



*State of North Carolina*  
*General Court of Justice*  
*Twenty-Sixth Prosecutorial District*  
MECKLENBURG COUNTY

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November 30, 2016

Director Bob Schurmeier  
N.C. State Bureau of Investigation  
512 North Salisbury Street  
Raleigh, NC 27604

Chief Kerr Putney  
Charlotte-Mecklenburg Police Department  
601 East Trade Street  
Charlotte, NC 28202

Re: Keith Lamont Scott Death Investigation

Dear Director Schurmeier and Chief Putney:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the death of Keith Lamont Scott. The purpose of this review was to examine whether the conduct of Charlotte-Mecklenburg Police Department (CMPD) Officer Brentley Vinson was unlawful on September 20, 2016. This letter and its attachment specifically do not address issues relating to tactics or whether officers followed correct police procedures or CMPD Directives.

My office contacted counsel for Scott's family to ask whether they wanted the N.C. State Bureau of Investigation (SBI) to assume the investigation of his shooting death. The Scott family did then request an SBI investigation, and I therefore tasked the SBI with investigating this matter.

Two of my most senior prosecutors, Homicide Team Supervisor Bill Stetzer and Crimes Against Persons Team Supervisor Bruce Lillie, responded to the scene of this incident and personally observed many of the witness interviews as they were conducted. I also reviewed the investigative files as provided by the SBI and CMPD. Finally, consistent with the District Attorney's Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Office Homicide Prosecution Team, comprised of my most experienced prosecutors. I also note that we had the full cooperation of both the CMPD and the SBI and had access to all information obtained during the investigation.

After a thorough review, it is my conclusion that Officer Vinson acted lawfully in shooting Scott on September 20, 2016. I have attached a report to this letter that provides a detailed explanation of the evidence and the legal analysis of this case. The following are among the key findings:

- All of the credible, available and believable evidence supports the conclusion that Scott was armed with a gun. That evidence includes DNA, an admission by the seller who illegally sold Scott the gun that was recovered at the scene, and pre-incident radio traffic in which officers can be heard discussing that they saw Scott with a gun. Investigators also located convenience store surveillance footage taken just minutes before the shooting that corroborates Scott's possession of a holster and weapon.
- According to the evidence presented, Scott drew a gun from his ankle holster when confronted by officers. Scott then exited his vehicle with the gun in his hand. Video evidence shows that officers commanded Scott to drop the gun at least 10 times. Scott failed to comply with those commands.
- Officer Vinson is the only officer who fired his weapon, and he is the officer who shot Scott. He admitted to the shooting from the onset, and firearm analysis found that the shell casings recovered at the scene were fired from his gun.
- Investigators interviewed a number of civilian witnesses who reported seeing the incident. Some of these witnesses gave conflicting statements, as well as statements that are unsupported by video or physical evidence. Three of these witnesses claimed on social media or in media interviews that Scott was unarmed, but the SBI later determined they had not actually seen the shooting.
- The SBI found no evidence that Scott was reading or possessed a book when he encountered law enforcement. The SBI also found no credible indication that evidence had been "planted" or altered.
- A police officer or any other person is justified in using deadly force if he reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death. Someone with a gun in his hand who does not comply with police commands to drop the gun can be reasonably considered to be an imminent deadly threat to officers, and reaction-time studies show that a person can raise his gun and harm or kill officers before an officer could react to the threat. It is lawful for an officer to take action before it is too late to repel a deadly attack.

Please consult the attached report for more detailed information regarding my office's findings and conclusions. This letter and its attachment will be made available to the public immediately.

If you have any questions, please contact me directly.

Sincerely,



R. Andrew Murray  
District Attorney

# The Keith Lamont Scott Death Investigation



District Attorney's Office  
26<sup>th</sup> Prosecutorial District of North Carolina  
Mecklenburg County

November 30, 2016

This is an attachment to a letter dated November 30, 2016, from the District Attorney to the SBI Director and the CMPD Chief regarding the death investigation of Keith Lamont Scott. This attachment includes the detailed findings and conclusions of the District Attorney. Both the letter and this attachment are available to the public at [www.charmeckda.com](http://www.charmeckda.com).

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## **Part I: Overview of officer-involved shootings**

### **A. The role of the District Attorney under North Carolina law**

The District Attorney (DA) for the 26<sup>th</sup> Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26<sup>th</sup> Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of the CMPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When the police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. Generally, the DA does not review police decisions not to charge an individual with a crime. However, in officer-involved shooting cases, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether he agrees or disagrees with the decision made by the police. If the DA concludes that uncharged conduct should be prosecuted, the case will be submitted to a Grand Jury.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a shooting may be controversial does not mean that criminal prosecution is warranted. Even if the DA believes a shooting was avoidable or an officer did not follow expected procedures or norms, that does not make it criminal. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The DA has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments and private civil attorneys.

### **B. Legal standards**

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." A police officer does not lose the right to self-defense by virtue of becoming a police officer. They are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in State v. Norris, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order

to save himself from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 529.

**C. Use of deadly force by a law enforcement officer**

The same legal standards apply to law enforcement officers and private citizens alike. However, officers fulfilling their sworn duty to enforce the laws of this State are often placed in situations in which they are required to confront rather than avoid potentially dangerous people and situations.

Federal court decisions have established standards that provide useful guidelines for assessing the reasonableness of police use of deadly force. These civil cases address when the use of deadly force is reasonable and articulate the meaning of the term “imminent threat.”

