October 10, 2014

Chief Marlon Stratton
St. George City Police Department
200 East 265 North
St. George, City UT 84770

Re: September 11, 2014 Officer-Involved Shooting Incident

Dear Chief Stratton:

On September 11, 2014, St. George Police Sergeant Richard Triplett, Jr. and Officer Jarab Daniel used deadly force during the apprehension of Benjamin Jay Schroff, a suspect in an armed bank robbery.

Utah law gives police the authority to use deadly force in two circumstances that apply to this case.

First, an officer may use deadly force while trying to make an arrest if the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury and the officer reasonably believes that deadly force is necessary to prevent the suspect from escaping arrest. Utah Code Ann. § 76-2-404(1)(b).

Second, an officer may legally use deadly force when the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another. Utah Code Ann. § 76-2-404(1)(c).

After carefully reviewing the evidence gathered by the Critical Incident Task Force (the "Task Force"), it is my conclusion that the officers' use of deadly force was justified under either legal alternative.

Background

The following summary is based on evidence gathered by the Task Force. The Task Force conducted an extensive investigation that included gathering physical evidence, documenting the scene, canvassing the neighborhood for eyewitnesses, and interviewing police witnesses involved in the incident. There were six officers in the immediate vicinity of the shooting who witnessed at least some portion of the event. Each officer was interviewed by Task Force investigators.

On September 11, 2014, Benjamin Jay Schroff committed armed bank robbery and took two bank employees hostage. As he fled in one of the bank employee's cars, Schroff fired gun shots at multiple police vehicles while the hostages were still in the car. Bullets fired by Schroff hit three of the police cars. Schroff led the police to a Washington Fields neighborhood where he left the hostages, abandoned the car, and fled into a large, brush-covered area bordered by residential homes and the Virgin River. Police established a perimeter around the area with officers staged in various locations. Police dispatchers and radio traffic had informed officers that Schroff had both a shotgun and a handgun.

As the police cordon tightened, Schroff ran from the concealment of brush directly toward the location of two officers. Schroff did not respond to multiple officers' commands to stop and pointed his shotgun in the direction of one of the police officers he was approaching. Sergeant Triplett and Officer Daniel both fired an initial volley of shots at Schroff. Schroff took a few steps forward, fell to the ground, and rolled onto his back. Sergeant Triplett and Officer Daniel approached Schroff while giving additional verbal commands. Sergeant Triplett and Officer Daniel said that they saw Schroff reaching toward his waistband and feared that Schroff was reaching for another weapon. Sergeant Triplett and Officer Daniel fired a second round of shots.

Additional police officers quickly moved in and Schroff was handcuffed. However, it was apparent that Schroff's wounds were fatal.

Schroff was wearing police body armor covered by a camouflage vest. Preliminary autopsy results showed that Schroff was hit by 26 to 28 rounds, including two shots to the head. Sergeant Triplett and Officer Daniel used Colt AR 15 .223 caliber semiautomatic weapons. Each volley of shots lasted about three to four seconds. Based upon the number of brass casings recovered and the number of rounds believed to be in each officer's magazine, Task Force investigators estimate that between the two volleys, Sergeant Triplett fired 26 to 27 rounds and Officer Daniel fired 19 to 20 rounds.

Alternative 1
Use of Deadly Force to Prevent Escape

In order to lawfully use deadly force to prevent escape, two circumstances must be present: 1) the officers must have probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; and 2) the officers must have reason to believe that deadly force is necessary to prevent the suspect from escaping arrest.

Probable Cause of a Violent Felony

Sergeant Triplett and Officer Daniel had probable cause to believe that Schroff had committed a violent felony because they had heard radio traffic and been informed by dispatch that Schroff had fired gun shots at multiple police officers' vehicles while the suspect tried to evade capture after taking hostages in the course of an armed robbery.

Using a firearm or any other means or force likely to cause death or serious bodily injury to assault a police office is a second-degree felony under Utah law. Moreover, Sergeant Triplett and Officer Daniel had probable cause to believe that the suspect was fleeing from having committed other offenses involving the infliction or threatened infliction of death or serious bodily injury, including such first-degree felonies as aggravated robbery, aggravated kidnapping, and attempted aggravated murder.

