

**St. Louis Circuit Attorney's Office Report Regarding the Review
into the Shooting Death of Mansur Ball-Bey**



June 2, 2016

TABLE OF CONTENTS

I. <u>INTRODUCTION</u>	3
II. <u>WITNESS STATEMENTS AND EVIDENCE</u>	4
III. <u>CAO RENDERINGS OF SCENE</u>	9
IV. <u>WITNESS STATEMENTS</u>	10
V. <u>OTHER EVIDENCE</u>	15
1. Autopsy Reports	15
2. Ballistics Reports	16
3. Surveillance Video	17
4. Gunshot Residue	17
5. Fingerprint Analysis	17
6. DNA Analysis	18
7. Additional Evidence	19
VI. <u>DISCUSSION</u>	19
1. Issue	19
2. Applicable Missouri Law	19
3. Analysis	20
4. Conclusion	20
VII. <u>APPENDIX</u>	22
1. The Role of the Circuit Attorney's Office	22
2. Additional Witness Statements	23
3. Additional Information Used to Assess Credibility	25
4. Photos from Crime Scene	29
5. State's Rendering of Medical Examiner's Autopsy	33
6. Analysis of Public Statements	34
7. Resource Cards Given Out to Community	37
8. Correspondence with Private Attorney	38
9. Missouri Statutes	40
10. Jury Instructions	42

I. INTRODUCTION

THE SHOOTING DEATH OF MANSUR BALL-BEY

On August 19, 2015, at approximately 11:30 a.m., Mansur Ball-Bey (Ball-Bey) was shot by St. Louis Metropolitan Police Department (SLMPD) officers working in the Special Operations Unit. Two officers were involved in the shooting. In this report, they will be referred to as Officer A and Officer B.

The Force Investigative Unit (FIU) of the SLMPD immediately began reviewing the case for criminal conduct. On April 18, 2016, the FIU delivered its findings. The SLMPD did not request that the Circuit Attorney's Office (CAO) file any criminal charges.

Members of the CAO's Officer-Involved Shooting (OIS) Unit responded to the scene of the shooting that day. Following requests from community members and leaders, Circuit Attorney Jennifer M. Joyce announced that the CAO would conduct a simultaneous investigation into the shooting death of Ball-Bey. Circuit Attorney Joyce immediately sought assistance from the public and encouraged witnesses to come forward and cooperate with the investigation.

Circuit Attorney Joyce relied on the head of her OIS Unit and a team of experienced prosecutors, investigators and staff to conduct the investigation.

Circuit Attorney Joyce and the team personally met with Ball-Bey's parents on the morning of September 8, 2015. Prosecutors from the CAO were in contact with the family's attorneys throughout the investigation. Prosecutors asked the private attorneys hired by the involved parties to provide any information that may assist prosecutors in this review process.

The CAO requested the public contact them, the NAACP or Crimestoppers with any available information. Two days after the shooting, the Circuit Attorney, with the NAACP, held a press conference asking the public for help and information. Additionally, the CAO and the NAACP developed a resource card for the community. The resource card was distributed by community leaders at the scene of the shooting, in the neighborhood surrounding the shooting and throughout the community over the next week. The resource card had a dedicated phone line at the Circuit Attorney's Office and NAACP contact information designed to encourage the public or witnesses to come forward. No calls or information regarding this matter came to any of the contact numbers.

The team reviewed police reports, laboratory reports, ballistics reports, DNA analysis, gunshot residue analysis and photographs, among other items. They conducted multiple interviews and made numerous attempts to gain additional statements and information necessary to complete their investigation.

As in previous cases, Circuit Attorney Joyce committed to keep the public informed on the matter. As in the past, she agreed to make public her decision and the reasons for it either through a report to the community or by filing criminal charges.

What follows is a report of her findings. In the interest of clarity, openness and transparency, the CAO has provided selected scene photos, created renderings of the scene and autopsy report conclusions. Also included is an appendix to the report so the public can see the basis for the CAO's conclusion. Questions regarding any other source documents or materials relative to the investigation should be directed to the SLMPD who will proceed with its internal investigation.

II. WITNESS STATEMENTS AND EVIDENCE

The Scene

The shooting death of Mansur Ball-Bey on August 19, 2015 occurred while a search warrant for guns and drugs was being served on a two-family flat at 1241 Walton in the Fountain Park neighborhood. St. Louis Metropolitan Police Department (SLMPD) Special Operations officers, the SWAT team and members of the Bureau of Alcohol, Tobacco and Firearms (ATF) participated in the search warrant. Two Special Operations officers and one ATF officer working with the Special Operations Unit were tasked with covering the back of the flat, which they were told was the first residence on the block. The officers positioned themselves in the backyard of the store next to the flat. As a consequence, the officers were not able to prevent any suspects from fleeing the flat. There was no designated signal to alert all officers that the scene was secure or that the search warrant was being served.

Ball-Bey and his friend were seen running by police as the search warrant was being served. Police and a witness said they saw Ball-Bey and his friend run out the back door of the flat at 1241 Walton. Officers followed Ball-Bey after seeing he had a gun. Ball-Bey's friend ran out of police sight.

Five Key Witnesses

There were five witnesses in or near the alley in the rear of the flat during the shooting who have critical information about the incident:

- Two Special Operations Unit on-duty police officers who discharged their weapons;
- A friend of Ball-Bey's (Witness 1) who was with Ball-Bey during the service of the search warrant;
- One independent eyewitness (Witness 2) who was in the area at the time of the shooting;
- One member of the ATF (Witness 3) assigned to the Special Operations Unit.

Two Versions

After interviewing witnesses and reviewing physical evidence, two versions of events have emerged.

Version A has been constructed based upon statements given to police and prosecutors by Witness 1, the friend of Ball-Bey's who was with him at the scene during the service of the search warrant. He was interviewed once by police and twice by prosecutors.

Version B was constructed from statements made by Officers A and B, who were SLMPD Special Operations officers involved in the shooting. They were interviewed by police only. They declined through their attorney to speak to prosecutors. Under the law, prosecutors cannot force suspects to speak to them.

Comparing Witness Statements to Independent Evidence

In all criminal investigations, there are inconsistent statements made by witnesses. This investigation is no different. In every case, prosecutors examine outlying factors, circumstances and the physical evidence as a whole when assessing the witness statements about an incident. Factors impacting credibility can include a witness' prior actions, the circumstances surrounding a witness' presence at a scene or the person's prior statements. These statements are then compared to independent evidence including other witness statements and the physical/forensic evidence. The next chart outlines both Version A and Version B and compares it to the physical evidence.

<h2 style="text-align: center;">Assessing the Evidence and the Five Key Witness Statements</h2>		
Version A	Independent Evidence Including Witness Statements	Version B
<p>Version A is constructed by statements from Witness 1 who is a friend of Ball-Bey's and was with him at the scene during the service of the search warrant. He was interviewed once by police and twice by prosecutors. This chart has included content from both of his interviews.</p>	<p>Independent Evidence Including Witness Statements</p> <p>There is physical and forensic evidence that was tested and analyzed. There are also two witnesses who were not involved in the shooting. Witness 2 was in the area at the time of the incident, and an ATF officer (referred to in the report following this chart as Witness 3) assigned to the search warrant.</p>	<p>Version B was constructed from statements made by Officers A and B, who are SLMPD Special Operations officers involved in the shooting. They were interviewed by police only. They declined through their attorney to speak to prosecutors. Under the law, prosecutors cannot force suspects to speak to them.</p>
Where were Ball-Bey and Witness 1 prior to the incident?		
<p>Interview 1</p> <ul style="list-style-type: none"> Witness 1 said he and Ball-Bey were in the alley between Walton and Bayard, not in the flat. He and Ball-Bey saw two men in the alley in back of the store with their guns drawn and pointed at them. Witness 1 told his attorney, while no police were in the room, that he had gone over to 1241 Walton that day with the intention to be in a music video. <p>Interview 2</p> <ul style="list-style-type: none"> He said he and Ball-Bey walked from the store were in the gangway between 1231 and 1233 Walton and not in the flat when they heard a "ruckus" in the alley. Witness 1 and Ball-Bey then walked through the backyard of 1233 Walton to the alley where they poked their heads out to see what was happening. He said he was never behind 1241 Walton that day and was never in the 	<ul style="list-style-type: none"> Witness 2 saw the rear door of 1241 open and two people run out. The ATF agent saw two people run out of the back door of 1241 Walton. Text messages from Ball-Bey's phone indicate that he was with a resident of 1241 Walton the night before the shooting. According to those text messages, he was not planning on going to work the following day and he wanted to be picked up by a relative the following day, which would have been the day of the shooting. Please see appendix for some of these texts (page 36). There were at least 15 officers around the house as the search warrant was being served. 	<ul style="list-style-type: none"> Officer A saw Ball-Bey and Witness 1 run out of the back door of 1241 Walton and run toward the alley.

