



OFFICE OF THE DISTRICT ATTORNEY GENERAL
30th JUDICIAL DISTRICT
SHELBY COUNTY, TENNESSEE
201 Poplar Avenue, Eleventh Floor,
Memphis, TN 38103-1947

Tel. 901-222-1300 Fax 901-222-7971 www.scdag.com

STEVE MULROY
District Attorney General

September 25, 2023

Chief Cerelyn Davis
Memphis Police Department
170 N. Main
Memphis, TN 38103

RE: Officer Involved Shooting of Jaylin McKenzie on December 16, 2022, by Memphis Police Department Officer Nahum Dorme

Dear Chief Davis,

I have completed my review of the investigation into the shooting death of Jaylin McKenzie. Based on the analysis of the investigative materials, it is my recommendation that no charges be filed against Officer Nahum Dorme or any other officer involved in this event.

The review of this event was complicated by footage from an In-Car Video (ICV) and Body Worn Cameras (BWCs.) conflicting with the statements of the various officers. In addition, the statements of the officers sometimes conflicted with one another on key facts. This declination letter, therefore, will contain considerable detail and will be presented in three parts: an outline of key personnel and events; a factual analysis noting conflicts between ICVs, BWCs, officers' statements, and MPD policies and procedures, and; the legal analysis.

KEY PERSONNEL AND EVENTS

KEY PERSONNEL

Set out below are the critical officers involved from the initial sighting through the shooting or immediately after the shooting.

In the Dorme/Jackson Patrol Car

Nahume Dorme

- MPD officer who shot Mr. McKenzie
- Partner of Officer Jackson
- Driver of their two-man patrol car
- Did not activate his BWC during this event
- Provided his Garrity Statement
- Did not provide aid to Mr. McKenzie

Christopher Jackson

- MPD Partner of Officer Dorme
- Heard the shooting but could not see who shot first
- Activated his BWC early in the event
- Assisted in providing aid to Mr. McKenzie
- Turned on Officer Dorme’s BWC after the shooting

In the Cook/Mullet Patrol Car

Ericstevan Cook

- MPD Officer partnered with Officer Mallett
- Driver of their two-man patrol car
- Arrived seconds after the shooting
- Activated his camera on the way to the scene
- Provided aid to Mr. McKenzie

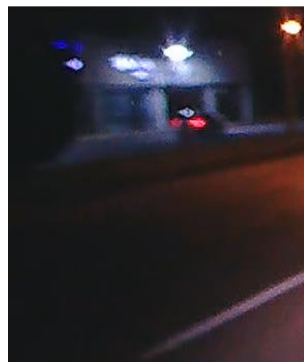
Joseph Mallet

- MPD officer partnered with Officer Cook
- First night on duty
- Activated his camera on the way to the scene

KEY EVENTS

Initial Encounter

Shortly before midnight on December 16, 2022, MPD Officers Nahum Dorme and Christopher Jackson, in their two-man cruiser, were headed to a call in the Parkway Village area. As they were driving west along American Way near Clearbrook, the ICV and Officer Jackson’s BWC came on within seconds of each other. There is no audio on the ICV and for the first 40 seconds or so there was no audio on Officer Jackson’s BWC. The ICV depicts a small shopping center coming up on the left. The ICV shows the side of a car moving in the entrance drive to the shopping center’s parking lot. It appears the vehicle has just turned into the drive. The patrol car continues down American Way and the car now is traveling along the store fronts. The car has not stopped. The patrol car then turns into the parking lot and the car, a 2008 Infiniti, is now at the far end of the lot pulling up toward the street. It is not pulling up next to the stores. Rather than stopping as if to park, the Infiniti goes to the left, backs up and pulls up to the exit at the side street, Clearbrook.



The Infiniti waits for an oncoming car to pass and then moves up to the red traffic light merely yards away. The cruiser has followed and is right behind the Infiniti. The Infiniti slows but immediately speeds up running the red light and turning left onto American Way toward Perkins. The cruiser also runs the red light. Officer Dorme, who did not activate his BWC that night, gave a statement consistent with the ICV and Officer Jackson's BWC.

