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July 6, 2026

Senior Special Agent Andrew Vitalis
Minnesota Bureau of Criminal Apprehension
1430 Maryland Avenue East
Saint Paul, Minn.


*In re Officer Use of Force from March 11, 2026
BCA Master Report No. 2026-395*

Dear Senior Special Agent Vitalis,

My office has completed our review of this matter. After careful consideration of the investigative file, we have determined that no criminal charges are warranted. As in all cases where we file no charges, we have created a work-product memorandum explaining the decision. A copy of that memorandum is attached. As a transparency measure, given the serious and tragic nature of this incident, we are making our memorandum public. After the surviving family has been apprised of the decision, it will be released.

Because our office has determined not to pursue this case in court, I recommend that the BCA begin the work of determining which parts of the investigative file will be released to the public and which are non-public under the Data Practices Act. I thank your team for its work. Please feel welcome to call me with any questions. I remain,

Yours sincerely,


Michael Walters



Memorandum

To: File

From: County Attorney; Chief Deputy; and Criminal Managing Team.

Date: July 2, 2026

Re: Officer Use of Deadly Force on March 11, 2026

INTRODUCTION

On March 11, 2026, a forty-seven-year-old man, Cleavon Sonatay White, was shot and killed by Rochester Police Officer Josiah Duit. The incident began as a mental health call, and the Crisis Response Team placed Mr. White on a transport hold. When Mr. White refused to comply with the hold, officers attempted to take him into custody. He resisted, and a struggle ensued. Mr. White grabbed an officer's firearm and pulled the trigger. Officer Duit then fired five shots that struck and ultimately killed Mr. White.

Pursuant to standard practice, the Minnesota Bureau of Criminal Apprehension ("BCA") investigates all incidents where a peace officer uses deadly force. Upon completion of such investigations, the BCA presents the evidence to the county attorney's office to review and determine whether the use of deadly force was necessary and justified under Minnesota statutes.

This Memorandum summarizes the evidence gathered by the BCA following the death of Mr. White. This evidence included witness statements, ballistics evidence, photographs, videos, laboratory reports, search warrants, and body-worn camera footage. The investigative file contained over a thousand pages of documents and approximately 85 gigabytes of audio, video, and photographs.

Based on our review of the evidence presented by the BCA, and for the reasons explained below, it is our opinion that the use of deadly force by Officer Duit against Mr. White was necessary and thus justified under Minnesota Statutes section 609.066. For this reason, no criminal charges will arise from this incident.

FACTS

SUMMARY TIMELINE OF MARCH 11, 2026¹

At 9:28 p.m., the Rochester Police Department received a call from an apartment in west Rochester. The caller² requested assistance because her partner and the father of her children, Cleavon White, was experiencing adverse mental health symptoms. The dispatcher sent officers to the home.

At 9:32 p.m., Mr. White called 911 and spoke with a different dispatcher. His speech was pressured and difficult to follow. After a brief conversation, the dispatcher urged him to meet with the officers who were arriving on scene. White said he wanted to speak with officers through the window, not at the door.

At 9:34 p.m., Officers Emily Dunford and Levi Wilkins arrived nearly simultaneously. They found Mr. White looking out a ground floor window. At least one child could be heard behind him. Mr. White told the officers that his children were part of “ISIS.”

At 9:35 p.m., Officer Wilkins told Mr. White that they would need to come into the apartment to speak with him. Officers Dunford and Wilkins then walked to the main entrance and through the halls of the building.

At 9:37 p.m., Officers Dunford and Wilkins arrived at Mr. White’s apartment. Mr. White met them in the hallway outside. Officer Wilkins stayed in the hallway with Mr. White while Officer Dunford entered the apartment to locate the original 911 caller.

Inside the apartment, the mother of the children reported to Officer Dunford that Mr. White had been exhibiting concerning mental health symptoms and had broken multiple cell phones on the apparent belief that they were tracking devices.

