical force against the sworn member or another person; or
- 2) In a life endangering situation, a Post/Station Commander or commissioned officer may authorize the use of firearms to terminate the pursuit, and
- 3) Sworn members are not required to retreat in lieu of the justifiable use of deadly physical force. Nevertheless, the use of deadly physical force must be objectively reasonable in light of the circumstances that faced the sworn member at the time of the incident. The sworn member must be able to articulate the reason for his actions.

7. Pursuit Apprehension

Once the fleeing vehicle is stopped, the suspect apprehended, and the situation is rendered passive, other sworn members will respond to or remain at the scene only upon the direction of a supervisor.

8. Pursuit Across State Lines

- a. Post Commanders of Posts bordering state lines should establish liaison with out-of-state law enforcement agencies in order to coordinate and develop contingency plans for pursuits that affect both states' jurisdictions.
 - 1) When a felon being pursued flees across the state line, the affected state will be notified as soon as possible. Upon entering the adjacent state, the sworn member will yield the primary pursuit position to the first law enforcement officer encountered in that state, but will remain as a secondary unit until a second unit of that same state is encountered. At such time, the sworn members will yield the secondary position to that unit and terminate their participation in the pursuit.
 - 2) When a person wanted for a misdemeanor flees across the state line, the sworn member shall terminate the pursuit and immediately notify the affected state.

9. Pursuits by Other Agencies

Sworn members shall not join in the pursuit unless requested to do so by the pursuing agency. When joining a pursuit initiated by another agency, sworn members shall obtain details regarding the origin and progress of the pursuit. The guidelines set forth in this policy shall apply.

F. Communication Center Responsibilities:

1. When notified that a pursuit is in progress, obtain and record all information possible, including vehicle model, make, color and tag number, description of driver, number of passengers, location and direction of travel;
2. Notify other DPS units and a supervisor that the pursuit is in progress;
3. Notify other agencies in the area, which may be needed to assist;
4. Control all radio communications and clear the radio of all non-emergency calls;
5. Coordinate and dispatch back-up assistance and air support units under the direction of the supervisor, and
6. If the pursuit enters a bordering state, notify law enforcement in that state.
7. Document all pertinent information about the pursuit.
8. When assistance is requested by another agency, obtain and record all available information regarding the origin and progress of the pursuit and notify troopers/officers assisting.

G. Training Requirement

1. Sworn members shall not engage in a pursuit until they have successfully completed a Department-sponsored Emergency Vehicle Operations Course.
2. All DPS personnel that operate a vehicle equipped with emergency equipment (lights/sirens) shall receive four hours of classroom training regarding pursuits each year.

3. All Department law enforcement personnel shall retain a current copy of this policy and shall use the policy as a guideline as a basis for engaging in, continuing and terminating a pursuit.
- H. An annual analysis of all pursuit reports submitted shall be prepared at the end of each calendar year by the Technology Director or his designee. After the documented analysis is completed, the report shall be presented, in writing, to the Commissioner of the Department of Public Safety for their review. This information shall also be provided to the Board of Public Safety and the Training Division for their review.

EXHIBIT “F”

GEORGIA DEPARTMENT OF PUBLIC SAFETY POLICY MANUAL

Policy Number 10.01.6

Georgia Department of Public Safety

Policy Manual

SUBJECT USE OF FORCE	POLICY NUMBER 10.01
DISTRIBUTION ALL EMPLOYEES	REVISED DATE 11/14/2019
	POLICY REVIEWED 11/14/2019

10.01.1 Purpose

To establish policy and procedures governing the use of force by members of the Department of Public Safety. This policy and the standards contained herein are for the Department of Public Safety's use only, and the standards or policy established do not apply in any criminal or civil proceedings. Even though in certain instances our standards or policy contained herein may be more stringent than legal standards for criminal or civil liability, they are not to be construed as creating a higher legal standard of safety or care by which the member is to be bound in an evidentiary sense with respect to claims by others involving criminal or civil liability. The violation of this policy will subject the member to Department disciplinary action only, and shall not form the basis for civil and/or criminal action.