“[The Constitution] does not require police officers to wait until a suspect shoots to confirm that a serious threat of harm exists . . . No citizen can fairly expect to draw a gun on police without risking tragic consequences. And no court can expect any human being to remain passive in the face of an active threat on his or her life.” Elliott v. Leavitt, 99 F.3d 640, 643–644 (4<sup>th</sup> Cir. 1996). Put another way, the Court said, “The Constitution simply does not require police to gamble with their lives in the face of a serious threat of harm.” Id. at 641.

The United States Supreme Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396–97.

## Part II: The officer-involved shooting death of Keith Lamont Scott

### A. Events leading to the decision to arrest Keith Scott

On Tuesday, September 20, 2016, CMPD officers were conducting a surveillance operation in an apartment complex off of Old Concord Road in Charlotte. The officers were trying to locate a wanted person with no connection to this case.

- Officer Vinson parked in an unmarked van with Sgt. Pendergraph concealed in the back. At this point in the operation, Vinson was working undercover and wearing plain clothes.
- Officer Vinson noticed a white SUV park close to the van. The driver, later identified as the decedent, Keith Lamont Scott, exited the SUV and walked past the undercover van while looking at Officer Vinson and trying to look through the rear tinted windows of the van. Officer Vinson was concerned at that point that their cover may have been blown.<sup>1</sup>
- The driver of the white SUV then drove off and returned minutes later.<sup>2</sup> When Scott returned, he parked beside Officer Vinson's unmarked van. Officer Vinson then saw Scott open a cigarillo and pour marijuana into the cigarillo from an orange pill bottle.
- Officer Vinson's observations are corroborated by the recovery of a [partially smoked blunt](#) and an [orange pill bottle](#) in the SUV. The N.C. State Crime Laboratory [confirmed](#) the presence of marijuana in the partially smoked blunt.
- Officers decided not to take law enforcement action at this time as it would have jeopardized the unrelated surveillance operation. In Officer Vinson's words: "We're not really worried about a little marijuana..."<sup>3</sup>
- What happened next changed the officers' approach to the situation. Officer Vinson saw Scott holding up a semi-automatic handgun.<sup>4</sup> Officer Vinson told Sgt. Pendergraph that the subject had a gun, and they decided to leave the area, come back with the marked units, make an arrest for possession of marijuana and further investigate the firearm.
- These observations are corroborated by the statements of both Officer Vinson and Sgt. Pendergraph. In addition, as they left the parking area, Sgt. Pendergraph is heard on the radio asking other officers to head to the area because "[there was a guy parked next to us rolling a joint who had a gun.](#)"<sup>5</sup>

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<sup>1</sup> [Transcript of Vinson's video recorded statement](#), page 11 of 74 (9/21/16).

<sup>2</sup> We know from the investigation that Scott went to a nearby convenience store and purchased cigarettes. A time-stamped [receipt](#) was found in his SUV.

<sup>3</sup> Transcript of Vinson's video recorded statement, page 14 of 74 (9/21/16).

<sup>4</sup> Transcript of Vinson's video recorded statement, page 14 of 74 (9/21/16).

<sup>5</sup> Audio of radio traffic at 7:35-7:42.

## B. Attempt to arrest Keith Scott

- The officers decided to approach Scott’s vehicle with both undercover vehicles and a marked patrol unit. Officer Vinson was tasked with driving his van to the suspect vehicle to “pin” it in and prevent Scott from driving away.
- An important fact likely known to Keith Scott – but unknown to the officers – was that Scott had an active warrant for his arrest in Gaston County and being caught with a firearm would likely lead to Scott returning to prison.
- Once Scott’s SUV was pinned in by the van, Officer Miranda, who wore a tactical vest with “POLICE” in large letters across the front, approached the passenger side of the SUV and saw Scott reaching for his ankle holster.<sup>6</sup>
- Officer Miranda saw the butt of a gun sticking out of the ankle holster and yelled, “Gun, gun” to his fellow officers.<sup>7</sup>
- Officer Miranda told investigators that Scott “looks over at me and then just pulls it out and just kinda stares at me, so I start yelling, ‘Drop the gun, drop the gun, drop the gun!’ probably six times.”<sup>8</sup>
- Officer Hostutler ran to the SUV and attempted to break the passenger side window with a baton. Officer Hostutler saw Scott seated in the SUV holding a firearm in his right hand.<sup>9</sup>
- At some point, Scott’s wife, Rakeyia Scott, arrived and recorded part of the encounter on her cellphone.
- From the dash camera video of a marked patrol unit and the video taken by Rakeyia Scott, officers can be heard at least 10 different times telling Scott to drop the gun.<sup>10</sup>
- After Officer Hostutler was able to break the window, Officer Miranda saw Scott take a deep breath and exit the SUV.<sup>11</sup>
- When Scott exited the SUV, Officers Vinson<sup>12</sup>, Hostutler<sup>13</sup>, Wiggins<sup>14</sup> and Sgt. Pendergraph<sup>15</sup> all saw the gun in Scott’s hand.
- When Scott exits the SUV, the right pant leg is seen [pulled up](#) above the ankle. The [store surveillance video](#) from minutes before the shooting shows Scott’s right pant leg down with a [noticeable bulge](#) near his ankle.
- None of the video recordings (dash camera, body-worn camera or cellphone) clearly captured Scott’s hands.
- Officers continued to issue commands for Scott to “drop the gun.” Scott continued to not comply with those commands.

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<sup>6</sup> Transcript of Miranda’s video recorded statement, [page 9](#) of 21 (9/20/16).

