STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

DANA NESSEL
ATTORNEY GENERAL

M E M O R A N D U M

Warrant Denial Memorandum

November 13, 2026

TO: Danielle Hagaman-Clark
Bureau Chief
Criminal Justice Bureau

Robyn Liddell
Division Chief
Criminal Trials Division

CC: Oronde Patterson
First Assistant

APPROVED: Danielle Hagaman-Clark 8/17/2026
Bureau Chief Date

☐ Check here when Division Chief has final approval authority for the request.

APPROVED: Robyn Liddell 7-27-26
Division Chief Date

FROM: Stine Grand
Assistant Attorney General
Criminal Trials Division

RE: **Request for Authority to Deny Criminal Charges**
Due Date for Response: April 28, 2026
James Jennings Officer Involved Shooting
AG No. 2026-0448838-A

I. Introduction:

On July 31, 2025 Michigan State Police (MSP) Troopers Brent McClain (Tpr. McClain) and Trooper Nelson Spenser (Tpr. Spenser) from the Flint Post were dispatched to [redacted] for a domestic disturbance with reports of attempted criminal sexual conduct, kidnapping, and strangulation. The troopers made contact victim [redacted] at the nearby Subway, which is 3 houses West of the location, where she stated James Jennings (Jennings) attacked her and she believed was going to rape her. [redacted] stated Jennings dragged her downstairs and she saw zip ties; she tried to run but Jennings punched her in the

face several times and choked her with a belt around her neck. When she escaped, she ran to her car, drove to Subway and called 911.

When Tpr. McClain called James Jennings, he admitted the assault but claimed she hit him first and if he exited the home he would face 15 years in prison. He told Tpr. McClain that he "screwed up by letting [redacted] get away", that he was "hunkered down" several times. Jennings also stated that he was not going to jail and that he was not going to prison. During his conversation with Tpr. McClain Jennings denied having weapons, but [redacted] stated that Jennings had numerous guns in the home, including guns that he hid under his couch, on a hutch, and long guns near a gun safe upstairs. This was supported by [redacted], a friend of Jennings who flagged Sgt. Evan Nelson down to tell him that Jennings had multiple pistols, rifles, gas masks and a ballistic vest in the residence as [redacted] had seen them firsthand. Jennings also told Tpr. McClain while they were on the phone that one of the troopers on [redacted]. "needs to open the door on that cruiser, maybe crouch down", clearly a threat to shoot at the trooper. MSP troopers tried to get Jennings to exit the home peaceably while on the phone with him from 1612 to 1722 hours without success.

MSP's Emergency Response Team (ES Team) was requested at 1630 to respond to the scene by Sgt. Jeffrey Duttlinger (Sgt. Duttlinger) due to the knowledge there were multiple firearms in the home, Jennings had an expired concealed pistol license, Jennings had four registered firearms, the allegations made by [redacted], and the threats made by Jennings of shooting a trooper. Once the ES Team began to arrive at 1730, they took over from Sgt. Duttlinger, established their own perimeter, began moving the perimeter further back and made use of the ES Team's negotiator Tpr. Tara LaMilza who spoke with Jennings. Tpr LaMilza tried to negotiate with Jennings and the ES Team tried several different deescalation tactics to get Jennings to exit the residence peaceably without success. During this time Jennings fired from inside his residence at ES Team members four distinct times between 1854 and 1909 striking ES Team vehicles numerous times as well as shooting into the home of [redacted] a neighbor who was barricaded in his home at [redacted]. While the ES Team tried several different less lethal methods, like smoke bombs, and pepper balls, Jennings kept firing at the officers which threatened the lives of the officers, Jennings' neighbors and the citizens who were pushed back by officers but refused to stay far enough away from the area to be safe. After being shot at several times, five ES Team members Trooper Thomas Kill (Tpr. Kill), Trooper Benjamin Breslin (Tpr. Breslin), Sergent Steven Chenet (Sgt. Chenet), Trooper Curtis Alward (Tpr. Alward), and Trooper Thomas Pinkerton (Tpr. Pinkerton) eventually returned fire discharging their rifles at Jennings who was in the second story of his home while they were primarily on the ground.

After no response was heard from the residence an Unmanned Aircraft System (UAS drone) was sent into the residence and Jennings was seen lying on the floor, unmoving, surrounded by blood and numerous guns. Upon entry James Jennings was located in an attic space accessed from the master bedroom. He suffered from four gunshot wounds: one to the left rear of his head, two to the left upper arm, and

one to the left wrist. Surrounding Jenning's body the MSP Crime Lab recovered a .45 caliber Sig Sauer semiautomatic pistol, a 9 mm Taurus model PT111 semiautomatic pistol in a holster on Jenning's chest, a Norinco semiautomatic rifle, a Ruger model 10/22 Carbine semiautomatic rifle, and from underneath Jennings they recovered a .45 caliber Taurus model PT111 semiautomatic pistol that was positively identified by the MSP Firearms/Toolmarks Unit as having fired one of several casings that were located next to Jennings' body.

The Michigan State Police Special Investigation Section 2nd District investigated and submitted the results of that investigation to the Michigan Department of Attorney General. Additional investigation was then requested by the assigned Assistant Attorney General. After review of all the evidence submitted no charges are appropriate because the State would not be able to prove that the trooper's use of deadly force was not justified under the law in that the State would not be able to prove the officers were not firing in self-defense or in defense of their fellow officers and the citizen who were in the area when they returned deadly fire.