Officer Cook and Officer Mallet would later have conversations which explained that they were in their cruiser headed to the same original call as Officers Jackson and Dorme. While they did not have their BWCs turned on at the time, they did activate them later when they heard shots being fired. These recorded conversations reveal that these two officers were in sight of the Clearbrook/American Way intersection at the same time as the Dorme/Jackson cruiser. This allowed them to also witness the Infiniti run the red light. When the Infiniti ran the red light, they both saw the Dorme/Jackson cruiser "light them up." Because Officer Cook felt there was a safety hazard, they also "lit up" and began to follow the Dorme/Jackson cruiser.

Discrepancies in Officer Jackson's Statements

Officer Jackson was interviewed twice by TBI agents. His statements differ from what is seen on his BWC. In his first interview, he describes seeing a "suspicious vehicle" leave a business on American Way and run a red light. Both the ICV and his BWC, however, show the first time Officer Jackson saw the Infiniti was as it *pulled into the drive* of the businesses. He went on to say that they followed the Infiniti and saw it run a red light but decided to let it go. Neither the BWC nor the ICV indicate a decision was made to let the Infiniti go after it ran the light at Clearbrook. Instead, His BWC and the ICV of his cruiser show the opposite. Their cruiser follows the Infiniti through the red light. Officer Jackson also said that after they decided to let the car go, it ran a *second* light. The ICV had a clear view out of the front windshield. The recording shows that the Infiniti did not run a second red light.

About 6 months later, Officer Jackson was interviewed again but this time he explained that he and Officer Dorme had discussed whether to initiate a traffic stop and had "gone back and forth" on whether to initiate a stop. Officer Dorme ok'd stopping the Infiniti when it pulled off the lot. Officer Jackson's BWC has no such conversation recorded. Officer Jackson went on to say that he did not ok the stop until the Infiniti ran the red light. The indication here is that Officer Dorme decided to initiate a stop as soon as the Infiniti pulled out of the parking lot. Officer Jackson did not state any disagreement to that decision but once the Infiniti ran the light at Clearbrook, Officer Jackson also agreed that they should initiate a stop. In this second statement, Officer Jackson also stated that Officer Dorme was new, a rookie, and that he, Officer Jackson, should have said no when they were discussing whether to initiate a stop. Again, neither his BWC nor the ICV detail a discussion. His statements during the second interview are not clear on the number of lights the Infiniti ran.

The Auto Pursuit

About 10 seconds after the Infiniti and the cruiser ran the red light at Clearbrook, the audio of Officer Jackson's BWC comes on. At the same time the reflection of blue lights can be seen on the passenger rear-view window. No siren can be heard. By the time the lights are activated, it has been approximately one minute since the footage on the ICV and the BWC began. After the Infiniti goes through a green light at Perkins and American Way, the light turns yellow. The ICV shows the light turned red and the cruiser ran through it.

It was at this intersection that Officer Cook ended his cruiser's participation in the pursuit. From conversations picked up on Officer Cook's and Officer Mallet's BWCs, Officer Cook had

tried to catch up with the Dorme/Jackson cruiser but had not been able to do so. He determined the situation did not call for a pursuit so he abandoned the chase and continued on to the previous call. Apparently the previous call was in the same direction along American Way.

Auto pursuit ends here:

11:51pm →

Cherry Rd.



Auto pursuit begins here:

← 11:49pm

Clearbrook and American Way

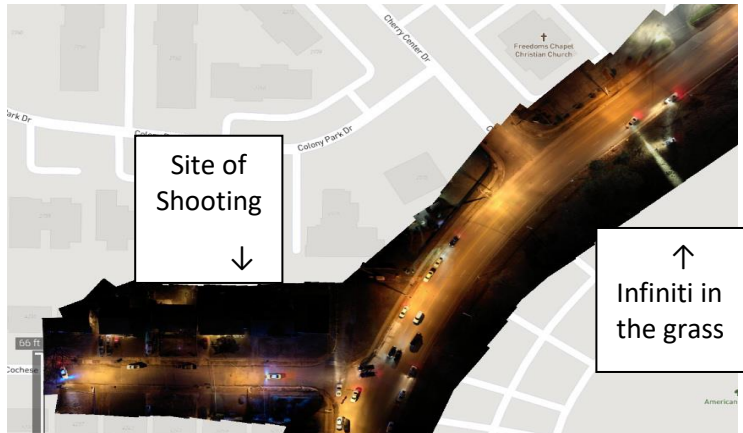
Meanwhile the Dorme/Jackson cruiser continues to follow the Infiniti down American Way. Officer Jackson’s BWC picks up his statements to Officer Dorme. He tells him to “Keep pushing it! Keep pushing it!” The roar of the cruiser’s engine can often be heard while the pursuit goes on. He then adds, “‘cause we’re going to turn on Getwell anyway to get to our call.” He next complains about needing to find out “what’s wrong with this motherfucking siren.”¹ He then says, “We can’t really do shit to them no way. But scare the shit out of them.” For the remainder of the pursuit music can be heard playing in the cruiser. Officer Dorme drives holding and operating a cell phone with his right hand.

Just after passing Cherry Road, the Infiniti makes a sudden U-turn, goes back to the light, and makes a right turn onto Cherry. The cruiser does the same. After the cruiser makes the turn, the Infiniti abruptly loses control and rides over the curb onto the grass at American Way Park along Cherry Road. Officer Jackson says, “Oooo, there he go. He goin to try to run. Now, stop, stop. He fucked.” Officer Jackson then scrambles out of the car. This is a little over two minutes after first seeing the car in the business center driveway and a little over one minute after activating the blue lights.

The Footchase at American Way Park

Officer Jackson rushes out of the cruiser and the car is seen in the grass. A man - Mr. McKenzie – is at the passenger side of the car running forward. Officer Dorme yells, “Show me your hands” and Officer Jackson yells twice, “Get on the motherfucking ground.”

¹ Both Officers Jackson and Dorme stated the siren was not working on their cruiser that night.



As Mr. McKenzie runs, the gun can be seen in his hand. Officer Jackson then calls out “drop the motherfucker” and the gun can be heard hitting the ground. That weapon, an assault rifle, was later recovered at the park along with another assault rifle which was on the ground beside the driver’s door.



The assault rifle thrown down by Mr. McKenzie while running away



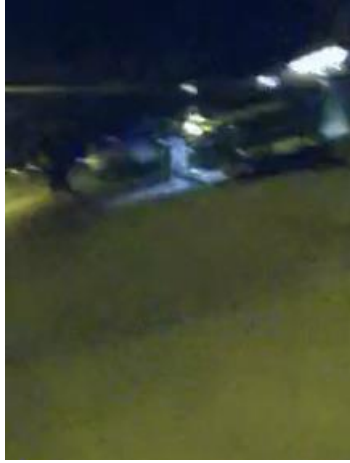
The second assault rifle found beside the driver’s door

The BWC shows that the chase continues through the park and across Cherry. Just as Officer Jackson gets to the grassy area at the corner of Cherry and Cochese, he stumbles and falls to the ground.

The Events on Cochese

Officer Jackson’s BWC catches him getting up after falling and he begins to run again. Officer Dorme can be seen coming from the right and crossing in front of him. Officer Dorme, who does not have his BWC on, is now closest to Mr. McKenzie. Officer Jackson’s BWC catches Officer Dorme and Mr. McKenzie running in the street on Cochese. Officer Dorme is in the middle of the street while Mr. McKenzie is closer to and veering toward a truck parked on the side of the road. Officer Jackson shouts to Officer Dorme, “Get him, bray! Get...get him, bah. Hey, get him, (undiscernible).”² He has barely said the last word when a gunshot is heard.

² Later that night, Officer Jackson told Officer Dorme that he shouted a warning, “Get down!”, while they were running. I have listened to the chase and shooting many times and I did not hear Officer Jackson warn Officer Dorme to get down.