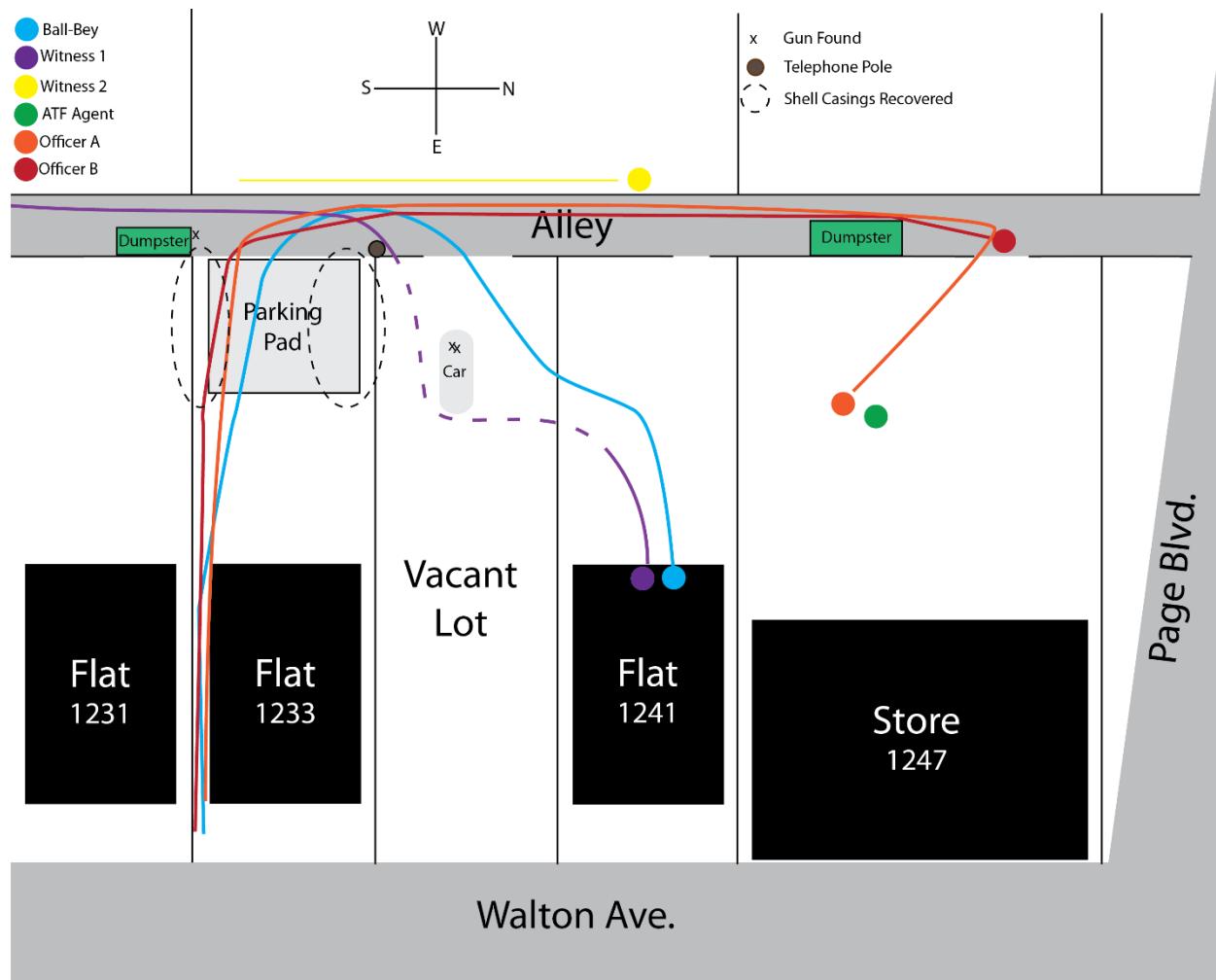
<p>vacant lot between 1241 and 1233 Walton.</p> <ul style="list-style-type: none"> He said he did not go to school that day because he missed the bus. He said he didn't plan on going to 1241 Walton that day. 		
Did Ball-Bey have a gun?		
<p>Interview 1 and 2</p> <ul style="list-style-type: none"> He said neither he nor Ball-Bey had a gun. 	<ul style="list-style-type: none"> Witness 2 saw Ball-Bey leave the flat with a gun in his hand. Ball-Bey's palm print was found on the magazine of a gun near a garbage dumpster on the scene between 1233 and 1231 Walton. Circumstantial evidence ties Ball-Bey to the gun found at the scene. There are photos on social media and from his phone where Ball-Bey is holding a gun that appears to be the gun found at the scene, including an extended magazine. Text messages on Ball-Bey's phone also include discussion and a photo of a gun of the same make and caliber. See appendix for some of these photos and texts. 	<ul style="list-style-type: none"> Officer A and Officer B saw Ball-Bey running from the flat with a gun. Officer A said he yelled that they had "runners" and that one of them had a gun. Officer A and B subsequently saw Ball-Bey with the gun in his right hand. Neither officer saw Witness 1 with a gun.
Did police identify themselves as officers?		
<p>Interview 1</p> <ul style="list-style-type: none"> He said he didn't know the men were police at first, but he looked back while running and saw bullet-proof vests and believed they were police officers. He said he knew they were police because "they ran right past me" during the chase and he saw their vests. <p>Interview 2</p> <ul style="list-style-type: none"> He said he doesn't know what they were wearing and he didn't know they were police. 	<ul style="list-style-type: none"> All officers, including the ATF agent had black bullet-proof vests on that read "POLICE" across the front. Witness 2 saw the officers in vests that identified them as police. Witness 2 heard one of the officers say, "police, stop." 	<ul style="list-style-type: none"> Officer A said he was behind Officer B during the chase, who was giving commands and announcing himself as a police officer. Officer B said he was in the alley and began giving commands for Ball-Bey to stop and announcing that he was police

Did Ball-Bey point the gun at officers?		
Interview 1 <ul style="list-style-type: none"> He said Ball-Bey did not have a gun. He heard shots but did not see the shooting. Interview 2 <ul style="list-style-type: none"> He says he saw two men jogging down the alley and shooting. After seeing the two men, he turned and ran down the alley without looking back. 	<ul style="list-style-type: none"> Witness 2 began yelling at police that there was a gun to alert the officers that the suspect had a weapon. Witness 2 saw Ball-Bey with the gun in his hand and his arm extended. He saw him throw the gun by the trash dumpster in the alley. Witness 2 saw Ball-Bey turn back to his right but could not say where the gun was positioned. The ATF agent was not in a position to see the shooting or what happened immediately prior to the shooting. Therefore, neither witness could offer evidence to assist in proving the officers were not acting in self-defense. 	<ul style="list-style-type: none"> Officer A said he saw the gun in Ball-Bey's hand coming up toward Officer B. Officer B said the gun was coming up toward him. Officer A thought Ball-Bey was going to shoot Officer B. Officer B said he was afraid Ball-Bey was going to shoot him. Both officers fired their weapons independently of each other when they said they saw a threat.
Where were the witnesses when shots were fired?		
Interview 1 <ul style="list-style-type: none"> He hid in a ditch at a house across the alley from where Ball-Bey was shot but couldn't place the home with certainty. His lawyer clarified this to be a stairwell leading down to a basement. He heard shots but did not see the shooting. He then ran directly home. Interview 2 <ul style="list-style-type: none"> He said police began shooting while they were in the alley by the garbage dumpster behind the store. He ran straight home after shots were fired and didn't stop at all. He never looked back and never looked at the men who were shooting other than that first look at them. 	<ul style="list-style-type: none"> Witness 2 was in the yard on the other side of the alley behind 1241. Witness 2 saw Witness 1 go into the vacant lot next to 1241 where an old car was parked. Prosecutors reviewed the scene -- there is no house in the area with a stairwell that could have hidden Witness 1 unseen from Witness 2. Witness 2 was near the alley and when shots were fired, he ducked behind a parked vehicle. Witness 2 heard several shots in succession and then the shooting stopped. Witness 2 said the officers and Ball-Bey were in the alley between the vacant house and the flat with the parking pad 	<ul style="list-style-type: none"> In the alley behind 1233, Officer A took cover behind a telephone pole at the north edge of the yard to the rear left of Ball-Bey. When he looked around, he said Ball-Bey was looking to the right in the direction of Officer B. Officer A said the gun was coming up and he thought Ball-Bey was about to shoot at Officer B. Officer A said he raised his gun and fired one round from 15-20 feet away. Officer B was on the south side of the parking pad to the rear right of Ball-Bey near the dumpster behind 1233. Officer A didn't see Officer B fire his weapon and didn't know if Officer B fired.

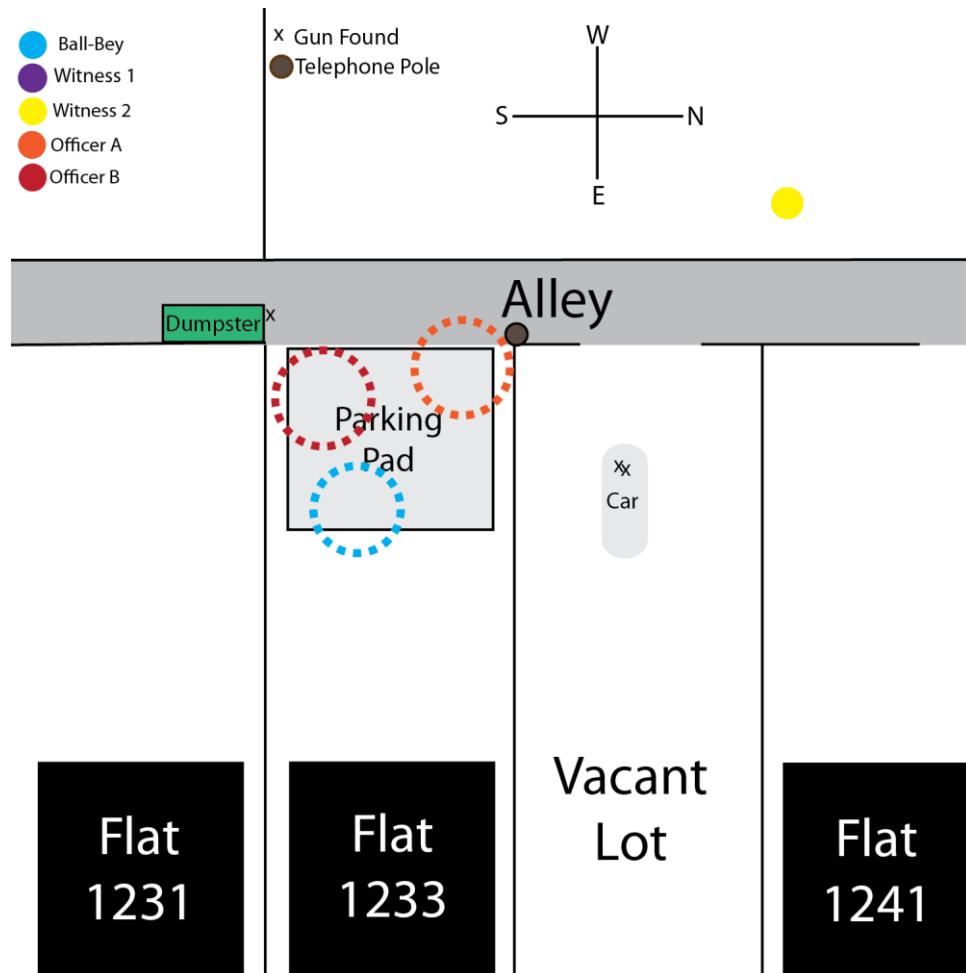
	<p>when shots were fired, not in the alley behind the store</p> <ul style="list-style-type: none"> • Shell casings were found on and near the parking pad of the house at 1233 Walton. • No shell casings were found near the garbage dumpster behind the store. • The ATF agent was exiting the store yard north of 1241 when the shots were fired. 	
Could Ball-Bey continue running after the shooting?		
<ul style="list-style-type: none"> • Witness 1 said he didn't see the shooting or anything following the shooting. 	<ul style="list-style-type: none"> • The ATF agent saw Ball-Bey run quickly through the yard of the house with the parking pad, 1233 Walton after the shooting. • Witness 2 saw Ball-Bey run through the yard and gangway of 1233 after the shooting. • In the Medical Examiner's reexamination, and after consultations with neuropathologists, he believes Ball-Bey continued to run and that his spinal cord was not completely severed at the time he was shot. 	<ul style="list-style-type: none"> • Both officers said after the shooting, Ball-Bey ran towards the front of the yard.