<sup>7</sup> This is confirmed by audio recordings of the incident.

<sup>8</sup> Transcript of Miranda’s video recorded statement, [page 9](#) of 21 (9/20/16).

<sup>9</sup> Transcript of Hostutler’s video recorded statement, [page 15](#) of 35 (9/20/16).

<sup>10</sup> These videos have already been released to the public. It should be noted that when viewing videos from dash cameras or body-worn cameras that audio for these recordings does not start until thirty seconds after the video begins. This is a function of those systems.

<sup>11</sup> Transcript of Miranda’s video recorded statement, [page 9](#) of 21 (9/20/16).

<sup>12</sup> Transcript of Vinson’s video recorded statement, page 19 of 74 (9/21/16).

<sup>13</sup> Transcript of Hostutler’s video recorded statement, [page 17](#) of 35 (9/20/16).

<sup>14</sup> Transcript of Wiggins’s video recorded statement, [page 10](#) of 23 (9/20/16).

<sup>15</sup> Transcript of Pendergraph’s video recorded statement, [page 10](#) of 28 (9/20/16).

- Officers described Scott, who was out of the vehicle and holding a firearm, as having a “blank stare”<sup>16</sup>, being “in a trance like state”<sup>17</sup>, and looking “like he just wasn’t there.”<sup>18</sup> While unknown to the officers at the time they provided these descriptions, this behavior is consistent with the known effects of the drugs prescribed to Scott, which also may include aggression and behavior abnormalities.<sup>19</sup>
- Officer Vinson, believing Scott to pose an imminent threat, fired his weapon four times, fatally wounding Scott.
- Vinson stated in his video recorded [interview](#): “I felt like if I didn’t do anything right then at that point it’s like he...he was gonna shoot me or he’s gonna shoot one a my buddies, um, and it was gonna happen right now.”<sup>20</sup>

### C. **Officer Vinson shot Keith Scott**

Officer Vinson is the only officer who fired his weapon, and he is the officer who shot Keith Scott.

- Officer Vinson admitted to shooting Scott from the outset.
- Four spent shell casings (.40 caliber Winchester) were collected at the scene.
- Every officer’s gun was seized, and an “ammunition count” was conducted by investigators, as is typical procedure after a police shooting. Every officer had a full complement of ammunition with the exception of Officer Vinson, whose ammunition count revealed that he was four rounds short of his full complement.
- Each officer is issued a particular handgun with a specific, unique serial number. Officer Vinson was issued a .40 caliber Smith and Wesson firearm with serial number HTB7648. That gun was sent to the firearms laboratory for analysis, along with the four spent shell casings collected at the scene. An expert firearms analyst was able to conclude that the four spent shell casings collected at the scene were fired from the firearm with serial number HTB7648. This scientific conclusion was peer reviewed by another expert analyst.
- The video confirms [Officer Vinson’s location](#) immediately before the shooting, and that location is consistent with his own statement and consistent with the three shots that struck Keith Scott.

### D. **Keith Scott was armed with a gun**

All of the credible, available and believable evidence supports the conclusion that Keith Scott was armed.

- Prior to any law enforcement action being taken, Officer Vinson told Sgt. Pendergraph that Scott had a gun.

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<sup>16</sup> Transcript of Wiggins’ video recorded statement, [page 8](#) of 23 and transcript of Hostutler’s video recorded statement, [page 19](#) of 35 (9/20/16).

<sup>17</sup> Transcript of Pendergraph’s video recorded statement, [page 13](#) of 28 (9/20/16).

<sup>18</sup> Transcript of Vinson’s video recorded statement, page 21 of 74 (9/21/16).

<sup>19</sup> Click [here](#) for an inventory of medications found in Keith Scott’s SUV. Click [here](#) for a list of possible side effects from those medications.

<sup>20</sup> Transcript of Vinson’s video recorded statement, page 21 of 74 (9/21/16).

- Sgt. Pendergraph relayed what Officer Vinson saw over the radio.
- Every officer present reported seeing Scott holding a gun, and the officers can be heard on the video recordings adamantly shouting for Scott to “drop the gun.”
- After Scott was shot, he fell to the ground, and the gun landed near his waistline. Officer Wiggins said he retrieved the gun and moved it away from Scott and then stood over it.<sup>21</sup>
- On the dash camera footage and Officer Hostutler’s body camera, Officer Wiggins is observed crouching down, appearing to be reaching with one hand and moving something from near Scott to back between Wiggins’ feet, and then standing up. Officer Wiggins moved the gun so that it could not be readily accessed by Scott.
- In Rakeyia Scott’s cellphone video, an object can be seen in the same position where the firearm can be seen moments later on [Officer Skipper’s body-worn camera video](#).<sup>22</sup>
- Officer Wiggins secured the gun by standing over it, and other officers later took his place standing over the gun until crime scene search personnel [photographed and collected it](#).
- The gun was a Colt .380 semi-automatic. It had one round in the chamber, ready to fire. The safety was off. The gun was cocked. There was no magazine inserted into the gun, nor was one located anywhere on the scene or in Scott’s vehicle.
- Scott’s DNA was found on the gun in two locations.<sup>23</sup> It was on the slide of the gun and on the grip of the gun.
- Scott’s fingerprint was found on the gun when examined by the CMPD Crime Lab. However, the State Crime Lab was unable to conclusively determine whether the print matched Scott.<sup>24</sup>
- Scott was a convicted felon<sup>25</sup> who was not allowed to purchase, own, possess, or have in his custody, care, or control any firearm.<sup>26</sup>
- The SBI, Gaston County Police, and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) traced the gun from when it was stolen from a Gaston County home and illegally sold to Scott on September 2, 2016. The person who sold the gun to Scott admitted to doing so when confronted by state and federal law enforcement. The seller said that Scott asked him to find him a weapon because he was having problems with his wife and her family, specifically his nephew. A

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<sup>21</sup> Transcript of Wiggins’ video recorded statement, [page 11](#) of 23 (9/20/16).