At 9:39 p.m., Officer Dunford explained to the mother that a 3300 car and an ambulance were en route. A “3300 car” is one staffed with an embedded social worker, specifically for acute mental health calls. After that explanation, Officer Dunford asked the mother if she felt safe with Mr. White. The mother replied, “I do not.” She said that Mr. White believed there were hidden electronic trackers monitoring the family. He had taken a knife to the sofa and sliced open a cushion. While doing so, he accidentally cut the family dog. Officer Dunford looked at the sofa and saw a gash,

¹ This summary timeline is synthesized from body-worn camera video, surveillance video, 911 audio recordings, and witness statements gathered by the BCA. For details, please consult the investigative file.

² Out of respect for the privacy of the surviving family, this Memorandum does not name the 911 caller. It refers to her as “Mr. White’s partner” or “the mother of the children.” For similar reasons, this Memorandum does not name the children.

approximately two feet long, on one of the cushions. The mother went on to say that Mr. White also believed that there were more trackers inside the children. These beliefs and behaviors made her feel that they were not safe.

At 9:40 p.m., Officer Josiah Duit arrived in the hallway outside the apartment and introduced himself to Mr. White. Mr. White repeated his belief that his children were working for ISIS. He told Officer Duit that he was on a military mission and had a job to do. His speech continued to be pressured and difficult to follow.

At 9:46 p.m., Officer Wilkins briefly stepped inside the apartment and remarked that he saw loose bullets on the kitchen counter.

At 9:48 p.m., a Community Outreach Specialist with the Crisis Response Team arrived and met with Mr. White in the hallway outside the apartment. A Community Outreach Specialist is a social worker embedded with law enforcement. It is the same role that Officer Dunford referred to when she said, "3300 car." The Outreach Specialist noted White's adverse mental health symptoms, specifically his delusional beliefs and paranoid behavior.

At 9:58 p.m., the Outreach Specialist and Officer Dunford went into the apartment to speak with the family. The mother repeated her fear that the children would not be safe with Mr. White due to his mental health symptoms.

At 10:08 p.m., the Outreach Specialist and Officer Dunford returned to the hallway. They, along with Officer Wilkins, walked down the hall to speak outside Mr. White's hearing. They discussed the possibility of a mental-health hold.

At 10:11 p.m., per protocol, the Outreach Specialist made a phone call to the crisis response mental health professional for consultation and final approval of a mental health hold. Based on Mr. White's delusional and paranoid ideation and behavior, the professional agreed that the hold was necessary to protect both Mr. White and his family.

At 10:14 p.m., Officer Dunford went back into the apartment and told the mother to lock herself and the children within so that officers in the hallway could attempt to persuade White to board an ambulance. However, before the door could be locked, Mr. White walked into the apartment and went to the kitchen. Officer Duit asked Mr. White to return to the hallway, but Mr. White stayed in the kitchen. For the next several minutes, Mr. White stood by the oven holding a small child and speaking with officers.

At 10:20 p.m., Officer Duit stepped out to the parking lot to see whether the ambulance had arrived.

At 10:21 p.m., the ambulance arrived. In the parking lot, Officer Duit and the Outreach Specialist briefed the paramedics and explained that Mr. White was placed on a mental health transport hold. They decided to try to persuade Mr. White to come outside to meet the paramedics.

At 10:23 p.m., Officer Duit returned to the kitchen. All three officers tried to persuade Mr. White to come outside.

At 10:27 p.m., the mother took the child whom Mr. White had been holding. At the Outreach Specialist's request, she took all the children to a back bedroom.

At 10:28 p.m., with the children out of earshot, Officers told Mr. White that he would have to come to the hospital. Mr. White said he did not want to go. Officers explained that the hold was legally mandatory. They said that they did not want to use force to bring him to the hospital and urged him to come voluntarily.

At 10:33 p.m., the Outreach Specialist gave a pair of shoes to Mr. White, who had been wearing sandals. He removed the sandals and put on the shoes.

At 10:34 p.m., Mr. White reached into his waistband. The officers told him to keep his hands visible, and he complied, saying he was not reaching for anything.

At 10:35 p.m., Officer Duit told Mr. White again that he was on a hold and asked him to leave willingly. Officer Duit said they would have to force him to come to the hospital if he did not leave willingly. Officer Duit said he did not want to use force because he did not want the children to see or hear a struggle. Mr. White continued to dispute that he was subject to a hold.