After the first shot, the BWC shows a flash of light on the area of a truck parked at the curb. For a split second Mr. McKenzie can be seen along the side of that truck. That first shot is followed about a half a second later by a succession of nine shots. The rhythm of the shots is 1...1, 2, 3, 4...1, 2, 3, 4, 5. Officer Jackson is seen slowing down and then stopping during the shooting. Officer Dorme can be seen backing up during the gunfire exchange.

Officer Dorme said in his statement that Mr. McKenzie turned facing him and fired at him.³ He also explained that he thought he fired back three or four shots. (It is common for persons involved in shootings to underestimate the number of shots they fired.) When the shooting is over, Officer Dorme stands in the street pointing his flashlight to the area in front of the truck. He can be heard yelling, "Show me your fucking hands!" and "shots fired!" Officer Jackson begins toward the truck. His BWC still on, Officer Jackson walks along the sidewalk to the front of the truck.

Discrepancies in Officer Jackson's Statement.

In his statements to TBI Officer Jackson described a different scenario at the time of the shooting. In his statement he places himself still on the ground after falling when the shots are fired. He stated he tripped, fell, and he could see the runner turn toward Officer Dorme and then heard shots. He added that he could not tell who was shooting first.

In his second statement he holds to the claim that he was still on the ground when the shooting began. He notes that after he got up, he ran in the direction of the shooting. In neither statement does he mention telling Officer Dorme to "get him." Well after the shooting when the officers are talking together, Officer Jackson can be heard on his BWC telling Officer Dorme that he yelled out a warning to him to get down. No such warning can be heard on the BWC.

Immediately After the Shooting

Officer McKenzie walks along the passenger side of the truck toward the front. He turns and Mr. McKenzie is seen with his head on the curb, hands on either side of his head, and with his torso and legs in the street. The still shot below was taken from Officer McKenzie's body worn camera.

³ Nine casings were recovered on the scene. Seven were consistent with being fired from Officer Dorme's weapon. The other two were consistent with being fired from Mr. McKenzie's weapon. A bullet was found lodged in a house behind where Officer Dorme had been standing when Mr. McKenzie fired. The description of where Mr. McKenzie was when he fired makes this bullet's position consistent with Mr. McKenzie's projected firing path. Unfortunately the bullet was too damaged and could not be shown to have been fired from Mr. McKenzie's weapon.

His BWC shows no gun in either hand. In addition, no gun can be seen near Mr. McKenzie's right side.



NOTE: It may be helpful to point out at this time that this first image of Mr. McKenzie is important as it relates to statements and claims that would later be made. While the image clearly indicates no gun was in either hand, there is a deep shadow to the right. This could obscure a gun being slightly under Mr. McKenzie with only the butt sticking out. Questions about the gun will come up again when the location of the gun is addressed below.

While he is standing above Mr. McKenzie, Officer Jackson instructs Officer Dorme to call it in and request an ambulance. He also tells Officer Dorme to go back to the car to call it in and follows up with "I got this." Officer Dorme can be heard in the background using his radio as instructed. He did not go back to their patrol car.

Officer Jackson's BWC is picking up Mr. McKenzie on the ground breathing. Officer McKenzie stands there and his camera has this view of Mr. McKenzie for several seconds. Neither Officer Jackson nor Officer Dorme attempt to aid Mr. McKenzie at this time. Officer Jackson would later assist Officer Cook in giving CPR to Mr. McKenzie.

Officers Cook and Mallet arrive on the scene within seconds. As Officer Cook gets out of his car and walks to the front of the truck, Officer Dorme can be seen standing in the street several feet away from Mr. McKenzie. Officer Jackson is shown turning and walking away back down the sidewalk. Officer Cook's camera is above Mr. McKenzie for a moment and Officer Cook says, "Fuck." Then he takes over the scene. He first checks Mr. McKenzie and then returns to his car for medical supplies. All the while he is calling in updates over his radio and giving orders to Officer Jackson.

Having the medical bag in hand, Officer Cook goes back to where Mr. McKenzie is lying. His BWC shows Officer Dorme standing in the street on Mr. McKenzie's right side. It also shows the butt of a handgun sticking out from under Mr. McKenzie's right side. Officer Cook moves the gun from under Mr. McKenzie and sets it down behind his own feet.