Even though the suspect did not cause the death of police officers or hostages, the threat of death or serious bodily injury is implicit in the use of a deadly weapon in the course of committing a robbery, kidnapping hostages, and shooting at the police.

Therefore, at the time they encountered the suspect, Sergeant Triplett and Officer Daniel had probable cause to believe that the suspect had committed multiple violent felonies involving the infliction or threatened infliction of death or serious bodily injury.

Reasonable Belief that Deadly Force is Necessary to Prevent Escape

The officers must also have a reasonable belief that deadly force is necessary to prevent the suspect from escaping arrest.

Sergeant Triplett and Officer Daniel had such a reasonable belief because they had been informed that Schroff had taken hostages, had fled from police, and had fired multiple gunshots at police who were attempting to prevent him from escaping. Sergeant Triplett and Officer Daniels heard other officers giving the suspect verbal commands such as "police – stop running and show us your hands." Officer Daniels said that he loudly commanded the suspect to stop and drop his weapon. Sergeant Triplett said that he shouted commands to stop and drop the weapon.

Sergeant Triplett and Officer Daniel said that they believed that the suspect was wearing a TAC vest, which is a type of body armor that is resistant to bullets. The TAC vest signified to the officers that the suspect was prepared for a gun fight. The officers also knew that the suspect was running with a firearm directly toward another officer and a populated subdivision where onlookers had congregated.

In light of the information the officers possessed at the time, it was reasonable for the officers to believe that deadly force was necessary to prevent the suspect from escaping arrest.

Alternative 2
Prevention of Death or Serious Bodily Injury

The use of deadly force is also justified under Utah law when a police officer reasonably believes that such force is necessary to prevent death or serious bodily injury to the officer or another.

Sergeant Triplett said that in the moments before he decided to use deadly force, he saw Schroff running with a short-barrel pistol grip shotgun in one hand. Sergeant Triplett knew that other police officers were positioned in line with the direction Schroff was running and pointing his gun. Sergeant Triplett said that he observed Schroff disregarding several commands from pursuing officers to drop the weapon and stop. Sergeant Triplett said that he personally began shouting commands such as "police – stop" and "drop the weapon." Sergeant Triplett said that as the suspect ran, he turned and looked directly at Sergeant Triplett. At that moment, Sergeant Triplett said that Schroff brought his other hand up on the gun in a double-handed grip that Sergeant Triplett perceived as a shooting position.

Sergeant Triplett said that he was afraid the suspect was going to fire the weapon at him or other officers. Sergeant Triplett said that knowing the suspect had previously taken hostages, Sergeant Triplett was also concerned that the suspect was running toward a subdivision where onlookers had gathered.

Officer Daniel said that he saw Schroff run out of the bushes directly toward another officer's location. Officer Daniel said that Schroff was carrying a black shotgun in his right hand like a pistol. Officer Daniel said that he and other officers yelled, "Drop your weapon, drop your weapon" but Schroff did not respond. Officer Daniel said that as Schroff was running, Schroff's weapon was pointed directly at another officer. Officer Daniel said that he made the decision to use deadly force at that moment because Officer Daniel knew that Schroff had already fired shots at police officers and Officer Daniel did not want Schroff to escape the perimeter.

Because the suspect had previously taken hostages, shot at officers, was disregarding commands to drop his weapon, was wearing body armor, and was running toward another officer while pointing the gun toward that officer, Sergeant Triplett and Officer Daniel reasonably believed that deadly force was necessary to prevent death or serious

bodily injury to themselves or others, including fellow officers or civilians located just beyond the police perimeter.

When Schroff fell to the ground after the initial round of shots, Sergeant Triplett and Officer Daniel continued to give Schroff verbal commands. Officer Triplett said that as he approached Schroff, he could see Schoff on his back with Schroff's hands up by his shoulders. Sergeant Triplett said that he yelled for Schroff to keep his hands up, but Schroff reached down toward his waist area and appeared to be trying to grab something out of his vest pocket. Officer Daniel says that as he approached, he saw Schroff lifting his neck and shoulders off the ground like a wrestler trying to avoid being pinned. Officer Daniel saw Schroff reaching in the area of his waist and was scared that Schroff was capable of drawing a handgun and shooting at officers. Both Sergeant Triplett and Officer Daniel then fired a second round of shots.