At 10:36 p.m., Officers Duit and Wilkins began to slowly reach toward Mr. White's arms. Mr. White slapped their hands away, and both officers withdrew their hands. They continued asking him to come to the hospital voluntarily.

At 10:37 p.m. and 04 seconds, Mr. White became more agitated. After a deep breath, he began screaming. He screamed two Hebrew words that both mean, "God." Officer Duit then put his right hand on Mr. White's left elbow and his left hand on Mr. White's left wrist. Mr. White quickly grappled Officer Duit's left arm, at which point Officers Wilkins and Dunford stepped in to restrain him.

At 10:37 p.m. and 18 seconds, Officer Dunford announced on the radio that Mr. White was fighting them.

At 10:37 and 25 seconds, the officers attempted to move Mr. White's arms behind his back to apply handcuffs, but they were unable to do so.

At 10:37 p.m. and 27 seconds, Mr. White pushed away from the counter toward the refrigerator.

At 10:37 p.m. and 34 seconds, Officer Dunford grabbed Mr. White's leg. The officers moved him to the floor. Officer Dunford attempted to restrain his legs, while Officers Duit and Wilkins attempted to restrain his arms.

At 10:37 p.m. and 39 seconds, Mr. White managed to get his left hand free. He reached into Officer Wilkins's holster and grabbed the pistol. Mr. White fired a single gunshot, which went past Officer Wilkins's leg and into the floor near the cabinetry. Officer Wilkins immediately yelled, "He's grabbing my gun!"

At 10:37 p.m. and 41 seconds, Officer Duit drew his pistol and shot Mr. White in the side of his body five times. Officers Dunford and Wilkins each moved away from Mr. White upon hearing the shots.

At 10:38 p.m. and 0 seconds, Officer Duit asked Officer Wilkins, "Where is the gun?" Officer Wilkins replied that was still in his holster.

At 10:38 p.m. and 4 seconds, Officer Dunford asked, "Is anyone shot?" The officers then handcuffed Mr. White and moved him to the hallway.

At 10:39 p.m., paramedics arrived in the hallway and attempted lifesaving measures. Officer Duit used shears to cut off Mr. White's shirt to show paramedics the gunshot wounds. The paramedics continued lifesaving measures while Mr. White was moved to the ambulance.

That same night, Mr. White was pronounced dead at Saint Mary's Hospital.

Following the incident, senior special agents with the BCA obtained a warrant and searched the apartment. They found four firearms. Three were found in a bedroom. One was under a sofa pillow in the living room. They also confirmed the location of the bullet hole from the first gunshot from Officer Wilkins's firearm.

APPLICABLE LAW

Minnesota law provides for the use of deadly force by a peace officer in certain circumstances. Specifically, Minnesota Statutes provide:

[T]he use of deadly force by a peace officer in the line of duty is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

- (1) to protect the peace officer or another from death or great bodily harm, provided that the threat:
 - (i) can be articulated with specificity;
 - (ii) is reasonably likely to occur absent action by the law enforcement officer; and
 - (iii) must be addressed through the use of deadly force without unreasonable delay; or

(2) to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in clause (1), items (i) to (iii), unless immediately apprehended.³

Additionally, the legislature has provided a statement of policy and intent with the following principles:

(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

(2) as set forth below, it is the intent of the legislature that peace officers use deadly force only when necessary in defense of human life or to prevent great bodily harm. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case;

(3) that the decision by a peace officer to use deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using deadly force; and

³ MINN. STAT. § 609.066, subd. 2 (2025).