From the Cook BWC:

←
Gun laying under
Mr. McKenzie

→
Cook removing
gun from under Mr.
McKenzie



Discrepancies about the Location of the Gun: Officers Jackson and Cook

Officer Dorme stated that he saw a gun next to Mr. McKenzie. Officer Jackson said in his first statement that he saw a gun next to Mr. McKenzie. However, in his second statement Officer Jackson said that he saw a gun and it was in Mr. McKenzie's right hand.

Officer Cook said in his statement that he saw a small handgun in Mr. McKenzie's hand. He said the gun was jammed with a shell casing. He could not remember which hand it was in. The Jackson BWC shows there was no gun in Mr. McKenzie's hand when either Officer Jackson or Officer Cook came upon Mr. McKenzie.

Continuing Events on Cochese after the Shooting

The BWC of Officer Cook shows a gunshot wound in the center of Mr. McKenzie's chest.⁴ After applying a chest seal, Officer Cook begins CPR while calling out orders to Officer Jackson and other officers arriving on the scene.

Officer Jackson's radio had fallen off when he tripped and fell during the chase. He walks over to Officer Dorme to use his radio to call in one of the requests by Officer Cook. Shortly after, he reaches up to Officer Dorme's BWC, which has been off all night, and turns it on. A little later, Officer Dorme's BWC picks up Officer Jackson talking to Officer Dorme. Officer Jackson said, "He was fixin to pop you." A few minutes later, Officer Dorme points his flashlight at the ground, shining the light on Mr. McKenzie's gun laying in the street. Officer Dorme then says, "Damn, his gun jammed. That's why he stopped shooting." Below is a photo of the gun taken at the scene. The jammed shell casing can be seen.

⁴ The autopsy reports that Mr. McKenzie sustained a gunshot wound in the chest, a gunshot wound to the side of his right leg, a grazing wound to the front of his right leg, a gunshot wound to the left knee, a graze gunshot wound to left leg, and a "gunshot wound related defect" on the front of the right forearm. Aside from gunshot wounds, he had a small red abrasion in his left eyebrow and a brown abrasion below his left eye. He also an abrasion on his lower lip.



A few minutes later, Officer Cook tells Officer Dorme to go sit on the hood of Officer Cook's car which is parked in the middle of the street and a car length or more to the rear of the truck. Officer Dorme wonders aloud to other officers how Mr. McKenzie missed him. He describes how close they were and points out where the casings are in the street. Two Memphis Fire Department vehicles arrive and drive through the shooting scene. EMTs take over the care of Mr. McKenzie. Officer Jackson and Officer Dorme talk about the event in short conversations. Officer Jackson assists with taping off the crime scene.

Officer Jackson and dorme Separated from the Other Officers

Approximately 17 minutes after the shooting, Officer Dorme is escorted to a patrol car by a Lieutenant. On the way to the car, the Lieutenant asked about the chase and stop. Officer Dorme described the events consistent with what is captured on Officer Jackson's BWC. The Lieutenant stops him from speaking once he explains about the Infiniti ending up in the park. He is placed in the passenger seat and told by the Lieutenant not to call anyone and not to talk to anyone.

A few minutes later that same Lieutenant approaches Officer Jackson and tells him he has to be separated and wait in a patrol car. He escorts him to the same car holding Officer Dorme. Once they are both seated alone in the car with the doors closed, Officer Dorme asks Officer Jackson, "What did you see?" He answers, "I trying to tell you to get out the way. I could see him pulling out. I was yelling, 'Get down.' I'm so glad he didn't shoot you." Officer Dorme said, "I seen him drop something, like he went in his pocket and he threw something out then he pulled something out." He begins again saying, "That's when he went in..." but Officer Jackson interrupts saying, "Trying to get to it." They also discuss the fourth person that stayed in the car and the weapons that they saw. Officer Jackson gets out to deal with civilians who are walking into the crime scene. He returns to the car and after having spent 8 minutes together, the same Lieutenant that put them in the car together opens the door and tells them to stop talking. They continue to talk but not about the event. They watch a movie on Officer Dorme's cell phone. After two hours and 10 minutes in the car together, a different officer returns and tells them they must be separated. He escorts Officer Jackson to a different car and the BWC for the event that night ends. Approximately 20 minutes later, an officer comes to Officer Dorme, still sitting alone a cruiser, and tells him he can turn off his camera which he does.