According to the United States Supreme Court, the law recognizes that "if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended." *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2022, 188 L. Ed. 2d 1056 (2014). In light of the circumstances, it was reasonable for Sergeant Triplett and Officer Daniel to believe that Schroff continued to present a danger to their lives and the lives of others after the first round of shots. Therefore, the officers were legally justified to continue shooting until the threat was over.

Conclusion

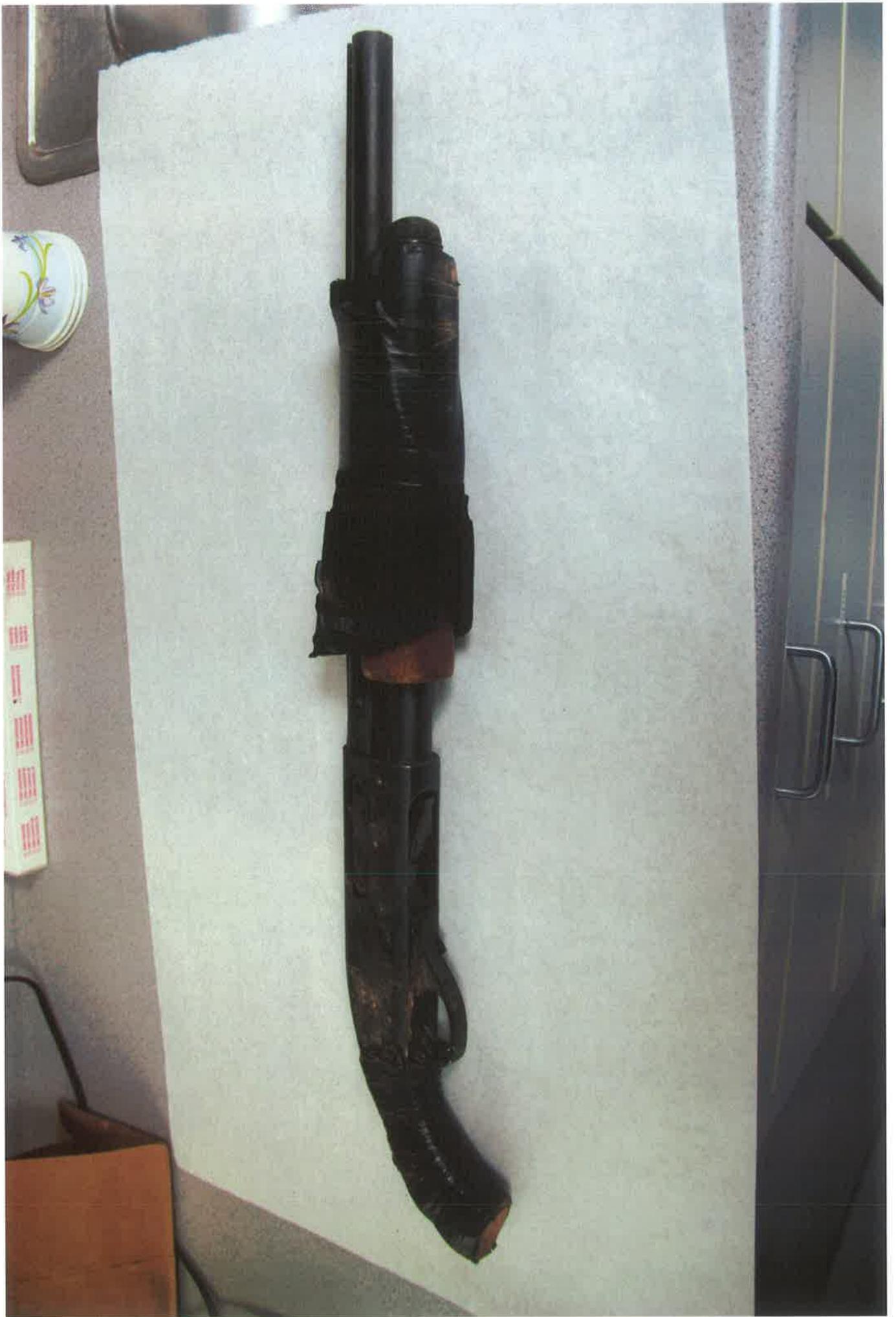Sergeant Triplett and Officer Daniel's use of deadly force was justified under Utah law.