10.01.2 Policy

The Department of Public Safety recognizes and respects the value of human life. Occasionally, members in the performance of their duties encounter situations where the use of force reasonably appears necessary in order to affect a detention or an arrest, overcome resistance, control a subject or protect themselves or others from injury. Reasonable force, as set forth in this policy, may be used in those situations.

10.01.3 Definitions

- A. Member – Sworn employees of the Department of Public Safety who have been certified by the Peace Officer Standards and Training Council as law enforcement officers possessing arrest powers, and non-sworn security employees of the Department of Public Safety.
- B. Authorized Weapon - A weapon approved or issued by the Department for official use by its members.
- C. Deadly Weapon - A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use can cause death or serious bodily injury.
- D. Bodily Injury - Physical pain, illness, or any impairment of physical condition.
- E. Serious Bodily Injury - Bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

- F. Less-Lethal Force - Force which, under the circumstances, does not have a reasonable probability of causing death.
- G. Less-Lethal Munitions – A DPS approved projectile delivery tool that, when used in accordance with DPS training, is less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- H. Deadly Force - The force that has a reasonable probability of causing death.
- I. Forcible Felony - Any felony that involves the use or threat of physical force or violence against any person.
- J. Physical Strength and Skill - Any physical actions by one or more members (e.g. holding, restraining, pushing, and pulling) which may include special skills (e.g. boxing, karate, and judo) but do not include the use of deadly force or any authorized or other weapons.
- K. Probable Cause - Probable Cause is an objective standard. It is that total set of apparent facts and circumstances that forms a reasonable belief that a crime has been or is about to be committed.
- L. Reasonable – The U.S. Supreme Court in *Graham v. Conner*, 490 U.S. 386 (1989), acknowledged that the “reasonableness” test in analyzing the use of force is “not capable of precise definition or mechanical application.” For that reason, in determining whether a member’s use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the member at the time force was used. All of the surrounding circumstances will be considered, including whether the subject posed an immediate threat to the safety of the member or others, the severity of the crime at issue and whether the suspect actively resisted arrest or attempted to flee. The evaluation of a member’s use of force will be undertaken from the perspective of a reasonable member on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the member was objectively reasonable in light of the particular circumstances perceived by the member.

10.01.4 General Provisions

A. Use of Force

- 1. Reasonable force may be used to affect a lawful investigative detention or arrest; control a subject who is in lawful custody; prevent an escape; or protect the member, the subject, or another person from injury or death.
- 2. Any other provision notwithstanding, members may use any weapon (or use any weapon in any manner) if any member reasonably believes that emergency circumstances make it immediately necessary to do so to prevent serious bodily injury or death.

B. Amount and Degree of Force

Any use of force (up to and including deadly force) by a member must be objectively reasonable. In determining whether a member’s use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the member at the time force was used. All of the surrounding circumstances will be considered, including whether the subject posed an immediate threat to the safety of the member or others, the severity of the crime at issue and whether the suspect actively resisted arrest or attempted to flee. The evaluation of a member’s use of

force will be undertaken from the perspective of a reasonable member on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the member was objectively reasonable in light of the particular circumstances perceived by the member.

C. Application of Force

When a member is performing their duty, there exists the potential for the use of force. The member should not only maintain environmental and situational awareness, but also be mentally and physically prepared to control a resisting or violent subject. When confronted with a resisting or violent subject, the member will have to utilize some level of force to ensure control. This level of force should be objectively reasonable (as referenced in 10.01.4, B) to maintain control, effect an arrest, or to accomplish other lawful objectives.

- D. A member shall, in a timely manner, render or summon necessary medical aid to a person who has been injured if such can be done without endangering the member or others. In those cases where professional medical assistance is rendered, the member will notify their immediate supervisor of the incident and location. If the member is unable to contact a supervisor, the first member on the scene, with the opportunity, will do so.
- E. A member has no obligation to retreat before resorting to the use of force (including deadly force).