III. CAO RENDERINGS OF SCENE

Map shows approximate path of each involved witness on the day of the shooting. The dashed path is the only path that cannot be corroborated by witness testimony. Please note: Maps are not exactly to scale. All locations/sizes are approximate.



Map shows approximate location of each individual at the time of the shooting. Please note: Maps are not exactly to scale. All locations/sizes are approximate.



IV. WITNESS STATEMENTS

CAO staff members and prosecutors attempted to personally interview all known witnesses and locate additional witnesses. A number of witnesses declined to speak with the CAO. The CAO distributed resource cards and went door-to-door on the block looking for witnesses. Prosecutors made multiple requests to the public for people to come forward with information regarding this matter in an effort to interview all available witnesses and gather all relevant information. Prosecutors also made several attempts to interview individuals who spoke to the media claiming to have information pertinent to the case.

CAO staff personally interviewed more than two dozen people. These interviews included police officers and witnesses who claimed to have specific knowledge of the events.

The CAO team learned that no independent witness or the person who was with Ball-Bey claims to have seen the entirety of the incident.

1. OFFICER A

Officer A is a 33 year-old white male. He graduated from the SLMPD Academy in July of 2008.

Neither officer was drug tested following this shooting. The policy to drug test officers following officer-involved shootings was not implemented until January 29, 2016.

Officer A's Account

On August 21, 2015, Officer A provided his recorded statement of the incident to Lt. Roger Engelhardt with the FIU of the SLMPD.

During the review, CAO staff made a request to interview Officer A. Through his attorney, Officer A declined the request. CAO staff subsequently reviewed Officer A's statement made to FIU investigators. Because Officer A is the subject of the investigation, his testimony cannot be compelled by the courts.

The following is a summary of Officer A's interview with police:

Officer A said he was assigned to cover the back of the flat in case anyone ran out during the serving of the search warrant. He said he positioned himself in the yard of the store. He said he also had a clear view of the back door of the flat. He stated Officer B was standing towards the back of the lot closer to the alley.

He saw two people run out the back door of the flat and run west towards the alley. One of the runners had a gun with an extended magazine in the right side of his waistband. He said he yelled that they had "runners" and that one of them had a gun.

Officer A said he ran west to the alley to chase them but lost sight of them briefly because of the vegetation. He located Ball-Bey and saw that he had removed the gun out of his waistband and was holding it in his right hand while he was running. Officer A said he focused in on Ball-Bey because he saw Ball-Bey with a weapon and did not see a weapon on Witness 2.

Officer A said he was behind Officer B, who was giving commands and announcing himself as a police officer. Officer A says Ball-Bey jumped the fence between the flat and the vacant lot, then ran southwest out of the rear of the vacant lot into the alley, before continuing to run south down the alley.

He said Ball-Bey then turned east onto the parking pad at the home on the other side of the vacant lot and Officer A lost sight of him again.

Officer A took cover behind a telephone pole at the edge of the yard. When he looked around, he said Ball-Bey was looking to the right in the direction of Officer B. Officer A said the gun was coming up and he thought Ball-Bey was about to shoot at Officer B.

Officer A said he raised his gun and fired one round from 15-20 feet away. Ball-Bey's back was to Officer A at the time. Officer A said Ball-Bey's body went forward after the shot was fired and the gun flew out of Ball-Bey's hand. He didn't see Officer B fire his weapon and didn't know if Officer B fired.

Officer A said he then continued to chase Ball-Bey on foot through the yard until Ball-Bey collapsed at the mouth of the gangway near the front yard. Officer A ran up to Ball-Bey and told him to show his hands, to which Ball-Bey complied.

Other officers approached and Officer A went to secure the weapon near the dumpster.

2. OFFICER B

Officer B is a 29 year-old white male. He graduated from the SLMPD Academy in October of 2008.

Neither officer was drug tested following this shooting. The policy to drug test officers following officer-involved shootings was not implemented until January 29, 2016.

Officer B's Account

On August 21, 2015, Officer B provided his recorded statement of the incident to Lt. Roger Engelhardt with the FIU of the SLMPD.

During the review, CAO staff made a request to interview Officer B. Through his attorney, Officer B declined the request. CAO staff subsequently reviewed Officer B's statement made to FIU investigators. Because Officer B is the subject of the investigation, his testimony cannot be compelled by the courts.

The following is a summary of Officer B's interview with police:

Officer B said he was assigned to secure the rear of the flat. He said they set up in the yard to the north of the target address. He was close to the alley in case someone ran out while Officer A and Witness 3 were closer to the middle of the yard.

He said he heard Officer A and Witness 3 yelling, "We have runners, they've got a gun."

By this time, Officer B said he was in the alley and began giving commands for Ball-Bey to stop and announcing that he was police. He said he saw Ball-Bey climb over the fence on the south side of the flat with a pistol in the right side of his waistband that had an extended magazine. He then drew his own weapon. He said he did not see Witness 2 at the time.

He said he continued down the alley because he could tell from the way Ball-Bey turned that he was going to go into the alley. Officer B, knowing Ball-Bey had a pistol, said that he slowed as to avoid a head-on situation with an armed person. He waited until Ball-Bey made it to the alley before continuing at a normal pace. He then said he made eye contact with Ball-Bey at which time Ball-Bey took the pistol from his waistband and held it in his right hand. Officer B said Ball-Bey continued down the alley towards a parking pad. He said he did not fire at this time because, although he was concerned, he didn't fear for his life since Ball-Bey had not raised the gun at him and continued running.

Officer B said Ball-Bey turned the corner and he lost sight of him due to overgrown weeds and bushes on the fence.

Officer B said he slowly went around the corner to make sure Ball-Bey didn't ambush or shoot him. He went onto the parking pad where Ball-Bey was. Officer B said Ball-Bey looked over his left shoulder as if he were trying to track him and raised the pistol across his body towards his left shoulder. Officer B moved to the right side of the parking pad to stop Ball-Bey from tracking him in fear that Ball-Bey would shoot.

As he went right, Officer B said Ball-Bey turned to his right and the officer continued to watch him. As Ball-Bey was turning, he raised his pistol at Officer B. Officer B raised his pistol at Ball-Bey and began shooting. He shot three times. The shooting began near the front of the parking pad and progressed east toward Walton as it continued.

Officer B said he saw Ball-Bey twinge like he was hit. His arm continued upwards and the gun flew out of his hand. Officer B said he stopped firing when the gun flew out of his hand. Ball-Bey continued running through the gangway to the south of the building. Officer B said Ball-Bey ran a good distance and then collapsed.

3. WITNESS 1— Witness 1 was first interviewed¹ by police on August 25, 2015. Prosecutors from the CAO watched this interview and conducted their own interview. On April 14, 2016, prosecutors interviewed Witness 1 again to clarify questions raised as the investigation progressed. It is not unusual for the key eyewitness to an incident to be interviewed multiple times.

Interview 1 (8/25/2015):

Witness 1 told prosecutors that he walked from his house to the aforementioned store on August 19, 2015. He ran into Ball-Bey, whom he had known for a long time, on the way to the store. He said the two knocked on the front door of the flat at 1241 Walton but no one answered. He said Ball-Bey asked Witness 1 to hang out with him outside where they talked for a while. He told prosecutors he didn't go into the flat.

During an interview with police but without police in the room, Witness 1 told his mother and attorney that he and Ball-Bey had planned to shoot a music video that day and that is why he skipped school and went to the flat.

Witness 1 told prosecutors that he and Ball-Bey were in the alley when he said he saw two men in the back of the store with their guns drawn and pointed at them. He said he didn't know immediately that they were police. Ball-Bey and Witness 1 decided to run and split up.

As Witness 1 ran, he looked back and saw that the men with the guns had on bulletproof vests and believed they were police officers because of that. Witness 1 later said he saw the vests because "they ran right past" him. Witness 1 said he hid in a ditch, which his lawyer clarified to be a stairwell leading down to a basement. Witness 1 believed he hid at a house across the alley from where Ball-Bey was shot but couldn't place the home with certainty. He said he heard shots but did not see any shooting. Witness 1 then ran back to his home. CAO staff reviewed the scene—there is no house across the alley where Witness 1 could have hid unseen by Witness 2.

Witness 1 says he did not see Ball-Bey with a gun. Witness 1 said the only gun he had ever seen or touched was a BB gun rifle, which he no longer had as his mother broke it intentionally.

Police and prosecutors have secured multiple photographs from social media where Witness 1 is holding a variety of firearms.

Witness 1 also said that he had only been in the flat once or twice before the shooting.

Interview 2 (4/14/2016)

Witness 1 said he walked from his house to the store as he missed the bus that day and didn't go to school. Somewhere along the way, he ran into Ball-Bey, whom he knew through Witness 7 (see appendix for more information on Witness 7) and had met a few times. The two of them walked

¹ The CAO attempted to contact Witness 2 through his lawyer, his family and community members at least seven times following an initial interview on 8/25/2015. These efforts were made via phone calls, written correspondence (see appendix) and in-person. All requests were denied. In April of 2016, the CAO subpoena'd Witness 2 to testify in front of the Grand Jury. He pleaded the 5th at Grand Jury at which point the CAO offered immunity in order to compel his testimony. He was granted immunity by a judge for any crimes connected to the shooting of Ball-Bey. He spoke to the OIS Unit of the CAO under these conditions.

down to the store where he bought a drink and then left the store together. He says they knocked on the front door of 1241 Walton but no one answered. He says they then walked to the south gangway of 1233 Walton and hung out.

He said they were there a short time and then heard a “ruckus” in the alley, like someone walking or pulling up in the alley. Witness 1 and Ball-Bey then walked through the backyard of 1233 Walton to the alley where they poked their heads out to see what was happening.

He said they saw two white men by the dumpster in the alley behind the store. He said the men started jogging towards them while shooting. He and Ball-Bey split up, at which point, Witness 1 ran straight home without stopping. He didn’t know where Ball-Bey ran. He never looked back and never looked at the men who were shooting other than that first look at them. He says he doesn’t know what they were wearing and he didn’t know they were police.

Witness 1 said he was not inside 1241 Walton the day of the shooting and had only been in there once before, in the upstairs apartment. He said the only time he has been back since August was a few weeks ago when they were cleaning the house out. He said he was never behind 1241 Walton that day and was never in the vacant lot between 1241 and 1233 Walton. He did not see anyone else outside or in the alley area besides Ball-Bey and the two men who were shooting.