II. Recommendation:

No charges should be issued against any members of the Michigan State Police Emergency Support Team from this incident.

III. Venue The Village of Otisville is served by the 67th District Court in Davison, Genesse County, Michigan.

IV. Facts

On July 31, 2025 Michigan State Police Tpr. McClain and Tpr. Nelson from the Flint Post were dispatched to [redacted] for a domestic disturbance with reports of attempted kidnapping, criminal sexual conduct, and strangulation. Both troopers contacted the victim [redacted] at the nearby Subway, which is 3 houses West of the location, but she was primarily interviewed by Tpr. Nelson. [redacted] stated that she went to her ex-boyfriend James Jennings' (Jennings) house to retrieve some of her property when she was attacked by Jennings and she believed he was going to rape her. She said she was dragged downstairs where she observed the zip ties that she believed Jennings was going to tie her up with. She escaped and attempted to run out the front door, but it was locked. When trying to unlock the front door Jennings was punching her in the face and he put a belt around her neck and was choking her. When she was able to unlock the door and escape, she ran to her car and Jennings ran after her attempting to break out her car window; she backed out of the driveway and drove to the Subway and called 911.

During the interview [redacted] was concerned that Jennings was going to leave his home and hurt her children who were home alone because when she was with Jennings, he kept asking [redacted] about them which she described as "off" behavior for Jennings. [redacted] also stated that during the incident she asked Jennings, "Why are you doing this?' and Jennings told her, "It's over for me, and you are coming with me". [redacted] took this statement as he was going to kill himself and her.

Tpr. Nelson observed a large lump on the outside of [redacted] left eye and a scrape on her shin near her knee which she indicated was from when she was being dragged on the stairs. She also had what appeared to be blood on the front of her shirt and in her right nostril. Tpr. Nelson also observed that her neck was red, which is noteworthy as [redacted] stated Jennings had choked her with a cloth belt as she tried to exit the home. Tpr. Nelson took photographs of the injuries that he observed and drafted the search warrant[1] for the residence. MedStar 8725 arrived at the Subway and checked on [redacted] she was cleared and she indicated she did not want to go to the hospital.

[redacted]

Witness [redacted] works at the [redacted] which is located directly across the street from Jennings' home. [redacted] provided a statement to Detective Sergent Frank Bayly (Sgt. Bayly) that on July 31st around 3:00-3:15 pm (1500-1515) she was inside her office, and she could hear a woman "screaming bloody murder" and through her office window she saw a skinny female with blond/brownish hair running out of the home and a male chasing her. The male was pulling up his shorts and putting his belt back on when the female got

[1] This was the first of two search warrants obtained in this incident. The second search warrant was obtained by D/Sgt. Frank Bayly from MSP 3rd District SIS immediately after the shooting.

in her car. The male began punching and kicking the car on the driver's side of the vehicle, then the vehicle then backed out of the driveway and drove off. [redacted] described Jennings as "being aggressive and that she was running for her life, running away." [redacted] had only seen the male outside of the residence three times and while she had not had any encounters with him, she had heard several other people at the office had issues with him.

At 1612 Tpr. McClain called James Jennings and he refused to come outside and surrender to troopers who were on Main Street. Early in the conversation Jennings admitted to the assault on [redacted] but claimed she hit him first and he retaliated and hit her back. Jennings stated if he exited the home he would face 15 years in prison. He told Tpr. McClain that he "screwed up by letting [redacted] way", and that he was "hunkered down" several times.

Jennings expressed his discontentment with Matt Grovesteen, the Otisville Chief of Police. Jennings stated that he was not going to jail and that he was not going to prison. Jennings also told Tpr. McClain that one of the troopers on Main St. "needs to open the door on that cruiser, maybe crouch down", clearly a threat to shoot at the trooper. Jenings stated he was just killing time until "you guys get ambitious" and later randomly stated "What a sweet way to end it ya know".

During his conversation with Tpr. McClain, Jennings denied having weapons, but [redacted] stated that Jennings had numerous guns in the home, including guns that he hid under his couch, on a hutch, and long guns near a gun safe upstairs.

Tpr. McClain had tried to get Jennings to exit the home peaceably while on the phone with him from 1612 to 1658 and by the end of the conversation Tpr. McClain felt he was not making any progress with him. Therefore, when Trooper Jeff Schmerheim (K9) (Tpr. Schmerheim) asked to speak with Jennings at 1658 Tpr. McClain handed Tpr. Schmerheim his phone. At 1658 Tpr. Schmerheim attempted to negotiate with Jennings and started by explaining it was his goal to resolve the incident peacefully. Jennings responded that if the police would leave, he would turn himself in in a few days. Tpr. Schmerheim explained that was not an option and asked him to exit the home, unarmed with his hands up and that he would not be harmed, that they wanted to end the situation peacefully. Once a marked patrol car began making announcements over the public address system Jennings stated. "Tell him I appreciate it, but I'm not coming to the window". Tpr. Schmerheim informed Jennings that he would be contacted by a negotiator, and Jennings advised that he would rather talk to Tpr. Schmerheim. When asked if he would compromise and come to the front door, Jennings laughed and then said, "You know I have no intention; I told ya I'm fucking dug in, I'm not going to stand in the fucking doorway". Tpr. Schmerheim asked if he had any firearms and Jennings replied, "absolutely not". Jennings was very calm and clear that he was not exiting the home. At this point Tpr. Schmerheim requested the negotiator Tpr. LaMilza contact Jennings and trade off. Once the switch was made Tpr. Schmerheim moved to outer perimeter point and he did not witness any gunfire.