10.01.5 Less-Lethal Force

A. Authorized Less Lethal Munitions (Exhibit 10.03-1)

1. Training

Only sworn members who have successfully completed Less-Lethal Munitions Training provided by the DPS Training Division are authorized to use and carry the less lethal munitions, provided however that members with specialized assignments as defined in Policy 25.06-Specialized Assignments, are authorized to use and carry less lethal munitions for which they have successfully completed less-lethal munitions training approved by the commanding officer of the specialized unit to which the member is assigned. Each Troop will designate a less lethal coordinator who will coordinate with the Training Division to develop annual training that shall be delivered to Troop certified less lethal operators.

2. Storage and Replacement

- a. All less lethal launchers and munitions should be stored in a climate-controlled environment in accordance with manufacturer's recommendations.
- b. The Training Division will purchase and replace approximately 25% of existing stock of less lethal munitions on an annual basis.
- c. Expired munitions will be used to conduct less lethal training.

3. Usage

Less-Lethal Munitions may only be used when use is objectively reasonable in response to instances that threaten the safety of the member or others,

the destruction of property, or in response to a civil disturbance.

B. Batons

Only Department-issued batons shall be carried and used. Members shall use batons in a manner consistent with DPS training.

C. Conducted Electrical Weapons

The department authorizes the use of Conducted Electrical Weapons by sworn members who have been trained and certified in their use.

1. Training

Only sworn members who have successfully completed Conducted Electrical Weapons Training, including exposure, provided by the DPS Training Division are authorized to use and carry the CEW.

2. Usage

- a. The CEW may be used when it reasonably appears that it will be an effective and objectively reasonable less-lethal response to resistance option, balancing the need to arrest or subdue the person; the likelihood of injury to the person, to innocent bystanders, or law enforcement officers; and officer safety concerns.
- b. Use and carry of the CEW should be consistent with DPS policy and DPS training.
- c. Deployment of the CEW against any person shall be considered a use of less-lethal physical force. The CEW is not intended to be used as an alternative to the use of deadly physical force.
- d. When possible, the member should give a warning before deploying the CEW and subsequent warnings for additional cycles. The member shall only energize the subject the number of times reasonably necessary to accomplish the operational objective.
- e. When applicable, an announcement should be made to other members or law enforcement officers on the scene that a CEW is going to be used.
- f. The CEW should be used only for official law enforcement purposes. No member shall playfully, maliciously or intentionally misuse a CEW.
- g. In determining the need for additional energy cycles, members should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
- h. The device may also be used in certain circumstances in a drive stun mode.
 - a. This involves pressing the unit against an area of the body based on training. It is important to note that when the device is used in this manner, it is:
 - a) Primarily a pain compliance tool due to a lack of probe spread;
 - b) More likely to leave marks on the subject's skin; and

- c) Subject to the same deployment (use) guidelines and restrictions as those of the CEW in cartridge deployments.
- 3. The CEW should not be pointed at any person unless the member involved reasonably believes that it will be necessary to use the device.
- 4. Restrictions on Usage

The CEW should not be used when the following circumstances are known to exist:

 - a. When the operator cannot, for safety or other reasons, approach the person within the device's effective range;
 - b. In proximity to flammable liquids, gases, blasting materials, or any other highly combustible materials that may be ignited by use of the device, including but not limited to any person who may have been contaminated with combustible liquids;
 - c. When it is reasonable to believe that incapacitation of the person may result in serious injury or death (e.g. incidents listed in paragraph 7 below or where the person's fall may result in injury or death);
 - d. When the person is standing on any form of elevated platform or where the person may not fall directly to the ground;
 - e. A subject fleeing should not be the sole justification for use of a CEW. Severity of the offense and other circumstances should be considered before the member's use of a CEW on a fleeing subject.
 - f. On a handcuffed or secured prisoner, absent active aggressive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
- 5. In less-lethal responses to resistance situations, when possible, members should avoid using CEW on:
 - a. Persons in wheelchairs or in control of a vehicle;
 - b. Pregnant women;
 - c. People with apparent debilitating illness or the elderly;
 - d. Children or those under 80 pounds, or
 - e. Persons with known neuromuscular disorders such as multiple sclerosis, muscular dystrophy, or epilepsy.
- 6. Probe Removal
 - a. CEW probes that penetrate sensitive areas of the subject's body (i.e., neck, face, groin, and, with female subjects, the breast area) will only be removed by medical personnel.
 - b. All other probe removal may be performed, in accordance with training, by a member certified in the use of the CEW.
 - c. Members should dispose of cartridges and probes in the nearest sharps

container (i.e. hospital or ambulance).