He stated he has never seen, held, or touched a gun.

4. WITNESS 2—He was in a yard across the alley from the flat at the time of the incident. It should be noted that the yard was surrounded by a six-foot chain link fence that was padlocked and inaccessible. Witness 2 did not know anyone who lived in the flat by name and did not know anything about the warrant prior to it being served. Witness 2 is a police officer who was off-duty.

He said he saw a police officer walking in the alley prior to the shooting. He did not know the officer but recognized him as police due to “POLICE” written on his vest.

A minute or two later, Witness 2 said he saw two people running out of the flat, one taller (Ball-Bey) and one shorter (Witness 1). He said he didn’t know either of the two. He said Ball-Bey had a pistol that he first thought was a rifle because of how long the clip was. Witness 2 yelled something like, “he’s got a gun, he’s got a gun” to the officers as they were chasing the two people to indicate that there was a gun. Witness 2 heard one of the officers say, “police, stop.”

Witness 2 said he saw Witness 1 run out of the flat and go into the vacant lot where an old car was parked. Ball-Bey ran out into the alley and continued south. Witness 2 said the officers were approximately 10-12 feet behind him.

Witness 2 said Ball-Bey was running with the gun in his hand and his arms moving up and down, in a typical running motion. Witness 2 did not see Ball-Bey point the gun at the officers but he did see Ball-Bey turn and look back just prior to the shooting. He said the officers and Ball-Bey were in the alley between the vacant lot and the house with the parking pad at the time.

Witness 2 heard the first shot and ducked down behind a nearby truck. He does not know who fired first. He heard three or four shots in rapid succession. He then looked up from behind the truck and saw Ball-Bey with the gun in his hand and his arm extended. He saw Ball-Bey throw the gun and it landed by the side of the dumpster. This was the only set of shots that Witness 2 heard.

Witness 2 said Ball-Bey ran through the gangway of the house next to the vacant lot. He didn't see Ball-Bey fall but did see officers trying to handcuff him. While that was happening, he saw Witness 1 come out of the vacant lot and go south into the alley. He started screaming at the police because he was afraid Witness 1 may pick up the gun and ambush the officers. Witness 1 looked at Witness 2 and then ran down the alley.

About a week after this incident, Witness 2 saw Witness 1 taking the garbage to the dumpster behind the flat.

4. WITNESS 3—Witness 3 is an ATF agent assigned to assist the Special Operations Unit of the SLMPD for more than a year. He assists with serving search warrants and investigations. He learned of the investigation into the flat the week before the search warrant was served. He did not do surveillance on the flat and had no prior knowledge of the area.

Witness 3 participated in the briefing prior to the search. He was assigned to secure the rear of the flat with Officers A and B. They drove to the area and waited for SWAT to arrive. There was no signal arranged to let SWAT know they were ready.

Witness 3 said they had been told the target address was the first house on that block. He said there were no numbers on the rear of the buildings and they didn't realize there was a store on that corner. Because of this, they entered the yard of the store instead of the yard of the flat. A fence separating the store and the yard was overgrown with bushes and trees.

Witness 3 said, as they realized they were in the wrong yard, they saw two people come out of the door of the flat. Witness 3 could not see anything except their faces because of the brush. Officer A yelled that they had runners.

He said Officer A was slightly in front of him and Officer B was slightly behind him. As Officer A turned to run and chase the two males who had run out of the house, he pushed Witness 3, causing him to fall. Witness 3 lost sight of Officer A and B. Shortly afterward, he heard someone yell "gun, gun, gun" and then heard shots.

By the time he saw them again, they were halfway into the yard of the house with the parking pad, chasing Ball-Bey. He saw Ball-Bey run quickly. Witness 3 did not notice anything unusual about the way Ball-Bey was running.

Witness 3 said he started chasing them through the gangway on the south side of the house with the parking pad. Officer B was in front, then Officer A then himself. Ball-Bey took five or ten steps in front of the house. Witness 3 did not see Ball-Bey fall but saw him on the ground. He said Ball-Bey was moving his head, arms, and legs and making some unintelligible loud sounds.

He said he knows someone flipped Ball-Bey on to his stomach but he wasn't sure who. Witness 3 saw Ball-Bey resisting being handcuffed. He returned to the alley to secure the gun. He also identified a witness to the event, Witness 2.

V. OTHER EVIDENCE

1. AUTOPSY REPORTS

The Medical Examiner's Office first examined the body of Ball-Bey on the morning of August 20. The autopsy determined that there was a gunshot wound to the right back and abrasions to both of his hands and knees, as well as his right hip. The path of the wound is forward and leftward.

The bullet damaged the 9th vertebrae, the aorta, and the heart. The bullet, which was recovered during the autopsy, stopped inside the left side of the chest, 24 centimeters below the shoulder.

At the time of the initial examination, the spinal cord was completely separated at the level of the 9th vertebrae. The area between the two parts of the cord was filled with blood, membrane, and bone chips. During the initial autopsy, the Assistant Medical Examiner took what she thought to be the portions of the spinal cord where it was severed in order to preserve it.

The body was then released to the funeral home.

On August 25, after the body had been embalmed at the funeral home, the Medical Examiner discovered that the Assistant had just seized the outer covering of the spinal cord, not the cord, itself.

The body was then returned to the Medical Examiner's Office at which point the Medical Examiner seized the actual spinal cord. The spinal cord was photographed and preserved at the Medical Examiner's Office. The spine and spinal cord at the site of the gunshot wound were reexamined, this time by the Medical Examiner, himself.

He found that the bullet perforated the 9th vertebrae and bruised the left wall of the spinal canal. It did not pass directly through the spinal canal. It did not perforate the spinal cord, itself. The separated edges of the spinal cord were slightly irregular and uneven. There was extensive bruising on the left side of both ends of the spinal cord near the separation point. There was less bruising on the right side of the spinal cord near both of its ends at the separation point.

After completing his reexamination and reviewing the case materials, the Chief Medical Examiner consulted with several neuropathologists to get their opinions on whether Ball-Bey would have been able to continue running after he was shot. Based on these consultations and his review of the physical evidence, he believes Ball-Bey continued to run and that his spinal cord was not completely severed at the time he was shot. The spinal cord was severed at some point after the shooting. He explained this could have been caused by the movement of Ball-Bey running, the pressure put on him while he was being handcuffed, or the movement of the body for transport and examination after he was already dead.

In addition, the Medical Examiner has stated the damage to Ball-Bey's spinal cord was not fatal. The spinal cord injury did not cause Ball-Bey's death. He would have died even if the cord had not been severed. The damage done to his heart by the bullet is what ultimately caused his death.

2. BALLISTICS REPORTS

Four cartridge casings were recovered from the scene of the shooting. The casings are consistent with department-approved ammunition. Shell casings were found in the area behind 1233 Walton. Three of them were near the south side of the parking pad, one was on the north side of the parking pad. Witnesses say that all the shots were fired in close succession.

One 9mm, 6/right twist, copper jacketed bullet was recovered from the morgue. The bullet matched test shots fired from Officer A's gun.

Each of the officer's firearms was submitted to the laboratory with its magazine and cartridges. Officer A's gun had 15 cartridges left in the magazine following the shooting. Officer B's gun had 13

cartridges left in the magazine following the shooting. The capacity for each firearm is 15 cartridges in the magazine, plus one in the chamber (total of 16). Both were fully loaded prior to the shooting.

Gun found by the dumpster in the alley behind 1233 Walton

A Springfield Armory .40 caliber handgun was found by the dumpster in the alley behind 1233 Walton. Three witnesses said this gun was the gun carried by Ball-Bey.

A ballistics test on Ball-Bey's gun showed that it functioned as designed and was loaded.

This gun had previously been reported stolen.

Gun found lying on the ground on the vacant lot under the car

A Glock .40 caliber handgun was found on the ground on the vacant lot under the car.

A ballistics test on this gun showed that it functioned as designed and was loaded.

This gun had previously been reported stolen.

Gun found in the bag on the vacant lot under the car

A Springfield Armory .40 caliber handgun was found in the bag on the vacant lot under the car.

A ballistics test on this gun showed that it functioned as designed and was loaded.

No shell casings were found by the garbage dumpster in the alley behind the store.

3. SURVEILLANCE VIDEO

Surveillance video available near the scene only showed sidewalks and a small portion of the street in front of the store. No portion of the 1241 Walton or the rear alley is visible on the video. The car Witness 5 and Witness 8 were in can be seen on the surveillance video pulling up about seven minutes before SWAT arrived. The car never moved after being parked.

4. GUNSHOT RESIDUE

The Missouri State Highway Patrol conducted a gunshot residue test on swabs from Ball-Bey's hands following the incident. Gunshot residue was not found on Ball-Bey's hands.

5. FINGERPRINT ANALYSIS

Ball-Bey's palm print was matched to a print on the magazine of the gun Ball-Bey discarded by the dumpster. No identifiable prints were found on the gun or cartridges.

Two prints taken from the scale found inside the bag in the vacant lot were compared to Ball-Bey's prints. Ball-Bey was excluded as the source of one of the prints, the other comparison was inconclusive. One of those prints was matched to a man unrelated to this matter through the fingerprint database. It is unclear how/if he was connected to the flat. The other print was also compared to Witness 7 and the comparisons were inconclusive.

No identifiable prints were found on the gun, magazine, or cartridges of the gun in the vacant lot. One print was lifted from the magazine of the gun found inside the bag in the vacant lot. The comparison between that print and Ball-Bey's print was inconclusive. The comparison between that

print and the prints of Witness 7 was also inconclusive. No identifiable prints were found on the gun itself or the cartridges in the gun.

A print lifted from the laser light was of no evidentiary value and could not be compared.

Lab analysts and evidence experts confirm that it is rare to retrieve useable fingerprints or DNA from a weapon. This is due to a number of factors, including but not limited to the material, surface and shape of the weapon, and the frequency with which guns change hands.

Witness 1 was not included for a comparison of fingerprints, as his fingerprints are not on file with law enforcement.

A gun with a similar make and model to the gun that Ball-Bey had that day can be seen with Ball-Bey in this picture from his cell phone and a picture from one of his social media accounts.



6. DNA ANALYSIS

Guns and items from the scene were tested for DNA.

Analysts swabbed Ball-Bey's weapon for DNA including the trigger, grip, rough areas of the firearm, top and bottom of the magazine, the base of the cartridge and the cartridge case.

No DNA suitable for comparison was found on the gun Ball-Bey had, including the magazine and cartridges.

A mixture of DNA of three unknown individuals was found on the gun located under the car in the vacant lot. No DNA suitable for comparison was found on the magazine or cartridges of this gun.