During his conversations with Tprs. McClain and Schmerheim, Jennings denied having any weapons in his home, but [redacted] stated that Jennings had numerous guns in his home, including guns that he hid under his couch, on a hutch, and long guns near a gun safe upstairs. That Jennings had multiple weapons in the home was supported by [redacted], a friend of Jennings who flagged down Sgt. Evan Nelson to tell him that Jennings had multiple pistols, rifles, gas masks and a ballistic vest in his residence as [redacted] had seen them firsthand inside the home. When the troopers ran Jennings' name in LEIN they found he had four firearms registered to him and that information appeared in the first search warrant that was obtained.

MSP's Emergency Response Team was requested to respond to the scene by Sgt. Jeffrey Duttlinger (Sgt. Duttlinger) due to the knowledge there were multiple firearms in the home, Jennings had an expired concealed pistol license, the allegations made by [redacted], and the threats made by Jennings of shooting a trooper while he was speaking to Tpr. McClain.

The ES Team was given a short situational brief enroute that Jennings had physically assaulted his former girlfriend, attempted to tie her up and commit a sexual assault against her. That the female subject managed to escape and call 911. That Jennings was still in the residence unwilling to come out and speak with the police, that Jennings stated he was not going to jail, and there were multiple rifles and pistols in the residence. That the ex-girlfriend had also told responding officers that over the past several days Jennings had made several statements about wanting "suicide by cop". The ES Team that arrived consisted of twenty-seven different MSP members for this incident.

The ES Team began arriving on scene at 1730, and they took over from Sgt. Duttlinger, established their own perimeter, and began moving the perimeter further back several times.

Sgt. Chenet wrote in his statement that after he got in his position, he advised the fully marked sheriff's patrol cars and MSP vehicles to move back as they were far too close to the residence. They complied with his request but did not move far enough back and they had to be asked several more times to move further back throughout the incident. After Jennings fired the first round at the ES Team a crowd had started gathering on Main Street just East of the residence and the officer's requests for the crowd to move back went unheeded. Therefore, the BearCat had to approach the crowd of bystanders and two patrol units announcing over their Public Address (PA) system that they were in a dangerous area and they needed to move back immediately and take cover was required get the citizens to move back.

The ES Team negotiator, Tpr. Tara LaMilza began to talk with Jennings as she was driving to the scene at 1744 and took over from Tpr. Schmerheim. While Jennings was willing to discuss thing in general like work, or his ex-girlfriend [redacted], he refused to come outside and admitted that he knew the police were not going to go away and that he could see them moving around in their "shiny new Tahoes". Once she arrived on scene, Tpr. LaMilza advised Sgt. Chenet and Trooper Richard Kearns

(Tpr. Kearns) that Jennings was comfortable and very calm, and while Jennings was willing to speak with her, he was very unwilling to exit the residence.

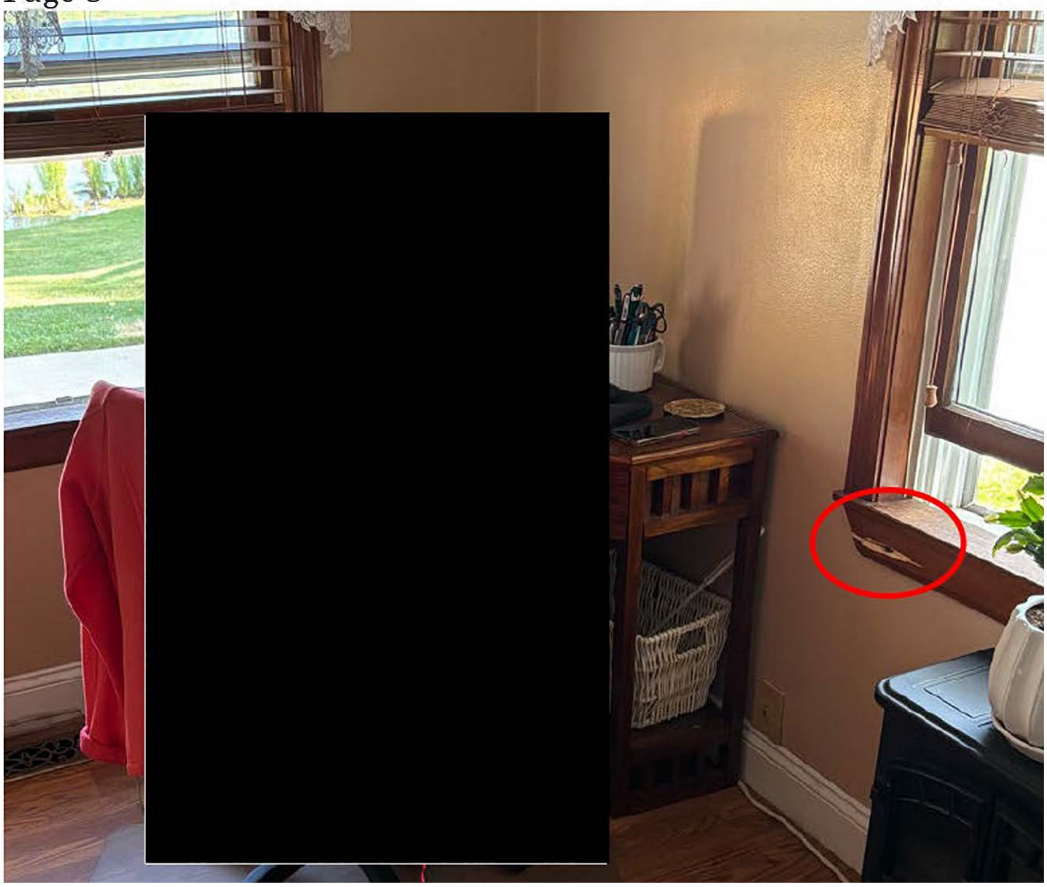
When Tpr. LaMilza resumed their conversation she told Jennings that she was aware he had firearms in the home, and Jennings stated the firearms were all over the house. Tpr. LaMilza could hear all the announcements asking Jennings to come out and that he would be safe if he exited the home being made as well as the police sirens in the background through the phone, yet Jennings had no reaction to the announcements or sirens. Even when the flash bang was thrown while Jennings was speaking to her, he had zero reaction to the flash bang; he did not stutter, flinch, skip a word, get upset or even ask what that was. A short time later a second flash bang was thrown and again Jennings had no reaction to the second flash bang. When Tpr. LaMilza asked what that was, Jennings said they "are taking their tactical positions, throwing a couple of flash bangs...".