<sup>22</sup> Officers Skipper and Sinnott arrived immediately after the shooting.

<sup>23</sup> DNA results.

<sup>24</sup> This may be explained by the fact that the labs examined different items. The CMPD Lab processed the gun and used software to enhance and view the latent print for comparison to known prints of Keith Scott. After their analysis, they printed a lower resolution image to document their work (pursuant to their typical procedure). A CD with the images used by CMPD *and* the printouts were sent to the State Crime Lab. However, the State Crime Lab noted in their reports that no analysis was done from the files contained on the CD.

<sup>25</sup> Scott was convicted in 2005 of aggravated assault with a deadly weapon for a shooting that occurred in Bexar County, Texas in 2002.

<sup>26</sup> Pursuant to N.C.G.S. 14-415.1.

[Facebook conversation](#) between the seller and a third party corroborates that he sold the gun to Scott.

- In addition, the combined investigation revealed that Scott bought an [ankle holster](#) from the same seller. The seller described the modifications that had been made to the holster he sold to Scott, and those modifications are visible on the holster recovered from Scott's ankle.
- Scott purchased the gun and the holster from the seller for \$100. The gun sold to Scott did not have a magazine. Investigators learned from the seller that he and Scott went to Gander Mountain on the same date so Scott could purchase a magazine that might work in the firearm, along with ammunition for the weapon. Agents found evidence at Gander Mountain, including a [computer transaction receipt](#) for a .380 Sig Sauer magazine and .380 ammunition. They also obtained surveillance video, which appears to show Scott in the store. Finally, the purchase was made with a debit card ending with the numbers "5391," and a [debit card](#) located in Scott's wallet contains a debit card also ending with "5391."
- Text exchanges from Scott's phone show that on September 10, 2016, he contacted the seller, and the two parties discussed returning or exchanging a "clip" at Gander Mountain because the one purchased was too short.<sup>27</sup>
- A search of Scott's SUV revealed paperwork containing specifications for the type of magazine that would be compatible for the firearm.

#### **E. Civilian witness account of Taheshia Williams**

- Williams said to the media: "I actually saw the shooting." In interviews that aired on local television and Al Jazeera, Williams claimed Scott was unarmed with his hands raised, asking officers, "What is the problem? What did I do? What's wrong?"<sup>28</sup> when he was shot by a white, bald-headed police officer. She also said there were no black police officers present during the shooting and that the first black officer did not arrive at the scene until 10-15 minutes later. Williams told the media Scott had a black book and that she saw Scott step over the book – with his hands raised – after it fell off his lap.
- On September 23, 2016, Williams told the SBI that she did *not* see the shooting.
- She told the SBI that she was sitting on the couch, watching television, with the volume turned up loud and never saw Keith Scott until she went outside her apartment after the shooting.
- She told the SBI she did not see a book<sup>29</sup> or a gun at the scene when she went outside.
- In addition to her recantation, Williams' claim to the media that Scott had his hands up in the air while he was outside of his SUV and when he was shot is clearly disproven by the video evidence captured by police and a civilian, as well as the accounts of all five officers present and every other civilian witness.

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<sup>27</sup> The Sig Sauer magazine purchased on September 2, 2016 at Gander Mountain apparently would not work properly in the .380 Colt Mustang possessed by Scott.

<sup>28</sup> Media interview

<sup>29</sup> No book was recovered outside the SUV.

- Williams’ initial claim that Scott made statements while standing outside his SUV is refuted by the video evidence and the accounts of Rakeyia Scott and all five officers present.

**F. Civilian witness account of John Doe 1<sup>30</sup>**

- This witness was interviewed by CMPD.
- He witnessed the interaction and shooting from inside a nearby residence.
- He told investigators that he heard officers telling Scott to put the gun down. He also said that it looked like Scott had a weapon in his hand.
- Later in the interview, this witness said he saw something in Scott’s right hand but was not sure what it was.

**G. Civilian witness account of Jane Doe<sup>31</sup>**

- This witness was interviewed by CMPD.
- She witnessed the interaction and shooting from inside a nearby residence.
- She said she heard police telling Scott to “lay down, lay down,”<sup>32</sup> and “drop the gun.”
- She said that Scott had something in his right hand.
- This witness acknowledged that her view was somewhat obstructed by a tree.

**H. Civilian witness account of John Doe 2<sup>33</sup>**

- This witness was interviewed by CMPD and the SBI.
- He said he was working at the apartment complex about 75 feet from where the incident occurred. He said the police were telling Scott “get out, get out.”<sup>34</sup> This witness turned away and then turned back when the shots were fired. He said that he could not tell the race of any of the officers. He said that Scott sits in the vehicle regularly for hours at a time. He did not know Scott but has exchanged a few words with him in the past.