A mixture of DNA from four unknown individuals was found on the gun located in the bag in the vacant lot.

A mixture of DNA from four individuals was found on the bag containing the gun, scale, light and drugs located in the vacant lot. A mixture of DNA from two individuals was found on the scale and not traced to anyone at the scene. A mixture of DNA from two individuals was found on the laser light and not traced to anyone at the scene.

Witness 1 was not included for a comparison of DNA, as his DNA is not on file. The DNA was also not compared to Witness 7's DNA.

7. ADDITIONAL EVIDENCE

Prosecutors reviewed social media, photos taken from the scene, cell phone data, and work records. *See appendix for some of the pictures from the scene, social media pictures and texts.*

IV. DISCUSSION

1. ISSUE

Prosecutors have reviewed available witness statements, physical evidence and forensic evidence related to the shooting death of Mansur Ball-Bey.

The CAO has the responsibility to review the evidence and determine if the evidence proves that a crime has occurred. To pursue criminal charges, the available evidence must prove a crime occurred beyond a reasonable doubt. In this case, prosecutors considered the following issue:

Did either Officer A or Officer B commit a crime under Missouri law, and if so, can the crime be proven beyond a reasonable doubt?

2. APPLICABLE MISSOURI LAW

To answer this question, prosecutors reviewed applicable Missouri criminal statutes.

Three specific Missouri laws emerged as relevant to the case: those laws governing homicide, a person's ability to act in lawful self-defense and a person's ability to act in defense of others. Those laws are outlined, in summary, below. *For the actual language of the statutes, see the appendix.*

***Homicide*²**

In considering the charges for any level of homicide, a prosecutor must determine whether the individuals involved knowingly caused the death of another individual without an adequate defense. In doing any investigation of a person's death, the law requires law enforcement to consider whether the suspect's defense meets the standards of the law in the course of making a charging decision.

Use of force in defense of persons (563.031 covers both self-defense and defense of others)

Physical Force: According to Missouri law, a person may use physical force upon another person when he or she reasonably believes such force to be necessary to defend himself or herself.

² First-degree murder, second-degree murder, voluntary manslaughter, involuntary manslaughter

Deadly Force: The law allows a person to use deadly force when he or she reasonably believes^[2] that such deadly force is necessary to protect *himself or another person* from death, serious physical injury or any forcible felony.

To use physical and/or deadly force, the law states that the person claiming self-defense cannot be the “initial aggressor” in the incident, unless that person is a law enforcement officer. It does not matter who first produces a weapon; a police officer, under the law, is entitled to self-defense even if he or she is the initial aggressor.

The law governing self-defense and defense of others requires prosecutors to prove beyond a reasonable doubt that the individual did not act in lawful self-defense or lawful defense of another person.

Once an individual claims they acted in self-defense, the State must be able to prove beyond a reasonable doubt that the person did not act in lawful self-defense.

3. ANALYSIS

Prosecutors applied Missouri law to the facts and evidence available in this case, including witness interviews, physical evidence and forensic evidence. The following is a summary of their analysis and application of the laws considering the available evidence.

Use of force in defense of persons

Officers A and B were acting in their full capacity as law enforcement officers and, on the date in question, were assisting in the serving of a search warrant. They also retain rights afforded to regular citizens.

Prior to their arrival at the scene, the officers received information that the address listed in the search warrant housed weapons and illegal drugs. The officers were also informed prior to the serving of the search warrant that two people were targets of the search warrant and may be present in the flat when the warrant was served.

SWAT was assigned to the inside of the flat; Officers A and B were working as members of the Special Operations assigned to secure the rear of the flat. Neither unit conducted surveillance on the rear of the flat prior to serving the search warrant. Officers were told to go to the first residence on the block. They were wearing jeans, black outer bullet-proof vests that said “police” in large white letters and badges identifying themselves as police officers.

Officer A, Officer B and the ATF agent mistakenly entered the backyard of the corner store instead of the backyard of the flat. According to the ATF agent, they were told the target building was the first residence on the corner. They were unfamiliar with the neighborhood and there were no addresses in the back of the buildings. As the officers stood in the backyard of the store, they saw the door to the flat at 1241 open and Ball-Bey and another male (Witness 1) run out the back door.

During the serving of the search warrant, officers saw Ball-Bey running out of the house. At the time Officers A and B first saw Ball-Bey, he was holding a gun with an extended magazine. Ball-Bey ran from the officers and ignored repeated commands to stop. The officers’ statements and witness testimony indicate that Ball-Bey was turned toward Officer B. Ball-Bey began raising his gun with

the barrel in the direction of Officer B. The physical and forensic evidence are consistent with these witness statements.

In the recorded interviews, Officer B indicated he was in fear for his own safety. Officer A indicated that he believed Ball-Bey was going to shoot Officer B. Therefore, both individuals asserted claims of self-defense and defense of others.

To charge either officer with homicide, the CAO staff needed available evidence to prove beyond a reasonable doubt that either or both did not reasonably fear for Officer B's safety or life. There is insufficient evidence to prove beyond a reasonable doubt that these fears were unreasonable. There were no witnesses other than the officers, who saw the actual shooting. Under the circumstances, the State cannot prove that it was unreasonable for the officers to fear for their own or the other's safety as they believed that Ball-Bey was raising his gun in the direction of Officer B. Though acting as law enforcement officers at the time, had either Officer A or Officer B been acting in any other capacity, or as private citizens, the same analysis would apply.

4. CONCLUSION

The fact that Officer A and Officer B shot at Ball-Bey and that Ball-Bey died as a result of these injuries is not in dispute. It is a tragedy that a life was lost in this incident.

Prosecutors must only determine if a crime can be proven beyond a reasonable doubt. Given all the available facts, witness statements, physical and forensic evidence, and for the reasons outlined in the discussion above, prosecutors have determined a criminal violation could not be proven beyond a reasonable doubt. Therefore, charges will not be filed in this case.

V. APPENDIX

1. REVIEW OF POLICE OFFICER-INVOLVED SHOOTINGS: THE ROLE OF THE CIRCUIT ATTORNEY'S OFFICE

The Circuit Attorney's Office (CAO) handles state-level criminal matters, as a function of state government. The CAO is separate and independent from all other city of St. Louis government agencies including the St. Louis Metropolitan Police Department (SLMPD).

After the SLMPD adopted a new protocol related to police officer-involved shootings in September 2014, the CAO agreed to conduct an independent review of police officer-involved shootings occurring in the city of St. Louis. All CAO investigations regarding police-involved shootings are fully independent of the SLMPD.

When the protocol first went into effect, these reviews occurred after the completion of an investigation undertaken by the SLMPD's Force Investigation Unit (FIU). In the shooting death of Mansur Ball-Bey, the Circuit Attorney chose to conduct a parallel investigation to the FIU's investigation. In order to expedite the review process, the CAO now conducts an immediate, thorough and separate review of the facts and circumstances of any police shooting where a person has been injured or killed. The CAO collects and examines evidence, interviews witnesses and begins a legal analysis concurrent to the FIU's separate investigation.

As defined by law, the CAO may request that the grand jury assist in investigating any matter. CAO staff may also investigate any matter themselves. The specific course of action for an incident is determined on a case-by-case basis. The CAO may use all legal investigative tools for its independent review. Prosecutors may conduct additional interviews with all witnesses, subpoena witnesses to testify before the grand jury, collect and analyze physical and/or forensic evidence and apply all available evidence to current Missouri laws.

The role of the CAO in conducting these reviews is to determine if a criminal violation of Missouri law has occurred and if such violation can be proven beyond a reasonable doubt in a court of law. Prosecutors will not make comments regarding the efficacy of police policies, procedures, training or other aspects of police conduct outside of the laws of the State of Missouri. Additionally, the findings of this office bear no weight on potential disciplinary or civil litigation in these matters.

2. ADDITIONAL WITNESS STATEMENTS

WITNESS 4—Witness 4 was a Special Operations detective at the time of the shooting. He/she first learned about the search warrant on August 19, 2015. Witness 4 was originally supposed to be in the rear of the flat with Officers A and B and the ATF agent. Witness 4 and his/her partner were redirected to the front to watch a car that had just parked in front of the flat.

Witness 4 saw SWAT enter the flat. The car they were watching stayed in place so Witness 4 drove north towards the flat. As Witness 4 was driving, he/she heard several shots that sounded like they came from behind the house. He/she believes he/she heard four shots in close succession. Witness 4 pulled to the curb just south of the house that stood on the other side of the vacant lot from the flat.

He/she heard someone say, "he's running east" on what he/she thinks was a police radio.

Witness 4 got out of the car and started looking for Ball-Bey in gangways. He/she saw Ball-Bey running through a gangway on what was thought to be 1233 Walton. He/she said Ball-Bey appeared to be running normally. Ball-Bey came into the front yard and then collapsed.

Witness 4 could not see Ball-Bey after he fell due to a fence between them that was covered in vegetation. He/she heard several people yelling, "stop resisting, roll over on your stomach." He/she got to the fence and looked over at which time he/she could see Ball-Bey on his back rolling from side to side and yelling something unintelligible. Ball Bey was using his feet to plant in the ground and push off and he was also moving his hands and head back and forth. He/she did not know if he was still armed or what exactly was going on.

Seconds later, Witness 4 jumped the fence when he/she heard someone say they didn't know if he was still armed or not. At this time, Ball-Bey was on his back with his feet to the west and his head to the east.

Witness 4 says he/she grabbed Ball-Bey's forearm and lifted him onto his side so he/she could look for a weapon. He/she then told Ball-Bey to roll over on his stomach. When he refused, seeming to resist, he/she tried to forcibly roll him over. Ball-Bey kept pulling his arm loose. Witness 4 got him rolled over, but Ball-Bey wouldn't allow himself to be cuffed. Witness 4 says he/she then kneeled on top of Ball-Bey to force his hands from under his body, behind his back and cuff him. He/she says Ball-Bey fought this the whole time.

Witness 4 forcefully grabbed Ball-Bey's left forearm from under his body, pulling the arm up and back in a circular motion high enough to pull Ball-Bey's shoulder off the ground. Witness 4 put a handcuff on the left arm. Ball-Bey continued to resist as Witness 4 attempted to put the handcuff on the right arm but eventually got the cuff on.

Once Ball-Bey was cuffed, Witness 4 removed his/her knee off Ball-Bey. Witness 4 did not see Ball-Bey move his legs again after that point. Witness 4 saw blood pooling near Ball-Bey's right shoulder and lifted his shirt. Witness 4 saw a puncture wound. Witness 4 grabbed Ball-Bey's left arm and rolled him onto his right side. Witness 4 said it felt as though the weight of Ball-Bey's body might cause him to fall forward again so Witness 4 moved up Ball-Bey's legs toward Ball-Bey's chest to stabilize him.