Tpr. LaMilza emphasized the police were not going to leave and requested that Jennings please exit the residence peacefully, that this had gone on long enough. No one wanted to see his home destroyed or see anyone get hurt. Jennings ignored her requests.

At 1824 Tpr. Nelson provided Tpr. Kearns from the ES Team a search warrant that had been signed by the Hon. Jennifer J. Manley for [redacted].

The ES Team tried several different deescalation tactics like smoke bombs and pepper spray to get Jennings to exit the residence peaceably without success. During this time Jennings fired from inside his residence at ES Team members four distinct times, sometime in multiple bursts, between 1854 and 1909 striking ES Team vehicles numerous times.

[redacted], neighbors of Jennings who live at [redacted], stated that when police arrived in front of their property they went on their porch and then their backyard to watch what was going on. That 'eventually everyone and their brother showed up' and that troopers were having trouble with traffic and getting everyone to leave when they were just hanging around gawking or laying down under vehicles. When an officer directed everyone back up, to seek cover, and to go inside, [redacted] went inside their home. [redacted] was going to play cards at his computer in the southwest corner of his living room and there is a window with a view to Jennings' home. [redacted] saw the "ram truck" go up to Jennings' house and "boom, hit the front door." When the "ram truck" hit the front door, they heard "pop, pop, pop, pop" and [redacted] said, "Oh shit, they are shooting now". While looking through the window a bullet came through the window trim of his home and came right past him; had he not been turned sideways the round would have struck him. The [redacted] pointed out the bullet hole in the trim to the OIC in this case Detective Sergent Jeffrey Rodgers (Sgt. Rodgers), photograph on the next page.



The window trim where Jennings' bullet entered the [redacted] home. Had [redacted] not been turned to the far window he would have been shot by Jennings.

Tpr. Alward and Sgt. Chenet were assigned to red-white perimeter which was the position looking at the southeast corner of Jennings' residence in view of the front door and the garage to the east of the home. They each took their fully marked MSP patrol cars and parked across Main Street to their assigned perimeter positions. Tpr. Alward set up his Sig Sauer DMR rifle standing tripod to maintain a visual of the residence near [redacted]. Sgt. Chenet was also across the street but in a more mobile position adjacent to the Forrest Township Hall. Tpr. Pinkerton was assigned as commander of the FireCat. Tpr. Kill and Tpr. Breslin were assigned to the rear of Jennings' residence/black side of the building where they heard the first gunshots fired by Jennings.

Deescalation and Timeline

There were numerous deescalation techniques employed by the ES Team. First Sgt. Jonathan Tibaudo (Sgt. Tibaudo) provided a series of announcements and siren activations with emergency lights on the BearCat and the FireCat to attempt to get Jennings to surrender peacefully; this was done numerous times. The orders were for Jennings to surrender, advising him he was under arrest, and to exit from the front of the residence. Multiple sets of announcements also advised Jennings that he would not be harmed if he exited the home with his hands raised. Both [redacted] stated that they heard the warning on the loudspeakers from inside their

home which is across the street and east of Jennings' home (a map to scale which would show the distance between the homes is on the last page of this memorandum).



BearCat



FireCat -note the Ram attached to the front

Second, once negotiations were stagnant, approval was granted and one flash bang was thrown onto the front porch. A flash bang was used to display the seriousness of the situation to the suspect and to encourage him to surrender without causing damage to the property. The flashbang appeared to have no effect on Jennings and more announcements were made. The second flash bang appeared to be equally ineffective on Jennings.

The ES Team was contacted by the negotiator Tpr. LaMilza, who told them she could hear the flash bangs over the phone, but that Jennings did not respond to them. It was determined that further escalation tactics were needed to assist with negotiations.

Third, the ES Team was then approved to ram open the front door with the FireCat. The door is usually rammed open first if the incident requires it as it is the easiest and cheapest to repair. Psychologically ramming the door conveys the seriousness of the situation and shows the suspect that there is no escape from this incident. The FireCat was driven by Trooper Blake Ellsworth (Tpr. Ellsworth), Sergeant Andrew Pinkerton (Sgt. Pinkerton) was the front passenger and Tpr. Pinkerton was the FireCat commander, who occupied the turret. The FireCat rammed the front door at 1843 and found that Jennings had attempted to barricade the front door with large pieces of furniture.