(4) that peace officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.⁴

In the context of civil rights law, the United States Supreme Court has given a non-exhaustive list of factors for considering the use of force by a peace officer against an individual citizen: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the suspect was actively resisting arrest or attempting to flee.⁵ The Court summarized it as a “totality of the circumstances” analysis.⁶

In a more recent case, just last year, the Supreme Court held that “the ‘totality of the circumstances’ inquiry into a use of force has no time limit.”⁷ Specifically, the Court said:

Of course, the situation at the precise time of the shooting will often be what matters most; it is, after all, the officer’s choice in that moment that is under review. But earlier facts and circumstances may bear on how a reasonable officer would have understood and responded to later ones. . . . Prior events may show, for example, why a reasonable officer would have perceived otherwise ambiguous conduct of a suspect as threatening. Or instead they may show why such an officer would have perceived the same conduct as innocuous. The history of the interaction, as well as other past circumstances known to the officer, thus may inform the reasonableness of the use of force.⁸

Under Minnesota law, in any prosecution involving a claim of defense of self or defense of others, the State must prove beyond a reasonable doubt that the use of force was *not* objectively reasonable.⁹ In other words, the defense would not have to prove justification. Rather, the prosecution would have to disprove it.¹⁰

⁴ *Id.* § 609.066, subd. 1a.

⁵ *Graham v. Connor*, 490 U.S. 386, 396 (1989)

⁶ *Id.*

⁷ *Barnes v. Felix* 605 U.S. 73, 80 (2025).

⁸ *Id.* at 80–81.

⁹ *Cf. State v. Valdez*, 12 N.W.3d 197 (Minn. 2024) (holding, in the context of a non-police shooting, that “the State bears the burden to disprove, beyond a reasonable doubt” that the shooter was acting in defense of another).

¹⁰ The Olmsted County Attorney’s Office charging policy states, “A prosecutor should not institute . . . criminal charges in the absence of sufficient admissible evidence to support a conviction.” This is consistent with the standards promulgated by the American Bar Association, which state, “A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice.”

ANALYSIS

After reviewing the entire BCA investigation and applying the applicable law to the facts in this case, we conclude that the use of deadly force against Cleavon White was objectively reasonable under the standard set forth in Minnesota Statutes section 609.066. We base this conclusion on the following circumstances:

Circumstances Known to Officers Prior to the Physical Altercation

Prior to the physical altercation, the three officers knew the following:

- That Mr. White was suffering from mental illness symptoms that included delusions and paranoia.
- That Mr. White's partner said the family would not be safe if left with Mr. White.
- That Mr. White had used a knife to slice open the sofa to find a tracking device and had cut the family dog in the process.
- That there were loose bullets in the kitchen.
- That the Crisis Response Team had determined that a transport hold was necessary to protect Mr. White and his family.

Circumstances Known to Officer Duit in the Moment He Used Deadly Force

In the moment that Officer Duit used deadly force, he was aware of the following circumstances:

- That Mr. White was actively fighting three officers.
- That Mr. White had thwarted efforts to move his hands behind his back to be placed in handcuffs.
- That the affray had gone to ground.
- That a gun shot rang out immediately before the use of deadly force.
- That Officer Wilkins yelled, "He's grabbing my gun!" immediately before the use of deadly force.

It is also helpful to the analysis to consider what Officer Duit did *not* know in the moment he used deadly force. All evidence indicates the following:

- That Officer Duit did not know whether Mr. White's initial gunshot had hit anyone. Because Mr. White was surrounded on three sides, there was a risk that the shot could have hit someone, and in fact it only missed Officer Wilkins's leg by a few inches.

ABA, CRIMINAL JUSTICE STANDARDS FOR THE PROSECUTION FUNCTION § 3-4.3(a) (4th Ed. 2017).

- That Officer Duit did not know whether Mr. White still possessed the gun. After the shooting, his first words were to ask Officer Wilkins where the gun was. In hindsight, we know that Officer Wilkins's firearm never fully left its holster. But the statute explicitly directs us *not* to consider the benefit of hindsight.

In summary, Officer Duit knew that Mr. White had grabbed another officer's firearm. He knew that Mr. White had managed to fire a shot from that firearm. And he knew that there were multiple people in the room who could be killed. On those facts, there is no prospect of proving to a jury beyond a reasonable doubt that Officer Duit's actions were unjustified.

CONCLUSION

Based on the foregoing circumstances, Officer Duit reasonably believed that the threat of deadly force by Mr. White was both occurring and imminent. He further reasonably believed that the discharge of his weapon in response to that threat was necessary to defend himself and others. Accordingly, we conclude that the use of deadly force against Mr. White was legally justified under Minnesota Statutes section 609.066, subd. 2. For that reason, we will not file criminal charges.