Witness 4 asked Ball-Bey basic questions to determine if he was lucid. Ball-Bey turned his head to look at Witness 4 but did not answer any questions. Witness 4 felt Ball-Bey's pulse at this time and could hear him taking deep breaths.

Witness 4 cut open the back of Ball-Bey's shirt and ripped it open to apply pressure and place gauze on the wound on Ball-Bey's back. Witness 4 felt Ball-Bey's heart beating very fast and heard him breathing. Another officer approached with gloves and a pad used specifically for severe chest wounds. Witness 4 put the pad on Ball-Bey's wound, held on with athletic tape. He/she was not sure if Ball-Bey was still breathing as the pad was placed on him.

Medics arrived and asked that the handcuffs be taken off. Witness 4 removed the handcuffs. The medics found no vital signs and pronounced Ball-Bey dead on the scene.

Witness 4 does not remember anyone else touching Ball-Bey and said Ball-Bey stopped resisting as soon as the cuffs were on him. He/she said the stop of resisting was sudden. Witness 4 says the time between him jumping the fence and placing the handcuffs on Ball-Bey was a matter of seconds.

WITNESS 5 – Witness 5 was the driver of a car that arrived at the flat just prior to the shooting. Witness 8 was the passenger in the car at the time.

Witness 5 was going to the flat to use Witness 7's phone charger. Witness 7 met him/her at the front door and let him/her in. Witness 5 said he/she was in the living room, heard SWAT on the stairs and saw them come into the flat with their guns drawn.

Witness 5 says he/she and Witness 7 were the only people in the flat at the time. He/she told prosecutors that he/she was in the living room and had a clear view to the kitchen and would have seen anyone who ran out the back of the upstairs apartment. He/she said he/she did not hear any shots fired.

In an earlier interview with police, Witness 5 said he/she was still on the stairs leading up to the flat when SWAT detained him/her. He/she said in that interview that he/she didn't hear anyone else in the apartment but couldn't be sure if there was anyone else there.

Witness 5 said he/she had met Ball-Bey once or twice before at the flat.

Further after the police ask him/her if he/she knows anyone named Mansur, he/she said no. After police leave the interview room, Witness 5 can then be heard saying to herself on the video "Mansur, that must be Man-Man."

WITNESS 6 – Witness 6 is familiar with both Witness 7 and Ball-Bey. He/she last saw Witness 7 and Ball-Bey at the flat the night before the incident and believed they were going to a movie that night. He/she does not know if Ball-Bey spent the night there and said Ball-Bey visited the residence frequently and would occasionally spend the night. He/she also stated that Witness 7, Ball-Bey and other relatives would frequently spend time in the basement of the flat. The basement of the building is accessed by the back stairs and also has access to the back door of the building.

WITNESS 7 – Witness 7 was one of the subjects of the search warrant served that day. Witness 7 was in the flat with Witness 5. Witness 7 said Witness 5 had been in the flat 10-15 minutes before police arrived.

Witness 7 said police arrived as he was in the bathroom brushing his teeth. He said he came out of the bathroom and surrendered to police, at which point he was arrested.

He said that he heard four or five shots outside while still in the flat. He said one of the officers told him that they shot his friend. Witness 7 said that he had not seen Ball-Bey since the prior weekend

and didn't see him at the house that day. He said Ball-Bey would come over to the flat sometimes to hang out. Witness 7 said he and Ball-Bey also recorded music and made videos together.

He said that Witness 1 would come over on the weekends to hang out or play video games. Witness 1 would also do things like take out the trash sometimes.

Since the shooting, Witness 7 has pleaded guilty to unlawful possession of a firearm. The charge stemmed from the gun found in searching the flat. He was sentenced to seven years in prison.

WITNESS 8 – Investigators with the CAO set up interviews with Witness 8 four times. Each time, the witness failed to show. This summary is from a police interview that took place right after the incident.

Witness 8 was the passenger in the car that Witness 5 was driving. They pulled up to the flat where there was a man (Witness 7) waiting at the door. Witness 5 went in the house but Witness 8 did not know why.

Witness 8 thought, based on the way Witness 5 had gone in to the flat that he/she and Witness 7 were standing just inside the door talking. The door was closed but was not locked.

Witness 8 said a car with three guys in it pulled up behind the car he/she was in after they arrived. They asked him/her to move the car forward so they could park. Two of the men went into the store on the corner.

About five minutes after they arrived, Witness 8 said SWAT pulled up and went into the flat; he/she said they didn't have to knock down the door because it was unlocked from Witness 5 entering.

Approximately 30 seconds after SWAT went into the flat, Witness 8 said he/she heard two shots. He/she ducked down and heard officers yelling, "get on the ground, get on the ground."

Police asked Witness 8 to get out of the car. He/she saw a man on the ground and officers putting tape on his back. He/she never saw the man running or get shot.

3. ADDITIONAL INFORMATION USED TO ASSESS CREDIBILITY

Officer B

In December of 2011, Officer A and Officer B were involved in a traffic stop that resulted in a man being arrested and charged for drug possession. In September of 2013, a judge viewed dash-cam video from the arrest following a defense motion alleging the officer planted the drugs. The Court ruled the credibility of Officer B to be questionable. While prosecutors believed that Officer B was credible, charges were dismissed as the CAO chose not to appeal the judge's ruling.

Prosecutors informed the SLMPD Internal Affairs Department of the judge's ruling as well as the U.S. Attorney's Office, which also calls Officer B as a witness in criminal cases. Separate investigations of the officer's actions and credibility were conducted. Neither the CAO nor the US Attorney's Office have found evidence that called into question this officer's credibility and both offices continue to use this officer in criminal cases³.

³ Previously, this office has refused to put officers on the witness stand that we have deemed not credible. If we believed this officer to not be credible, we would have taken the same course of action. We did not choose to do so with this officer.

Admissibility of this information would be determined by a judge. The CAO still considered the incident in our assessment.

Witness 2

Witness 2 has previously testified for the State in a case where an officer was being prosecuted.

Mansur Ball-Bey

One witness said that he did not see Ball-Bey with a gun on the day of the shooting. Three witnesses said they saw Ball-Bey with a gun. In assessing why Ball-Bey was at the flat that morning and whether he had a gun on him that day, prosecutors took into account the circumstances surrounding his presence at the flat. Photos from Ball-Bey's social media accounts and from his phone included photos of him with a gun of a similar model to that which he was found with on the day of the shooting.

Witness 1 said that he and Ball-Bey planned to shoot a music video the day of the shooting and that's why the two were at the flat. Prosecutors viewed previously made music videos that featured Ball-Bey, including videos entitled: "No Duckin We Buckin" and "Traffic-La4ss Diss." In these videos, Ball-Bey can be seen with other individuals, including the person who was the subject of the search warrant, who was holding a weapon.

Text messages on Ball-Bey's phone made references to activity involving the sale of "loud," a street term used to describe marijuana. The judge's search warrant allowed the police to search the flat for both illegal drugs and guns. Prosecutors considered this information in assessing whether Ball-Bey may have been inside the flat on the day of the incident.

The below text conversation, extracted from Ball-Bey's phone, between Ball-Bey and his friend discusses a possible future transaction for "loud" or marijuana. The time stamp is in the Universal Time Code which means that it is five hours faster than Central Time.

Sent	To [REDACTED]	7/10/2015 12:40:28 AM(UTC+0)	Network: 7/10/2015 12:40:28 AM(UTC+0)	Sent	I'm a try to get sum before 2 weeks
Inbox	From [REDACTED]	7/10/2015 12:38:48 AM(UTC+0)	Network: 7/10/2015 12:38:48 AM(UTC+0)	Read	I don't need nun now but when you gonna have some because I get paid in two weeks
Sent	To [REDACTED];	7/10/2015 12:36:53 AM(UTC+0)	Network: 7/10/2015 12:36:53 AM(UTC+0)	Sent	It go from 80 to 100 , but I ain't got nun.
Inbox	From [REDACTED]	7/10/2015 12:34:39 AM(UTC+0)	Network: 7/10/2015 12:34:39 AM(UTC+0)	Read	*of
Inbox	From [REDACTED]	7/10/2015 12:34:34 AM(UTC+0)	Network: 7/10/2015 12:34:34 AM(UTC+0)	Read	How much would charge me for a quater or loud??

Witness 7 sent Ball-Bey the below picture on July 4, 2015. This conversation regarding guns followed Ball-Bey's receipt of that picture. The .40 XD is the same caliber and model of gun as that found by the dumpster. The time stamp is in the Universal Time Code which means that it is five hours faster than Central Time.



Inbox	From [REDACTED]	7/4/2015 5:49:42 PM(UTC+0)	Network: 7/4/2015 5:49:42 PM(UTC+0)	Read	That's a 45glock n 40xd in my pocket I got another 45 put up it take a 30 to
Sent	To [REDACTED]	7/4/2015 5:49:38 PM(UTC+0)	Network: 7/4/2015 5:49:38 PM(UTC+0)	Sent	Ight
Inbox	From [REDACTED]	7/4/2015 5:48:36 PM(UTC+0)	Network: 7/4/2015 5:48:36 PM(UTC+0)	Read	The 40wit the beam gone I traded it for a 45 errthang I got exclusive I'll let yu see Saturday
Sent	To [REDACTED]	7/4/2015 5:41:24 PM(UTC+0)	Network: 7/4/2015 5:41:24 PM(UTC+0)	Sent	That 45 nice , that's the 40 in yo pokcet ?

Witness 1

Witness 1 said that he had never seen or held a gun before. Social media photos showed Witness 1 with four weapons in this photo. Prosecutors considered this information in assessing Witness 1's credibility. There were also several other pictures of Witness 1 with guns.



4. PHOTOS FROM CRIME SCENE



Ball-Bey's gun next to the dumpster where it landed.



Ball-Bey's gun with extended magazine.



Shell casings found at the scene.



Gangway Ball-Bey ran through and area where he fell.