Fourth, at 1847 four rounds of SL6[2] we're fired at a second-floor window to break out the upstairs window where Jennings was last seen. This allowed the Tpr. Pinkerton to fire pepper balls[3] fired from a pepper ball gun, similar to a paintball gun, at 1854 from the turret of the FireCat into the broken second story window. The intent of the ES Team was to force Jennings outside of his house. Announcements asking

[2] SL6 is a 37mm multi-role six shot projectile launcher. This launcher is used to deploy less lethal munitions such as impact batons and chemical agents.

[3] Pepper balls are a non-lethal projectile filled with a powdered chemical irritant designed to burst on impact.

Jennings to come out peacefully and that he would not be harmed continued to be made.

Jennings then fired at the ES Team members after several of the pepper balls were fired into the 2nd story window but while Tpr. Pinkerton was still firing them. Tpr. Pinkerton heard the shot and took cover behind the turret. Other ES Team members reported the shot came from the eastside next to the window Tpr. Pinkerton had just fired the pepper balls into, and the shot had come at the FireCat. No ES Team members returned fire, and all reported no injuries. 1854 hours was the first time Jennings shot at the ES Team members. Tpr. Alward confirmed that this gunshot came from the southeast (white/red) second story window that he was observing as did Sgt. Chenet.

Fifth, at 1900 after having moved farther east of the residence Tpr. Pinkerton in the FireCat fired four rounds of Oleoresin Capsicum (OC or OC spray)[4] into the home using a 40mm launcher to fire the slower velocity rounds. Announcements asking Jennings to come out peaceably and that he will not be harmed continued. At 1902 Jennings fired one round at the FireCat or the Rook (which were close and in the same direction). Tpr. Alward noted another gunshot from the same window shooting at either the FireCat or the Rook and he believed attempting to murder the officers inside the vehicle. At that point Tpr. Alward began firing from his position in fear of death or great bodily harm to himself and his fellow officers. Sgt. Chenet believed Jennings was shooting at the Rook and at the crowd of civilians that had gathered at the back of the outer perimeter.



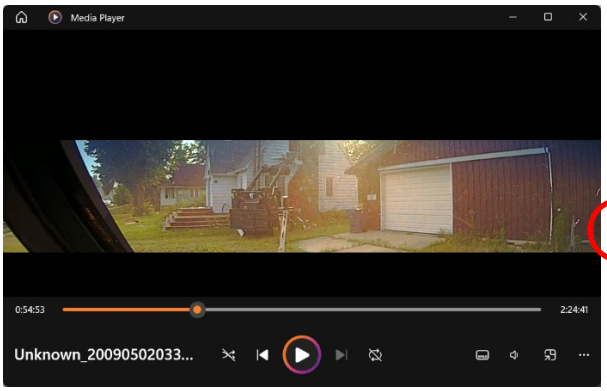
The Rook approaching the eastside of the residence and the two 2nd story windows referenced above that Tpr. Pinkerton was firing pepper balls & OC into and Jennings was firing bullets out of.

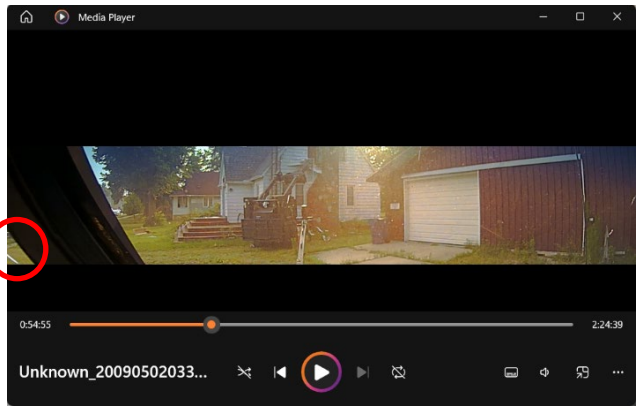
The Rook armored vehicle began moving to the eastern wall to give the ES Team a visual of the room. At 1902 the Rook breaks the remaining glass and removes the frame and surrounding area on the second floor. This is the first window frame broken out by the Rook; the eastern wall is designated “red side” by the ES Team; it is the side of the home facing the garage and the right side of the home when facing

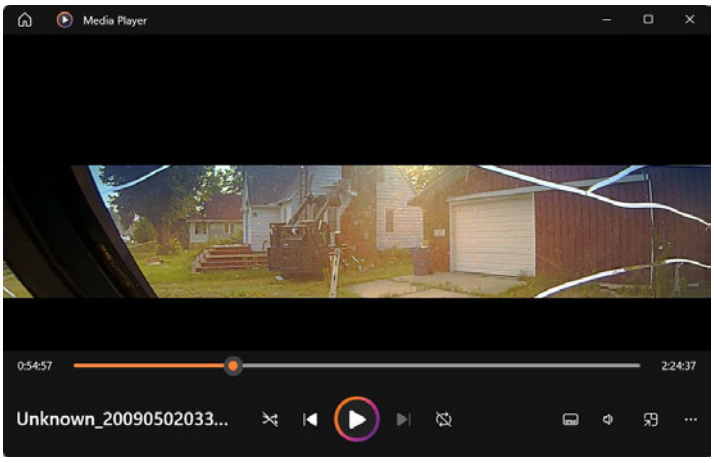
[4] Oleoresin Capsicum is an oil based natural extract from chili peppers that create intense heat that is used as the active ingredient in pepper spray.

the home from the street. Sgt. Chenet then moved further east from his original perimeter position to try to get a visual inside the residence and yelled at several citizens who had gathered in the side yard of [redacted] ([redacted] residence) to move from their position and seek cover, but they refused to listen.