**I. Civilian witness account of John Doe 3<sup>35</sup>**

- This witness is a juvenile and was interviewed in the presence of his mother by the CMPD and the SBI. He said he observed the incident from his bedroom window and later from a sliding glass door in his living room.
- On the evening of September 20, 2016, this witness told CMPD that during the three weeks he had lived in the neighborhood, he often saw Scott sitting in his vehicle at that same spot reading for long periods of time. He said Scott was reading a book on the date of the incident and that Scott kept reading as the officers attempted to break the SUV’s window. He said Scott eventually put the book down and exited the SUV empty-handed.

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<sup>30</sup> Witnesses who did not identify themselves publicly in media interviews or otherwise are not identified by name in this document. To name those who did not publicly identify themselves could have a chilling effect on witness cooperation in other cases.

<sup>31</sup> See FN 30.

<sup>32</sup> This is not heard on the audio of any of the videos collected as evidence.

<sup>33</sup> See FN 30.

<sup>34</sup> Officers are never heard saying “get out” on any of the videos collected as evidence.

<sup>35</sup> See FN 30.

He said Scott's hands were empty and "wide open" and that Scott walked toward officers and then turned and started going toward Scott's SUV. According to this witness, "I'm pretty sure it was [the white officer because] like he was the one I could really, really see cause he wasn't by no trees or nothing." He also said that when Scott was in his SUV, "you could see the book and the pages on it."

- On September 26, 2016, this witness told the SBI that Scott continued reading his book while the officers attempted to break the SUV window. He heard officers yell that there was a gun. Scott exited the SUV, put the book on the SUV seat and walked toward the officers. When Scott first got out of the car, nobody said anything to Scott, according to this witness. Then officers said "stop," and Scott stopped. There was a 30-second pause, and then officers said they were going to use a Taser on Scott. "Then they tased him," he said. At this point, in response to the agent's question, he clarifies that he did not, in fact, see Scott get "tased." Instead, he heard that it happened from someone's claim in a YouTube video. There was another long pause, and he heard someone yell, "Don't do it," and then the white officer "with the red shirt and the bald head" shot Scott. Further, this witness specifically said he saw "sparks" coming out of the red-shirted officer's gun but not Officer Vinson's gun. He said Officer Vinson was hiding behind a door during the shooting. He said Scott never said anything to police. He said he could see Scott under the SUV from the apartment window. At the end of his interview, when asked by an agent whether he heard the police say anything about a gun after Scott exited his vehicle, he said the police did not say anything when he got out of his vehicle. He claimed everyone "got quiet."
- Investigators took [photographs from this witness' vantage point](#). The photos show that it would have been very difficult, if not impossible, for the witness to have seen all that he described.
- This witness' vantage point was from the passenger side of the SUV. All of his observations of the incident would have been made not only through the obstruction of a large tree but also through Scott's SUV.
- During his interviews, when asked to clarify parts of his statement, it becomes apparent that this witness incorporated information he heard from other sources as part of his eyewitness account. These sources include Scott's family members, other residents of the neighborhood and YouTube videos concerning the shooting.
- Officer Wiggins, who was the only officer wearing a red shirt during the encounter, can clearly be seen on video and does not discharge his weapon at any point. For further discussion as to which officer fired his weapon, see Part II, Section C.

#### **J. Civilian witness account of Tracy McLean**

- McLean gave a media interview on September 21, 2016, claiming that she was an eyewitness to the shooting. She stated that Scott was shot by a white police officer in a red shirt, and she said Officer Vinson wasn't anywhere around.
- On September 26, 2016, McLean told the SBI she did *not* see the shooting but did hear officers yelling, "Drop the gun."

**K. Civilian witness account of John Doe 4<sup>36</sup>**

- This witness was interviewed by the SBI because he left a [voicemail](#) with the CMPD, saying he saw the shooting and that officers must have planted the gun. He claimed he saw the shooting from 14 feet away, Scott did not have a gun and the police were involved in a cover-up.
- When interviewed by the SBI, this witness admitted he did *not* see the shooting. He denied leaving the voicemail and claimed someone else must have used his phone. Further investigation showed that he was in the State of Nebraska when the shooting occurred.

**L. Civilian witness account of Keirra Scott**

- Keirra Scott is Keith and Rakeyia Scott’s 18-year-old daughter. On September 20, 2016, Keirra began streaming a public video on Facebook under the profile “Lyric Adorable Scott.” In the video, Keirra claims her father was shot by a white officer wearing a red shirt. Further, she contended that he was shot while reading a book.
- Her mother confirmed that Keirra was not a witness and was not present during the incident.

**M. Civilian witness account of Rakeyia Scott**

- Detectives from the CMPD began an interview with Rakeyia Scott at the hospital on the day of the shooting to record her eyewitness account.
- Rakeyia Scott ultimately terminated the interview on the advice of her attorney.
- Rakeyia Scott and her attorneys have publicly claimed that CMPD never attempted to interview her.<sup>37</sup>
- This hospital interview is captured on a body-worn camera, and the Scott family also appeared to record this interaction.<sup>38</sup>
- Prior to ending the interview, Rakeyia Scott told CMPD:
  - Four officers were present.
  - There were no black officers present.
  - All four officers fired their weapons.
  - She was in possession of a video of the incident but would not share it with the detectives.
  - Officers ordered her husband out of the car and told him to put his hands up.
  - She reports that she told officers her husband was medicated and had a traumatic brain injury (TBI).
- Rakeyia Scott was interviewed by agents from the State Bureau of Investigation on September 30, 2016 at her attorney’s office. She told the SBI:
  - Scott had just taken his medicine, and his medications made Scott “zoned.”
  - Initially, she told the SBI he was not smoking marijuana that day but later conceded he had marijuana roaches in the car and it was possible Scott was smoking marijuana when the police were present.