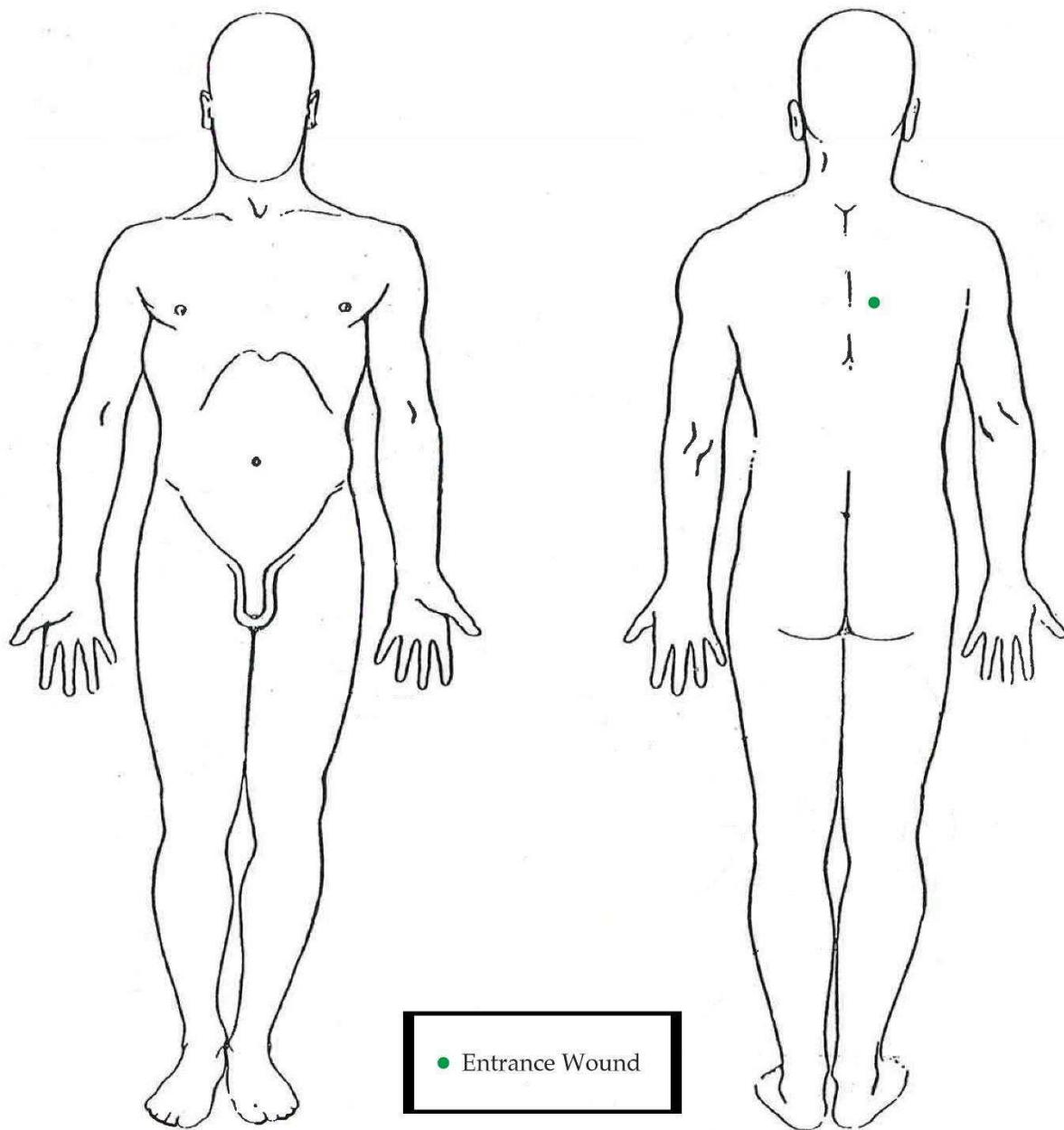


Backyard of the flat and vacant lot next door.



Parking pad where shooting occurred.

3. STATE'S RENDERING OF MEDICAL EXAMINER'S AUTOPSY



5. ANALYSIS OF PUBLIC STATEMENTS

Statements Made to the Public	Analysis
<p>Family attorneys said Mansur Ball-Bey was not at the house, he was two houses south at the rear of the flat.</p>	<p>Eyewitnesses saw Ball-Bey run out of the flat that was the target of the search warrant.</p>
<p>Family attorneys said that, initially, Ball-Bey was in the front of the flat two houses from the flat that was the target of the search warrant. He then heard ruckus in the back of the flat and he ran back there and found the plainclothes officers.</p>	<p>During an interview with police, Witness 1 told his mother and attorney that they had planned to shoot a music video that day and that is why he skipped school and went to the flat. Several music videos featuring Witness 7 and Ball-Bey also feature guns similar to the one Ball-Bey had including the extended magazine.</p>
<p>(St. Louis American video, 8/24/2015)</p>	
<p>The Ball-Bey family attorney stated that Ball-Bey had just arrived at the Walton Avenue location from his job at Federal Express.</p>	<p>Records from Federal Express show that Ball-Bey did not call-in or show up for his last shift at work. Federal Express says Ball-Bey had not been to work for at least 24 hours prior to the shooting. Ball-Bey was required to wear jeans to work. He was wearing navy sweatpants at the time of the shooting. Witness 1 said in his first interview that Ball-Bey was wearing a Fedex shirt at the time of the shooting. Text messages from the night before sent from Ball-Bey's phone indicate that he was going to take the following day off work. Please see below this section for those text messages.</p>
<p>(St. Louis American video, 8/24/2015)</p>	
<p>Family attorneys said both people in the flat indicated Ball-Bey was not in the house.</p>	<p>If Ball-Bey came up from the basement, people in the upstairs apartment of the flat would not have been able to see Ball-Bey exit. They may not have known he was in the building.</p>
<p>(St. Louis American video, 8/24/2015)</p>	
<p>Family attorneys said one occupant was sitting on a couch in a front room and she would have been aware if Ball-Bey was in the house.</p>	<p>If Ball-Bey came up from the basement, people in the upstairs apartment of the flat would not have been able to see Ball-Bey exit. They may not have known he was in the flat. One witness first told police he/she was on the front stairs when police entered. The witness later told prosecutors he/she was in the living room when police entered the flat.</p>
<p>(St. Louis American, 8/24/2015)</p>	
<p>The family attorneys said the police were in plainclothes, he didn't know they were police officers.</p>	<p>The police officers were wearing vests that said 'police' across the front. In his first interview, Witness 1 acknowledged he knew the people in the backyard were police officers because of their clothes. An eyewitness said he saw police in the yard with vests on that made him believe they were police.</p>
<p>(St. Louis American video, 8/24/2015)</p>	
<p>Family attorneys said if police had properly served the search warrant and had the backdoor covered in the proper way, no one</p>	<p>Police were mistakenly in the yard of the store next to the flat that was the target of the search warrant.</p>

would have been able to exit the back door and run 100 feet while armed. (St. Louis American video, 8/24/2015)	
Family attorneys said that, to properly serve that search warrant, police should have been at bottom of steps into backyard. He would have gone through two police officers if he had exited the back door. (St. Louis American video, 8/24/2015)	Police were mistakenly in the yard of the store next to the flat that was the target of the search warrant.
According to Michael Graham, the shot would have taken him down immediately. (St. Louis American video, 8/24/2015) (Reuters, 8/21/2015)	The Medical Examiner later clarified that this was only a possibility. The ME conducted a second review of the spine and sought further clarification from neuropathologists to determine if Ball-Bey could have run after he was shot. Several witnesses saw Ball-Bey continue running after the shooting stopped.
The family attorneys allege Ball-Bey was not armed and that there is no forensic evidence that Ball-Bey was armed with a weapon. (St. Louis American article, 8/26/2015)	An eyewitness saw Ball-Bey exit the flat with a gun in his right hand. Police found Ball-Bey's palm print on the magazine of the gun found by the dumpster that witnesses say he discarded. Photos on Ball-Bey's cell phone show him with guns similar to the one he was carrying, including the extended magazine.
Family attorneys said Ball-Bey was running from police when he was shot. (St. Louis American video, 8/24/2015)	Based on multiple witnesses, Ball-Bey did originally run from police and we believe he was still in motion when he directed the gun at the officer.
Family attorneys said that everything is supported by eyewitness testimony, and they haven't spoken to one witness who said Ball-Bey was armed. (St. Louis American video, 8/24/2015)	Several police officers and one independent eyewitness said they saw Ball-Bey had a weapon when he exited the flat. The witness with Ball-Bey the day of the event said Ball-Bey did not have a weapon. Three weapons were found on the site after the shooting. One weapon had the palm print from Ball-Bey on it.
Family attorneys said there was no gun near Ball-Bey's body according to eyewitnesses. (St. Louis American video, 8/24/2015)	This is correct. Witnesses said Ball-Bey discarded his gun by the dumpster after the shooting and ran through the gangway to the front yard where he fell and was apprehended by police.
Family attorneys said there were two people in the house when they served the search warrant, the two people who were apprehended. (St. Louis American video, 8/24/2015)	There were two people in the upstairs apartment of the building. One was arrested and charged, the other was interviewed by police.
Family attorneys said two witnesses indicated Ball-Bey was in the yard with the parking pad.	Only one eyewitness claiming to have been with Ball-Bey prior to the shooting has been located. He was not clear as to their exact location prior to the shooting, saying they were in the alley in his first

(St. Louis American video, 8/24/2015)	interview and saying they were in the gangway in a subsequent interview.
Family attorneys allege, as he ran down the gangway, Ball-Bey was shot in the back and fell face forward.	Three witnesses said the shooting occurred in the back of 1233 Walton, not in the gangway. Several witnesses say they saw Ball-Bey run past the front of the house after the shooting before he fell in the yard.
(St. Louis American video, 8/24/2015)	
Family attorneys allege the back door to the flat had a board keeping it closed and it had not been moved.	Two officers and one witness saw Ball-Bey and his friend run out the back door of the flat. There are photos of the back door open on the day of the shooting. There is no way family attorneys can know whether the back door was open or closed that day, as they were not there. In addition, there is not a direct view from the front of the house to the back door of the house for the people inside to see if someone exited the back door.
(St. Louis American video, 8/24/2015)	
The family said Ball-Bey was not involved in criminal activity. He had no criminal record.	Ball-Bey does not have a criminal record. Photos on Ball-Bey's cell phone and videos on Youtube show Ball-Bey wearing "Trakcistan Mafia" t-shirts. "Trakcistan Mafia" is a St. Louis criminal gang. Text messages on Ball-Bey's phone reference him having access to guns as well as him selling marijuana.
(St. Louis American article, 8/26/2015)	

This was a conversation between Ball-Bey and a relative the night before the shooting. The time stamp is in the Universal Time Code which means that it is five hours faster than central time.