As soon as the Rook begins to break out the window area and Sgt. Chenet was in position and able to make out a doorway into the room of the residence, Jennings fires numerous rounds at the FireCat, and other ES Team members striking the FireCat multiple times. Tpr. Pinkerton fired back and then ducked back down. "Fearing for my safety, along with the safety of the ES members on the perimeter and the civilians in the area, I fired my department issued Sig Sauer MCX .223 rifle into the second story window where I believed Jennings was shooting from. I fired approximately 5-6 rounds and then briefly ducked down out of the turret seconds later, Jennings returned fire at the FireCat."[5] Seconds later Jennings returned fire and struck the FireCat driver's window cracking the window, then two seconds later Jennings' shot struck the FireCat's passenger window cracking the window. Three shots struck the armored turret where Tpr. Pinkerton had been seconds earlier as well. The FireCat was on the southeast corner of the property in the far front corner of the garage at this point. This is the third time that Jennings fired at the ES Team.







These three stills are from the FireCat video and were all taken 2 seconds apart. The first shot shows an undamaged windshield. The still above shows the driver side windshield which was cracked when Jennings shot it. They still on the left shows the passenger side window which was cracked when Jennings shot it 2 seconds after he shot the driver's side window.

[5] Submitted statement of Tpr. Pinkerton, page 2.

Tpr. Pinkerton wrote in his statement on page 2, "It was clear from the accurate fire that Jennings was aiming at us and actively targeting our firecat and me- not just indiscriminately firing rounds out." Due to the accuracy of the rounds and the compromised windows, the FireCat was repositioned to the roadway to avoid taking further rounds that could jeopardize the safety of the officers inside the FireCat. The fired casings from Tpr. Pinkerton's rifle were recovered from the property in front of the garage and taken into evidence. Trooper Curtis Sweedyk (Tpr. Sweedyk), who was operating the Rook, advised he could see Jennings when he was firing at the FireCat coming from an interior hallway, firing and then retreating, several times.

While the FireCat moved away and into the street, the Rook finished the window removal on the eastside/ red side of the home.

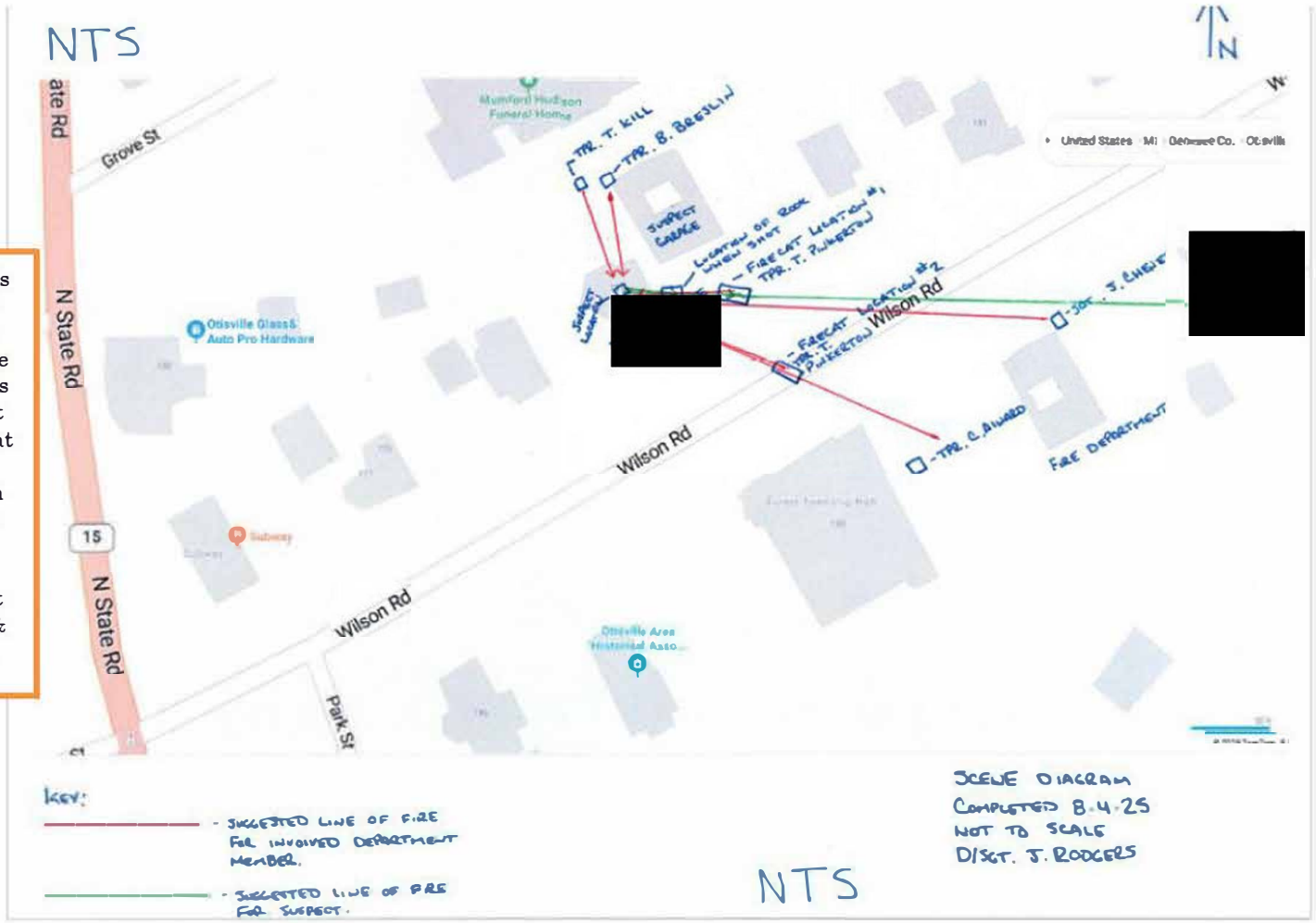
At 1909 Jennings begins firing multiple rounds at the ES Team members, specifically targeting Tpr. Sweedyk in the Rook. This is the fourth time Jennings fires shots targeting MSP members. "Blue shot out" was called out as some members of the ES Team returned fire. Tpr. Pinkerton who was still the FireCat, which is now in the street, wrote in his statement on page 3 that when Jennings started firing out of his window towards the Rook, "fearing for the safety of Tpr. Sweedyk in the Rook, the ES members on the perimeter, the civilians in the area, and myself, I started shooting towards Jennings from the turret of the FireCat, firing approximately 5-6 rounds from my MCX rifle, concentrating my fire in the direction that Tpr. Sweedyk had advised Jennings was shooting from."