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<sup>36</sup> See FN 30.

<sup>37</sup> <http://www.charlotteobserver.com/news/special-reports/charlotte-shooting-protests/article105736651.html>

<sup>38</sup> Out of privacy concerns for the Scott family, this body worn camera video is not being released by this office.

- He kept marijuana roaches in a small pill bottle.
- He read a lot because that was the only thing he could do.
- The book he was currently reading was in the car that morning.
- She was in the vehicle that morning and stated she did not see a gun.
- She had never seen the ankle holster.
- She was Scott's caregiver. She cooked, cleaned, bathed him and changed his clothes. Consequently, she said she would know if anything was in the house.
- The last time she ever knew Scott to have any type of firearm was in October 2015.
- She is certain Scott never had any firearms after January 2016.
- Scott was not supposed to drive due to his TBI but confirmed he did drive on short trips, including to the convenience store prior to the incident. She stated he would need a GPS device when driving a few blocks.
- She said the officers on scene acted as if they were afraid of Scott.
- She said she could not see Scott while he was seated in the SUV but said he did not have a gun.
- She said Scott's hands were down by his side and empty when he exited the vehicle.
- Scott did not respond to her or the officers at any point.
- Rakeyia Scott gave an interview with CBS News and stated:<sup>39</sup>
  - Officer Vinson was present.
  - She does not believe Officer Vinson shot her husband because he was too far away and not a part of the action.
  - Her husband had just taken his medicine, and she discussed how the medicine affected Scott.
  - She said he did not have a gun on the date of the incident.
  - Scott had a history of violence, however, since a wreck in November 2015, Scott was "soft like a bear," and she and her husband never wanted to be apart.
- Several of the things Rakeyia Scott has said are inconsistent with the believable evidence. In addition, her statements are at times inconsistent with each other on several key facts.
- The book described by Rakeyia Scott was never recovered by the SBI during a search of the SUV. The only possible reading material located in the front and back seats was a purple composition notebook that was found wedged between the center console and the front passenger seat.
- She said Scott never possessed a gun after January 2016. For discussion, see Part II, Section D. In addition, [text messages between Keith and Rakeyia Scott](#) on August 27-28, 2016, include an argument about his possession of a firearm. In these messages, he worried that he cannot come home because he is afraid she may have called the police about a gun.
- On the day of the incident, she said four white officers fired their weapons. In subsequent interviews, she said she saw Officer Vinson and he was not involved in the incident because he was too far away. Both statements are factually untrue. See Part II, Section C and this [photograph](#).
- She said Scott was not violent after November 2015. Medical records<sup>40</sup> demonstrate that Scott had ongoing difficulties with aggression and anger management. Scott was battling

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<sup>39</sup> CBS Interview with Gail King, aired on October 13, 2016.

<sup>40</sup> Keith Scott's medical and mental health records were obtained by the SBI pursuant to a court order.

an array of psychiatric disorders, including depression, anxiety, hallucinations and paranoia. Two weeks prior to his death, Rakeyia Scott told her husband's therapist that his temper and impatience had increased, and as she stated, "something has to give."

#### **N. Medical Findings**

Two autopsies were performed on the remains of Keith Scott, who was 5'10" and 238 pounds. The first was performed on September 21, 2016, by Dr. Jonathan Privette, a forensic pathologist with the Mecklenburg County Medical Examiner's Office (M.E.). The second was performed on September 30, 2016, by Drs. Kim A. Collins and Janice E. Ross, both of Newberry Pathology Associates, P.A. (Newberry). The findings are largely consistent with each other.

Both reports detail that Scott sustained gunshot wounds that caused three wound paths.

- Scott sustained a gunshot wound to his left wrist (M.E.'s wound "A"; Newberry's wounds C and D). The M.E. report describes and labels this wound as a single wound while the Newberry report labels the entrance and exit portions of the wound separately. Ultimately, the wound path described by each report is consistent.
- Scott sustained a gunshot wound to the abdomen (M.E.'s wound "B"; Newberry's wound "A"). Both reports describe the bullet as lacerating the small bowel or intestine and fracturing the L5 vertebrae. The Newberry exam also found fracturing to the L4 vertebrae. Both reports are consistent in the description of the bullet path travelling from left to right, front to back, and downward.
- Scott sustained a gunshot wound in his rear left shoulder area (M.E.'s wound "C"; Newberry's wound "B"). Though chosen nomenclature is slightly different, the reports are overall consistent in their respective findings. Both reports are consistent in the description of the entry point of the bullet.<sup>41</sup> Both found fracturing to left rib #6. The Newberry exam also found fracturing to left rib #7. Both found that the bullet then lacerated the left lower lung lobe. The M.E. exam also confirmed lacerations of the stomach and abdominal aorta. The Newberry exam was limited by the removal of the organs during the M.E. exam. Both exams found extensive internal bleeding from this gunshot wound. Both exams are consistent in their description of the bullet path as downward, back to front, and left to right.
- The Newberry report contains the statement, "The manner of death is best deemed homicide." For pathology purposes, any death that is intentionally caused by another may appropriately be labeled a homicide. This is far different from the legal definition of homicide.
- Despite some claims that have been made to the media, neither report makes any findings as to the order in which the bullets struck Scott.
- In order to draw any conclusions as to which bullet struck Scott first, one must examine the autopsy findings along with the other available evidence.
- When the gunshots are first heard on the video Scott is standing upright and immediately turns to his left, grabbing his stomach.