- d. Photos should be taken of the affected area after probe removal. With probes that penetrate sensitive areas, photos should be taken (by members of the same gender as the subject) of the affected area prior to and after probe removal.
7. Cartridges
 - a. CEW cartridges shall not be carried loosely in pockets or in similar fashion for long periods of time, because static electricity may cause discharge and serious injury.
 - b. Post Commanders shall maintain an adequate supply of replacement cartridges in a secured area at the Post. The cartridges shall only be accessible by NCO's assigned to the Post.
 - c. A log of replacement cartridges shall be maintained indicating the time and date of issuance, the trooper to whom the cartridge was issued, and the serial number of the cartridge. The log shall be maintained in the Post files for a period of three years and then destroyed locally.
 8. The CEW shall be test-fired at the beginning of each work day for a standard cycle of 5 second spark test. A CEW that does not meet the testing protocol should be taken out of service until repaired. The firing log generated by the CEWs internal software will be inspected by the Troop Officer at post inspections to insure that testing is being conducted and the latest firmware update is installed.
 - a. Unintentional discharge of the CEW will be explained in a letter through channels to the Troop Commander. Unintentional discharges that are deemed negligent will require the member's letter to be forwarded to the Commanding Officer's office for possible disciplinary action.
 9. Use of Force Report
 - a. Use of the CEW is considered a use of force and requires completion of the Incident/Use of Force Report (DPS- 1113).
 - b. With the exception of training, all instances of CEW usage, including unintentional discharges, shall be reported to a supervisor and documented.
 10. CEWs shall be maintained in accordance with the manufacturer's recommendations (i.e. Tasers shall be protected from exposure to moisture, to avoid an accidental discharge.)

10.01.6 Deadly Force

- A. Use of Deadly Force/Firearms Discharge, Generally
 1. The Department recognizes and respects the value and special integrity of each human life. In vesting the members of this agency with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Members will only use force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the member and others.

2. A member may use deadly force to apprehend a suspected felon only when the member reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the member reasonably believes that the suspect poses an immediate threat of physical violence to the member or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm. (O.C.G.A. § 17-4-20).
3. Members are equipped with firearms as a means to protect themselves and others from immediate threat of death or serious bodily injury. Even though all members must be prepared to use their firearms when necessary, they should only do so when objectively reasonable (as referenced in 10.01.4, B).

B. Administrative Requirements After the Use of Deadly Force

1. All incidents involving use of force, which results in serious bodily injury or death, by department members shall be thoroughly investigated by this department for determination of compliance with existing policy and law.
2. Any member involved in a use of force incident, resulting in serious bodily injury or death, shall immediately notify their supervisor. The supervisor shall notify the appropriate adjutant through the chain of command. A Troop/Region Officer will make the initial investigation.
3. An Investigator from the Office of Professional Standards will make a complete investigation of all shootings by members that occur in the performance of their duties.
 - a. The Office of Professional Standards must be notified from the scene of the shooting, when possible, and given the opportunity to view the scene before it is disturbed.
4. A member involved in an incident involving the use of deadly force during the discharge of his official duties shall be placed on paid administrative leave until approved for return to duty by his/her Troop/Region commander, a member of his/her Troop/Region commander's chain of command or someone acting on their behalf. If the use of deadly force results in death, then the administrative leave shall be for a minimum of five calendar days. This period of leave is intended to provide the department sufficient time to conduct an initial investigation of the incident and to provide the member time to participate in a post-incident debriefing or seek professional counseling if necessary. Placement on paid administrative leave as outlined above shall not be interpreted to imply or indicate that the member has acted improperly.

C. Prohibited Use of Firearms

1. Members shall not discharge their firearms under the following circumstances:
 - a. When not in accordance with the provisions of this policy;
 - b. As a warning shot;
 - c. At a fleeing vehicle unless authorized by a Post Commander, or above, in an attempt to disable a vehicle during a pursuit. This shall not prohibit the use of firearms against occupants of a vehicle when the use of deadly force is authorized by law.