As Jennings continued to fire on the ES Team, Tpr. Alward fired three more rounds into the wall of the residence. According to Tpr. Alward's written statement there were multiple bystanders in the area and in the direction that Jennings was shooting at as well as two marked and occupied patrol units in the street. The fired casing cartridges belonging to Tpr. Alward and Sgt. Chenet were recovered from their locations across the street and logged into evidence.

In his statement on page 2 Sgt. Chenet wrote, "Jennings again began to fire gunshots at the rook, fire cat and react team. I immediately began to hear the tearing of leaves, plant stems and grass as rounds hit the tall grass and bushes to my right approximately 5 feet off my right shoulder. Then I heard a snap just over my head, from my education, training and experience I know this sound is the sound of gunfire over my head in close proximity. In fear for the lives of the citizens who were gathered in the yard to the east (directly behind me),[6] the lives of my teammates on the react team and my life, I took action to stop the imminent threat. I fired 2 rounds into the

[6] The 'gathered citizens' that Sgt. Chenet was made reference to, were gathered in the yard of [redacted]. After the shooting ended, Sgt. Chenet requested that Tpr. Ellis contact them, and verify that they were all ok. While all the citizens who were in the yard were all unhurt, one of the bullets fired by Jennings struck the window of the residence entering the home of [redacted] who live at [redacted] and narrowly missed striking [redacted].

room where I believed the suspect was based on knowing where previous gunshots were fired from."



Wilson Rd. is mislabeled here. The correct name of the road is Main Street which ends at a T intersection two blocks east of Jennings' residence at Wilson Rd.& Center St.

When the Rook was done removing the window area from the eastside or "red side" of the home the Rook traveled to the westside or the "green side" of the home and proceeded to pull out the second story window just like it had on the eastside. After the second story greenside window is removed the Rook moves to the back of the home, which is the northside/black side and proceeds to remove the second story windows as well. The BearCat enters the backyard as the Rook is working on the windows on the second story of the backside of the home. There are momentary glimpses of Tpr. Breslin and Tpr. Kill from the BearCat video amongst the trees in the backyard behind the garage on Jenning's property as they were assigned to "black side", the back side of Jennings' residence.



Tpr. Kill and Tpr. Breslin are circled in red at the back of Jennings' garage. The still is from the BearCat video as the Rook is removing the second story windows at the back of the residence.