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<sup>41</sup> The M.E. report uses the term "chest" to refer to any injury that enters the chest cavity. In layman's terms, the phrasing "posterior upper chest" could be called the upper back or rear shoulder.

- Scott grabbing his stomach immediately after the first shot is heard is some evidence that the gunshot wound to the front abdomen was the first bullet to hit Scott.
- In order for the gunshot wound to Scott's upper left back to be inflicted while Scott is standing upright, the person who is firing the shot would have to be behind him and in a highly elevated position. Neither Officer Vinson nor any other CMPD officer was in a position to inflict this wound when the first gunshot is heard.
- Instead, this upper back wound is entirely consistent with being shot while bending over after having sustained a gunshot wound to the front abdomen.

**O. SBI conclusions**

The State Bureau of Investigation deployed considerable resources and time to this investigation. The agency utilized 63 agents from across the state – approximately 25 percent of the total number of SBI agents in North Carolina – and spent more than 2,300 hours on the investigation. Information from the SBI investigation is addressed throughout this report. The SBI found no credible evidence that Scott was reading or possessed a book when he encountered law enforcement. Further, the SBI determined there was no credible evidence found to substantiate the “planting” or altering of any evidence.

## Part III: Legal analysis of this incident

### A. Officer Vinson's use of deadly force was lawful

The central issue in this matter is whether Officer Vinson acted lawfully in using deadly force against Scott. As already stated, a police officer – or any other person – is justified in using deadly force if the officer reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death from the actions of the person who is shot.

Generally speaking, a subject with a gun in his hand who is non-compliant with police commands to drop the gun is reasonably considered to be an imminent deadly threat to the officers. This will be discussed in more detail later in this section.

According to the believable evidence presented, Scott drew a weapon from his ankle holster in response to the presence of police officers.<sup>42</sup> Instead of dropping the gun, Scott exited the vehicle with the gun in his hand. Officers commanded Scott at least 10 times to put down the gun. Scott failed to comply with those commands.

It will never be known for certain whether Scott planned to shoot a police officer, commit “suicide by cop,”<sup>43</sup> run away and do nothing, run away and harm someone else, was acting under a delusion, or was planning some other course of action. What is known is that Scott was armed with a loaded gun, impaired, and suffering from mental health issues. While Scott had a criminal history, this history was unknown to Officer Vinson. In this case, it is speculative whether this history explained Scott's conduct on the day of this incident and therefore will not be addressed further in this report.

This office is in the position of having more information and considerably more time than Officer Vinson had to evaluate the situation. At the time Officer Vinson decided to fire his weapon, he observed and had reason to believe the following:

1. Scott drew a gun when confronted by the police;
2. Scott chose to exit the vehicle with the gun;
3. Scott refused to drop the gun after being told 10 or more times to “drop the gun;”
4. Scott was non-compliant and non-responsive to every command;

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<sup>42</sup> Transcript of Miranda's video recorded statement, [page 9](#).

<sup>43</sup> According to Scott's medical records, he had suicidal thoughts both before and after his 2015 motorcycle wreck. These records show that in April 2016, Scott questioned, “Why do I still have thoughts of killing myself when I am on Cymbalta?”

5. Scott had the ability to kill Officer Vinson or other officers before they could have reacted to repel the threat; and

6. Officer Vinson had a clear field of fire. He could shoot without risk to the other officers or civilians.

In reviewing whether Scott was reasonably considered to be an imminent threat to Officer Vinson or others, one must consider the science of response time and reaction time. The reality is that Scott could likely have raised his gun and killed Officer Vinson or a fellow officer before any of them could have reacted. An officer has a right to protect his life by acting on his reasonable perception of the threat confronting him. It is not required under the law that Officer Vinson wait until the firearm is pointed at him. Once a firearm is pointed at an officer there is no time to successfully stop the deadly attack, even if the officer is pointing his gun at the assailant at the time. Therefore, it is lawful for an officer to take action before it is too late to repel a deadly attack.

John C. Hall, the former Unit Chief of the FBI's Firearms Training Unit, explains reaction time as follows:

Simply expressed, an action will always occur before an appropriate reaction can be initiated and implemented. Action always beats reaction. This is a reality that is a focus of training throughout law enforcement because law enforcement officers are always in the position of having to react to what somebody does.

The practical effect in the field of deadly force usage is that no law enforcement officer is required to wait or can be expected to wait until he is absolutely certain what it is that a subject is going to do, or has in his hand. [...] To wait for certainty is to ensure that no response can possibly prevent or avert the subsequent death or injury.<sup>44</sup>

Reaction-time studies dealing with police shootings provide some valuable information for the analysis of this shooting. Two studies on reaction time help explain the decision Officer Vinson faced on September 20, 2016. Those studies cannot tell us what Scott intended to do or whether he would have been successful in shooting Officer Vinson or his colleagues if that was his intent. These studies can, however, highlight the risk of death faced by Officer Vinson and the other officers.