FACTUAL ANALYSIS

Officer Dorme's failure to activate his BWC and the inconsistent statements created confusion about the entire event. From the very start of this event to the end there remain unanswered questions. The thornier questions are:

- Why did Officer Dorme not activate his BWC?
- Why didn't the siren work?
- Why did Officers Dorme and Jackson engage in a vehicle pursuit over a city traffic violation?

- Why were Officers Dorme and Jackson placed together after the shooting in the same patrol car and left there together for over two hours?

These questions have arisen chiefly as a result of key officers failing to follow the proper procedures as outlined in the *Memphis Police Department Policy and Procedures* manual (*MPD P & P*). Given the entire circumstances surrounding this event, consideration of the officers' actions – as well as failures to act - *vis a vis* the MPD manual is imperative.

During the pursuit, the siren on the Dorme/Jackson vehicle did not work. The *MPD P & P* requires an officer to inspect their vehicle prior to accepting responsibility for the vehicle. *MPD P&P*, Ch. XIII, sec. 5: Vehicle Safety and Inspection Policy. If there is a problem they must fill out and file appropriate forms. While this may seem a minor detail, it plays into what happened later that night and should have impacted the pursuit decision. *MPD P&P*, Ch. XIII, sec. 6: Police Vehicle Operation/Pursuit Policy states that an officer is allowed

to proceed past a red or stop signal or sign and to exceed the speed limit so long as the driver does not endanger life or property. This law applies only when an emergency vehicle is making use of audible (siren) **and** (emphasis in original) audible (blue light) signals.

MPD P&P, Ch. XIII, sec. 6: Police Vehicle Operation/Pursuit Policy at subsec. I. This policy section requires the officer in the pursuit vehicle to activate both the siren and the blue lights, not just one or the other, before the officer can run a red light or speed during a pursuit. It appears two policies were violated that night related to the mechanical failure of the vehicle's siren. Officers Jackson and Dorme did not report the faulty equipment before taking the vehicle and violated traffic laws without running both their lights and siren.

Vehicle pursuits are only allowed under very specific conditions, i.e., when an officer "has probable cause to believe that one or more occupants of a fleeing vehicle have committed a Violent Felony." *MPD P&P*, Ch. XIII, sec. 6: Police Vehicle Operation/Pursuit Policy at subsec IV.A. Furthermore, vehicle pursuits are "strictly prohibited"

1. When the officer knows that the suspect is wanted only for a traffic violation, a misdemeanor, or a non-violent felony.
2. When the officer has failed to obtain supervisory approval within one minute of pursuit origination.
-
4. When the officer fails to activate audible (siren) and visual (blue Light) signals upon initiation of a pursuit.
-
6. When the officer has reason to believe that his/her police vehicle is mechanically defective or otherwise unsafe for pursuit or emergency response.

MPD P&P, Ch. XIII, sec. 6: Police Vehicle Operation/Pursuit Policy at subsec V.1, 2, 3, 6. Nothing in the BWC or ICVs support the vehicle pursuit in the manner and under the conditions conducted by Officers Dorme and Jackson.

Officer Dorme did not activate his BWC when pursuing the Infiniti. All officers are required to "record all law-enforcement encounters and activities." *MPD P&P*, Ch. XV, sec. 15: In-Car

Video/Body Worn Cameras at subsec. I.B.3. One of the purposes of a BWC requirement is that the BWC has

the potential to improve community relations by providing an objective record that can be used to confirm valid allegations, while providing an unbiased record that may assist in disproving false allegations. Furthermore, the ICV/BWC program improves accountability by providing objective data for review.

MPD P&P, Ch. XV, sec. 15: In-Car Video/Body Worn Cameras at subsec. I. What happened on December 16, 2022, is exactly the situation for which the procedures were designed. Because Officer Dorme did not activate his BWC we do not have an objective record that can confirm his allegation that Mr. McKenzie fired first.