- D. Members may draw and have ready any of their authorized weapons for use only when they reasonably anticipate that such weapon(s) may lawfully be used.
- E. Members shall consider the risks to innocent bystanders.
 - 1. A negligent discharge of a firearm, where there is a risk to the public will be investigated by the Office of Professional Standards.
 - 2. A negligent discharge of a firearm, where there is no risk to the public, maybe investigated at the Troop level, at the discretion of the Commanding Officer.
- F. Members are authorized to euthanize an injured animal if the following conditions are met:
 - 1. A reasonable attempt is made to contact the animal's owner or caretaker before the animal is euthanized. Such notification, or attempt, shall be documented on the Dispatcher's Report;
 - 2. Precautions are taken to prevent any ricochets; and
 - 3. The appropriate agency is called to dispose of the carcass.
 - 4. Use of a firearm in this manner shall not be considered a use of force for reporting purposes, as required by this policy. However, an incident report shall be completed.
- G. Carrying Firearms
 - 1. Issued Weapons
 - a. Only issued handguns may be carried in uniform.
 - b. Members must carry their badge and a picture I.D. to carry any authorized weapon off-duty.
 - a. The member must have shown, through the Training Unit, proficiency in the operation of any authorized weapon carried off-duty.
 - b. Only department-authorized ammunition shall be carried in off-duty weapons.
 - c. Shotguns shall be carried with the bolt forward on an empty chamber, trigger pressed, safety on and shells loaded in the magazine tube.
 - a. No plugs are allowed in the magazine.
 - b. Reserve shells shall be maintained in the speed-feed stocks when the shotgun is not in use.
 - d. Rifles shall be carried with the bolt forward on an empty chamber, safety on and a loaded magazine inserted into the magazine well. Extra magazines/ammunition will be stored in the issued immediate response bag.
 - 2. Except in an emergency, only authorized ammunition shall be used in authorized firearms. Authorized ammunition is that approved by the Commissioner of the Department of Public Safety.
- H. Security of Firearms

1. Firearms shall not be left accessible to unauthorized persons. At no time will a member allow any unauthorized person to handle, control or fire any Department authorized weapons.
 - a. Shoulder weapons may be carried in the passenger compartment of the vehicle or in the trunk.
 - 1) If a shotgun/rifle mount is installed in the vehicle, the shotgun/rifle shall be carried in the mount in accordance with DPS training.
 - b. When the vehicle is left unattended in a garage for service or repairs or at any other time where it would be prudent, weapons will be removed and stored in a secure place.

10.01.7 Reporting and Investigations

A. Use of Force Report

1. Any use of force, as referenced in this policy statement, shall require that the member involved complete an Incident/Use of Force Report (DPS-1113) as soon as possible. The member will describe in detail the force used and all of the circumstances and facts surrounding the use of force. The basic questions-who, what, where, when, how and why-must be answered. When complete, the Use of Force Report shall be submitted to the appropriate adjutant through the member's chain of command. The adjutant will forward a copy of the report to the Director of the Office of Professional Standards.
 - a. This policy shall remain in effect at the scene of a civil disorder, unless suspended by issuance of a written directive by the Commissioner prior to deployment of personnel to the incident.
 - b. In the event the Commissioner issues such a directive, the directive shall be maintained as part of the official documentation of the incident.
2. The preparation of the Incident/Use of Force Report (DPS- 1113) shall not relieve the member of their responsibility to immediately notify their supervisor of a use of deadly force incident.
3. The Office of Professional Standards will compile an annual Use of Force Statistical analysis. The Office of Professional Standards will check the report for accuracy and forward it to the Computer Services Section for data entry. If the force used resulted in serious bodily injury or death to the suspect, third-party or a member, a copy of the Use of Force Report will also be forwarded to the Legal Services Division. The Use of Force Statistical analysis will be reviewed by the Training Unit, Legal Services and the Office of Professional Standards to determine whether there are policy, training, weapon/equipment or discipline issues that should be addressed.
4. The Use of Force report and determinations shall be entered into the Employee Tracking System (ETS) by the appropriate Troop/Region/Unit.