The first study examined whether a person with a gun at his side could raise the gun and shoot a police officer before the officer could react to shoot back. According to this study:

The scenario that we have chosen to examine is one in which a police officer is confronting an armed suspect. The suspect does not have his or her gun pointed at the officer, but the officer has his or her weapon pointed at the suspect. The police officer issues

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<sup>44</sup> Urey W. Patrick & John C. Hall, *In Defense of Self and Others . . . Issues, Facts & Fallacies – The Realities of Law Enforcement's Use of Deadly Force* 135 (2d. ed. 2010).

commands to the suspect to put the gun down. The suspect either complies or attempts to shoot the police officer. The basic question is can the police officer shoot the suspect before the suspect shoots (assuming the suspect attempts to fire)?<sup>45</sup>

Professor J. Pete Blair's study concludes that generally the officer would lose in this situation. Specifically, "[c]ompleting all of the steps necessary to interpret a situation, select, and then execute a response simply tends to take longer than it takes to execute an already decided-upon action."<sup>46</sup>

Officers are not justified in shooting a person merely because the person is armed. However, the study does show that an armed person is an extreme danger to an officer whether or not the person is pointing the gun at the officer. "Our results show that even well-trained officers, who are operating in nearly ideal circumstances, with their guns aimed at a suspect, cannot reasonably be expected to shoot before the suspect raises his or her gun and fires."<sup>47</sup>

The second study reviewed research to answer the question of how fast an officer can respond to a visual cue, make the decision to fire and carry out that decision. The results were similar to those found in the Blair study:

The results of this study show that waiting until the suspect begins to move the gun may be fatal to the officer. This does not give officers carte blanche to shoot anyone with a gun in his hand. But faced with an uncooperative armed subject, where the officer has little or no cover, waiting for the subject to make that movement endangers both the officer and innocent bystanders.<sup>48</sup>

Based on the facts and circumstances of this case and the law of self-defense in North Carolina, it is clear that Officer Vinson acted lawfully and consistent with his duties as a police officer.

## **B. The reality of any alternative conclusion**

In assessing this case and all cases, a determination must be made about the importance and believability of the information available. In this case, two distinct narratives have emerged. The first narrative is one of Officer Vinson deciding to employ deadly force when confronted by an armed and non-compliant suspect. This is the narrative supported by the video evidence, the physical evidence and the totality of eyewitness accounts.

The alternative theory – adopted by Rakeyia Scott, John Doe 3, and several non-eye witnesses – is unsupported by the videos, physical evidence and totality of eyewitness accounts. This second theory in which Scott was unarmed or holding a book depends entirely on the very same witnesses who have insisted Officer Vinson did *not* shoot Keith Scott.

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<sup>45</sup> J. Pete Blair et al. Reasonableness and Reaction Time, 14 Police Q. 323, 330 (2011).

<sup>46</sup> Id. at 336.

<sup>47</sup> Id. at 338.

<sup>48</sup> Thomas A. Hontz, Justifying the Deadly Force Response, 2 Police Q. 462, 474 (1999).

## **Part IV: District Attorney Andrew Murray's concluding remarks to the community**

Confrontations between police and citizens in which deadly force is used are among the most important cases the District Attorney's Office will ever handle. In these cases, my office uses a protocol that incorporates nationally-recognized best practices and is designed to ensure a thorough and impartial review of each case. The public is invited to [read this protocol](#) to learn more about how these cases are investigated and reviewed. My prosecutors and I have a duty to objectively analyze the totality of the evidence and circumstances, and that means we must face difficult issues, which have been discussed at length in this report. It is my sincere prayer that no one is ever killed by police, but I also pray that police are never placed in the position of having to make the decision to use lethal force to protect themselves or innocent lives around them.

I know that some will feel frustrated by this outcome. I want our community to understand that this office put significant effort into ensuring that this decision was based on the evidence and not personal bias or public opinion.

In describing the legal analysis and the basis for the decision in this case, my office and I unfortunately find ourselves in the position of correcting misinformation that has been shared both on social media and in the news media. People made claims on camera but later admitted to law enforcement that they did not actually see the incident. The public might then wonder why more information was not released to refute these untrue statements. I have always asserted that my office would strive toward transparency, but I need people to understand that among my highest priorities is also protecting the integrity of every investigation. Releasing information before any investigation is complete can taint the case, preventing an objectively verifiable investigation and perhaps even the possibility of a prosecution. In an ongoing investigation, details are closely guarded to help measure the truthfulness of witnesses and – should someone be charged – preserve the defendant's right to a fair trial. I know that a lack of accurate information is frustrating to the public and the media that operate on a 24-hour news cycle, but in this age of instant media and the impulse to immediately form an opinion, I am asking that as we move forward, we remind ourselves that in these cases, we should not jump to conclusions until we have all of the facts.

In the days that followed Mr. Scott's death, we watched as long-simmering frustrations boiled over. I heard observers say, "This is not Charlotte" or "This is not the city that we love." But it is. This is Charlotte. This is where our friends, family, neighbors and colleagues felt so passionate that they marched on our streets to call for change. Let me be clear: I have not and will not condone violence or property damage as a means of expression. But the fact that criminal charges are not appropriate under the law in this particular case does not mean we can dismiss the concerns expressed by those who raised their voices to raise the consciousness of this community. I think it is time that all of us recognize that this is Charlotte, and not everyone experiences the same Charlotte.

Throughout our entire justice system, people should have the same experience. The people of Mecklenburg County deserve the confidence that every case is handled with fairness and equity. Since I took office nearly six years ago, my office has taken several innovative steps toward that goal. And we're not working alone. Mecklenburg County's courts are fortunate to have leaders and partners who work every day to advocate for efficient, researched-based strategies to make our courts fair and effective.

I welcome being part of the ongoing public discussion and exchange of ideas about how to improve our justice system so that all community members have complete confidence that they will be treated fairly and with respect. Justice demands nothing less.