The situation on Cochese ended raising yet another question: why were the only officer-witnesses placed after the shooting in the same patrol car alone together for over two hours? The language of the *MPD P&P* makes it clear that when any officer discharges a firearm it is the responsibility of “the first Supervisor on the scene to secure the crime scene, separate and secure the witnesses (both civilian and police).”

MPD P&P, Ch. II, sec. 8: Response to Resistance at subsec V. A Lieutenant did come to the scene but rather than follow the required procedure, he placed the officers together. While they were separated from all the other officers, they were certainly not separated from each other as required.

Two of the most haunting questions in this case can only be answered provisionally: Who shot first and where was the gun? Without the BWC footage of Officer Dorme these questions will likely remain unanswered for certain. However, given the ballistics evidence suggesting that Mr. McKenzie did discharge his weapon, and the absence of any affirmative evidence contradicting Officer Dorme’s version of events, no criminal charges are warranted here.

There is evidence that Mr. McKenzie fired at the officer. All nine casings found on the scene were tested. Two of the casings were consistent with being fired from the handgun found with or nearby Mr. McKenzie. The TBI investigation also revealed a bullet lodged in a home within Mr. McKenzie’s firing line. The bullet was removed, sent for testing but it was too damaged for comparison.

The question of who shot first could have been recorded to provide an independent answer. Unfortunately, it was not.

The conflict between the BWCs and the statements of the officers create jarring inconsistencies. Officer Dorme said it was beside him. Cook said it was in his hand. Officer Jackson first said it was beside him and later said it was in his hand.

The first sighting of Mr. McKenzie after the shooting was recorded on Officer Jackson’s camera. No gun was in Mr. McKenzie’s hand. A long deep shadow is along the side of his body so perhaps it shielded the gun butt from Officer Jackson’s BWC. It was Officer Jackson who, in his first statement, said the gun was by his side. Officer Dorme’s statement agreed with this position. Yet even though his BWC shows no gun in Mr. McKenzie’s hand, Officer Jackson would later change his statement to say the gun was in his hand.

Officer Cook’s BWC shows the gun under Mr. McKenzie with the butt sticking out. Yet it was Officer Cook who said that the gun was in his hand.

Officer Dorme’s BWC could have resolved this question as well as many others. I am confident that these same questions have been raised in your internal review. It is my hope that in

the future, we will encounter fewer unexplained issues because the Memphis Police Department addressed these issues and took corrective action.

LEGAL ANALYSIS

Tennessee Code Annotated section 39-11-620(b) states in pertinent part that an

officer may use deadly force to effect an arrest only if all other reasonable means of apprehension have been exhausted or are unavailable, and where feasible, the officer has given notified of the officer's identity as such and given a warning that deadly force may be used unless resistance or flight ceases and:

- (1) The officer has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury; or
- (2) the officer has probable cause to believe that the individual to be arrested poses a threat of serious bodily injury, either the officer or to others unless immediately apprehended.

The officers witnessed one traffic violation by a driver who thereafter refused to stop when the patrol cars blue lights were activated. Both officers saw a man with a mask and gloves get out of that car with an assault weapon. When commanded to get on the ground, he did not comply but ran from the officers. He did toss the assault rifle to the ground. Both officers stated that the man turned to face Officer Dorme. Officer Dorme states the man then fired his weapon at him and he returned fire. Officer Jackson could not say who fired first. Applying the statute to the circumstances of this shooting, Officer Dorme did not have time to threaten to use deadly force and Mr. McKenzie knew officers were pursuing him, first in a car and then on foot. As stated above, the ballistics evidence suggests that Mr. McKenzie did fire at Officer Dorme, and there is no evidence contradicting officer Dorme's statement that Mr. McKenzie fired first. Once Mr. McKenzie fired at him, Officer Dorme had probable cause to believe that Mr. McKenzie posed a threat of serious bodily injury to him. There are no criminal charges that can reasonably be placed against Officer Dorme. The facts of this incident would not support a reasonable likelihood of conviction.

Sincerely,

Steve Mulroy
Shelby County District Attorney General