Sincerely,

Brock Belnap
Washington County Attorney

Attachments

cc: Sergeant Richard Triplett
        Officer Jarab Daniel
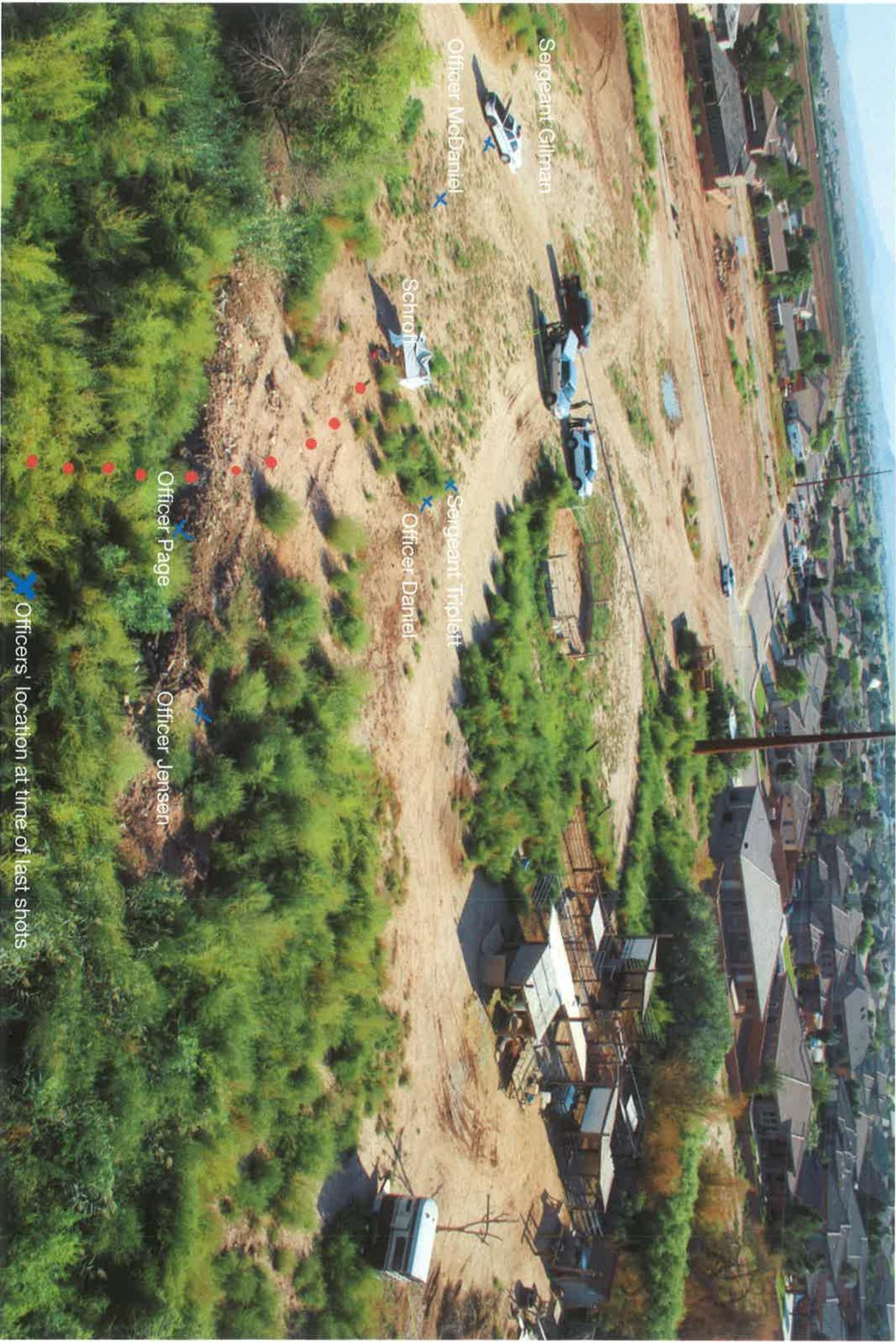
Sergeant Gilman

Officer McDaniel

Schroff

Officer Page

Officer Daniel

Sergeant Triplett

Officer Jensen

Officers' location at time of last shots