Sent	To [REDACTED]	8/19/2015 4:22:52 AM(UTC+0)	Network: 8/19/2015 4:22:52 AM(UTC+0)	Sent	Just come get me tomorrow
Sent	To [REDACTED]	8/19/2015 4:21:29 AM(UTC+0)	Network: 8/19/2015 4:21:29 AM(UTC+0)	Sent	Ight gone head
Inbox	From [REDACTED]	8/19/2015 4:21:12 AM(UTC+0)	Network: 8/19/2015 4:21:12 AM(UTC+0)	Read	Aan he got school stuff tomorrow
Inbox	From [REDACTED]	8/19/2015 4:20:48 AM(UTC+0)	Network: 8/19/2015 4:20:48 AM(UTC+0)	Read	Yeah I gotta shake now, I got [REDACTED] with me
Sent	To [REDACTED]	8/19/2015 4:19:45 AM(UTC+0)	Network: 8/19/2015 4:19:45 AM(UTC+0)	Sent	Ight I'm a call u if I'm ready...I ain't gotta work though I can use my off days....& I got gas if it aint none in the car

7. RESOURCE CARDS GIVEN OUT TO COMMUNITY

INDEPENDENT INVESTIGATION

**IF YOU HAVE INFORMATION
REGARDING THE MANSUR BALL-BEY SHOOTING
OR ANY OTHER CRIME
PLEASE CONTACT:**

St. Louis Regional Crimestoppers
866-371-TIPS (8477)

Circuit Attorney's Office
Investigations
314-622-4941

St. Louis NAACP
314-361-8600

Speak Up!

Your Voice Matters!

8. CORRESPONDENCE WITH PRIVATE ATTORNEY



CIRCUIT ATTORNEY
CITY OF ST. LOUIS

JENNIFER M. JOYCE

CARNAHAN COURTHOUSE
1114 Market St., Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

December 14, 2015

Jermaine Wooten
10250 Halls Ferry Rd
Saint Louis, MO 63136

Re: Mansur Ball-Bey

Dear Mr. Wooten:

I would like to arrange a meeting with [REDACTED] at your earliest convenience. I appreciate that you made [REDACTED] available to speak to us on a prior occasion, but after further investigation I have additional questions I would like to ask him.

In addition, I would like to speak to Mansur's brother [REDACTED], who was mentioned in our interview with [REDACTED]. As the attorney for the family, I was hoping you would facilitate this interview as well.

I am available any time during the week of December 14th as well as December 21st through December 23rd. Please let me know if any of those dates will work for you and your clients. If not, I can arrange to be available additional days. I truly appreciate your assistance and cooperation with our investigation so far and I look forward to hearing back from you regarding these interviews.

Sincerely,

Assistant Circuit Attorney



The Legal Solution Group, LLC

10250 Halls Ferry Road • St. Louis, Missouri 63136

314.736.5770 • Fax 314.736.5772

lgstl.com

December 17, 2015:

VIA FAX (314) 622-3369

Circuit Attorney City of St. Louis
1114 Market Street, Room 401
St. Louis, MO 63101

RE: August 19, 2015, Police Shooting of Mansur Ball-Bey

Dear Ms. Copeland:

This correspondence will confirm that I am in receipt of your December 14, 2015, correspondence in which you requested an additional interview with [REDACTED] and an initial interview with Mansur's brother [REDACTED], who was not a witness to this incident. We would be willing to extend the effort to further assist you if you are willing to make the two officers involved in this shooting available for interview as well.

Additionally, please provide us with an update of the status of your investigation. It has been approximately four months and it is our understanding that all of the relevant data has been provided to your office.

Very truly yours,

THE LEGAL SOLUTION GROUP, LLC
Jermaine Wooten

cc: Dennis Ball-Bey

"The keys to your best possible outcome are within your reach."

8. MISSOURI STATUTES:

563.020 First degree murder

1. A person commits the crime of murder in the first degree if he knowingly causes the death of another person after deliberation upon the matter.

565.021 Second degree murder

1. A person commits the offense of murder in the second degree if he or she:

(1) Knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; or

(2) Commits or attempts to commit any felony, and, in the perpetration or the attempted perpetration of such felony or in the flight from the perpetration or attempted perpetration of such felony, another person is killed as a result of the perpetration or attempted perpetration of such felony or immediate flight from the perpetration of such felony or attempted perpetration of such felony.

565.023 Voluntary Manslaughter

1. A person commits the crime of voluntary manslaughter if he:

(1) Causes the death of another person under circumstances that would constitute murder in the second degree under subdivision (1) of subsection 1 of section 565.021, except that he caused the death under the influence of sudden passion arising from adequate cause; or

(2) Knowingly assists another in the commission of self-murder.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

565.024 Involuntary Manslaughter

1. A person commits the crime of involuntary manslaughter in the first degree if he or she:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle or vessel in this state and, when so operating, acts with criminal negligence to cause the death of any person; or

(3) While in an intoxicated condition operates a motor vehicle or vessel in this state, and, when so operating, acts with criminal negligence to:

(a) Cause the death of any person not a passenger in the vehicle or vessel operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, or the highway's right-of-way; or vessel leaving the water; or

(b) Cause the death of two or more persons; or

(c) Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood; or

(4) Operates a motor vehicle in violation of subsection 2 of section 304.022, and when so operating, acts with criminal negligence to cause the death of any person authorized to operate an emergency vehicle, as defined in section 304.022, while such person is in the performance of official duties;

(5) Operates a vessel in violation of subsections 1 and 2 of section 306.132, and when so operating acts with criminal negligence to cause the death of any person authorized to operate an emergency watercraft, as defined in section 306.132, while such person is in the performance of official duties.

563.031. Use of force in defense of persons.

1. A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he or she reasonably believes such force to be necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

(1) The actor was the initial aggressor; except that in such case his or her use of force is nevertheless justifiable provided:

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) He or she is a law enforcement officer and as such is an aggressor pursuant to section 563.046; or

(c) The aggressor is justified under some other provision of this chapter or other provision of law;

(2) Under the circumstances as the actor reasonably believes them to be, the person whom he or she seeks to protect would not be justified in using such protective force;

(3) The actor was attempting to commit, committing, or escaping after the commission of a forcible felony.

2. A person may not use deadly force upon another person under the circumstances specified in subsection 1 of this section unless:

(1) He or she reasonably believes that such deadly force is necessary to protect himself, or herself or her unborn child, or another against death, serious physical injury, or any forcible felony;

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person; or

(3) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter private property that is owned or leased by an individual claiming a justification of using protective force under this section.

3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining. A person does not have a duty to retreat from private property that is owned or leased by such individual.

4. The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

5. The defendant shall have the burden of injecting the issue of justification under this section. If a defendant asserts that his or her use of force is described under subdivision (2) of subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable doubt that the

defendant did not reasonably believe that the use of such force was necessary to defend against what he or she reasonably believed was the use or imminent use of unlawful force.

(L. 1977 S.B. 60, A.L. 1993 S.B. 180, A.L. 2007 S.B. 62 & 41, A.L. 2010 H.B. 1692, et al. merged with H.B. 2081)

9. JURY INSTRUCTIONS TO ASSESS WITNESS CREDIBILITY

310.14 IMPEACHMENT OF A WITNESS OTHER THAN DEFENDANT BY PRIOR OFFENSES

If you find and believe from the evidence that a witness (was convicted of) (was found guilty of) (pled guilty to) (pled nolo contendere to) an offense, you may consider that evidence for the sole purpose of deciding the believability of the witness and the weight to be given to his testimony.

Notes on Use

1. Section 491.050, RSMo 1986. This is a revision of MAI-CR 2d 3.56.
2. This instruction should be given only where the evidence of the prior conviction, plea of guilty, plea of nolo contendere, or finding of guilt was admitted for impeachment purposes. It must be given if requested by either party.
3. All of the options in parentheses which are supported by the evidence may be included in the instruction with the word "or" connecting them.

302.01 DUTIES OF JUDGE AND JURY

Those who participate in a jury trial must do so in accordance with established rules. This is true of the parties, the witnesses, the lawyers, and the judge. It is equally true of jurors. It is the Court's duty to enforce these rules and to instruct you upon the law applicable to the case. It is your duty to follow the law as the Court gives it to you.

However, no statement, ruling or remark that I may make during the trial is intended to indicate my opinion of what the facts are. It is your duty to determine the facts and to determine them only from the evidence and the reasonable inferences to be drawn from the evidence. Your decision must be based only on the evidence presented to you in the proceedings in this courtroom; and you may not conduct your own research or investigation into any of the issues in this case. [In this determination] [In your determination] of the facts, you alone must decide upon the believability of the witnesses and the weight and value of the evidence.

In determining the believability of a witness and the weight to be given to testimony of the witness, you may take into consideration the witness' manner while testifying; the ability and opportunity of the witness to observe and remember any matter about which testimony is given; any interest, bias, or prejudice the witness may have; the reasonableness of the witness' testimony considered in the light of all of the evidence in the case; and any other matter that has a tendency in reason to prove or disprove the truthfulness of the testimony of the witness.

Faithful performance by you of your duties as jurors is vital to the administration of justice. You should perform your duties without prejudice or fear, and solely from a fair and impartial consideration of the whole case.

(Each of you may take notes in this case but you are not required to do so. I will give you notebooks. Any notes you take must be in those notebooks only. You may not take any notes out of the courtroom before the case is submitted to you for your deliberations. No one will read your notes while you are out of the courtroom. If you choose to take notes,

remember that note-taking may interfere with your ability to observe the evidence and witnesses as they are presented.

Do not discuss or share your notes with anyone until you begin your deliberations. During deliberations, if you choose to do so, you may use your notes and discuss them with other jurors. Notes taken during trial are not evidence. You should not assume that your notes, or those of other jurors, are more accurate than your own recollection or the recollection of other jurors.

After you reach your verdict, your notes will be collected and destroyed. No one will be allowed to read them.)

Notes on Use

1. This is a revision of MAI-CR 3d 302.01 (7-1-97).
2. This instruction will be Instruction No. 1, and will be read immediately following MAI-CR 3d 300.06. It is not to be reread at the conclusion of the evidence, but it must be given to the jury with other written instructions to be used during the jury's deliberations.

3. Except as may be specifically provided for elsewhere in MAI-CR, no other or additional instruction may be given on the believability of witnesses, or the effect, weight, or value of their testimony. The provisions of Section 477.012, RSMo 2000, are complied with by the giving of this instruction.

4. The material in parentheses must be given if the Court decides to allow the jurors to take notes. If the Court allows the jurors to take notes, the notes shall be collected and destroyed after the verdict is accepted or after a mistrial. State v. Trujillo, 869 S.W. 2d 844 (Mo. App. 1994); Rule 27.08. The notes shall be destroyed without permitting anyone to review them, and they may not be used to impeach the verdict. Tennis v. General Motors Corp., 625 S.W. 2d 218 (Mo. App. 1981).