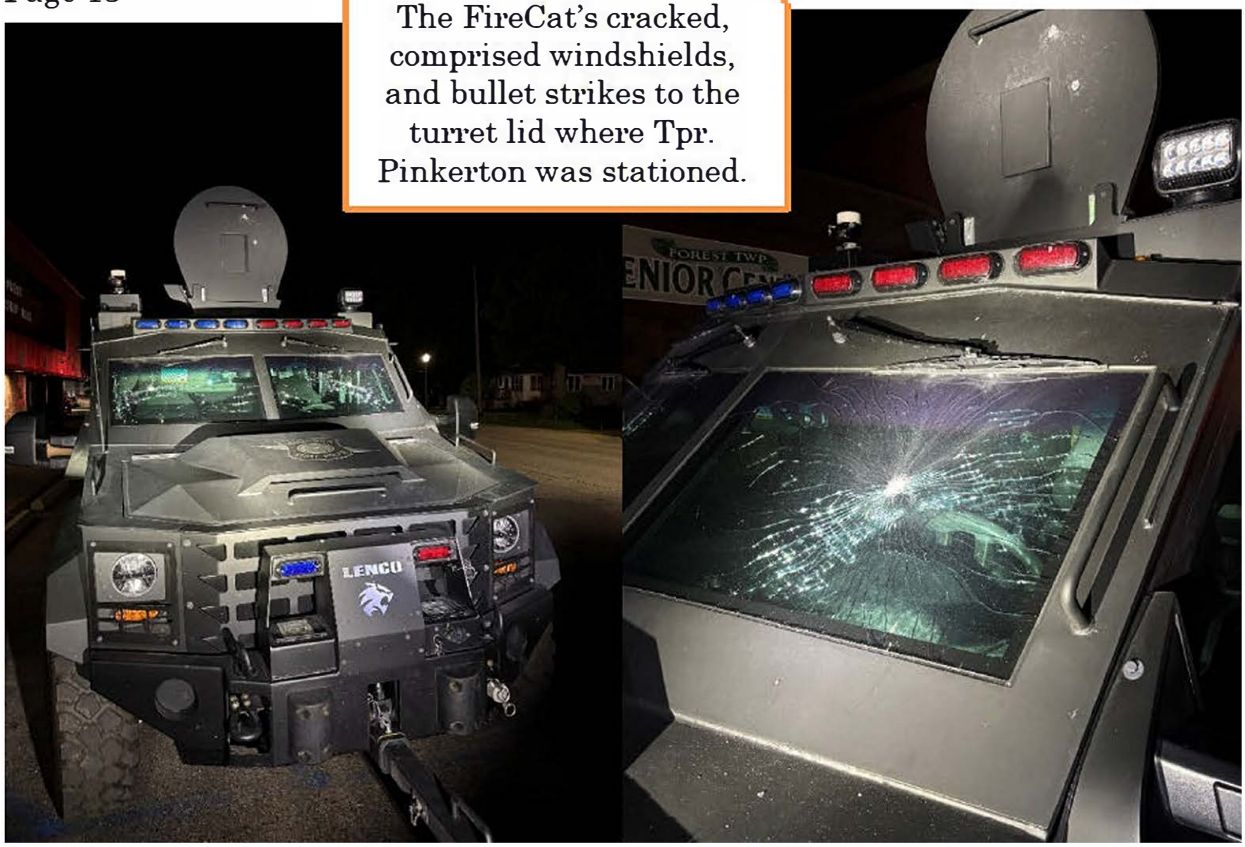
Once the Rook finishes removing the second story windows from the back of the residence, it exits the property and the BearCat follows it off the property and parks on Main Street facing the front door of Jennings' residence.

The Rook was struck by Jennings three times. One bullet strike was to the hydraulic breaching ram, one strike to the right hydraulic arm one to and one bullet strike to the right-side rear armor plate. There were pictures taken of all three bullet strikes by Sgt. Rodgers.

James Jennings kept firing at the officers, threatening their lives and the lives of his neighbors and the citizens who were gathering and refused to move from the area which resulted in five ES Team members eventually returning fire. Tpr. Ty Peterson, assigned as a REACT and Less Lethal team member to the BearCat armored vehicle described it as,

> While the Rook was working, I began hearing multiple volleys of gunfire coming from inside the residence followed by team members reporting they were returning fire. Specifically, I observed rounds striking the windshield of the Firecat directly in front of the driver, directly in front of the passenger, and rounds striking the shield directly in front of the turret gunner.

The FireCat's cracked, comprised windshields, and bullet strikes to the turret lid where Tpr. Pinkerton was stationed.



The last time any ES Team member discharged a deadly weapon was 1909. This was the last time that Jennings fired on the ES Team, other MSP personnel, or civilians.

In the written statement by Tpr. Kill he indicated that he heard several volleys of gunfire between the suspect and other ES Team members and prior to the gunfire he heard over the radio that neighbors east of the suspect's house were standing and watching. When he originally responded to the scene there were a large number of civilians on both sides of the suspect's home watching the police response. It was relayed over the radio that the BearCat or FireCat had been struck several times by well-aimed shots by Jennings and that a window on the neighbor's house where civilians were standing now had a bullet hole in it. Throughout the exchange of gunfire perimeter units and the BearCat described the location of Jennings on the second floor including the locations of the center floor window near the door by the hallway and in the middle of the house providing Tpr. Kill an idea of where the suspect was moving and taking shots from. After a large volume of gunfire from Jennings began with knowledge that "there were civilians in the immediate area just down the street, and that the suspect had already shot into the occupied home next door, I used the knowledge gained by the radio transmissions describing the suspect's location and fired several shots through the roof into the position I believed the suspect to be firing from in order to stop the suspect and protect the lives of police

officers and civilians in the area. It also sounded like another ES perimeter position from the other side of the house fired at nearly the same time. After engaging the suspect there was no more shooting from the suspect." That was the only time Tpr. Kill discharged his weapon.

Tpr. Breslin was also assigned the north side/black side perimeter position which was the back of Jennings' house and garage with Tpr. Kill. He heard both of the single gunshots by Jennings at the ES Team members and believed that Jennings was trying to kill officers by shooting at them. "I was in fear for my life, the lives of the other law enforcement officers on scene, and the lives of surrounding citizens in the area. After each time the suspect shot at us, it was communicated where the suspect was in the house, what floor he was on, approximately how deep into the residence he was, what room he was in, and which window he was shooting out of. It was also communicated that the suspect was the only person in the house."

"There were also multiple civilians outside during this incident. The ES team made loud announcements for civilians to back away and take cover due to the gunfire situation. During this incident bullets fired from the suspect struck a nearby house and a ricochet bullet struck a citizen on the stomach."[7]

"The suspect shot at us in four different volleys. On the 4th volley of gunfire from the suspect, I heard Tpr. Kill fire his weapon at the suspect and I used my department issued MCX rifle to also return fire through the backside, 2nd floor wall where I believed the suspect to be." This was the only time Tpr. Breslin discharged his weapon.[8]

At 1916 the door was propped open again and two minutes later the Command Post made a set of loud and clear commands with no response. At 1919 the Rook rammed open the window on the white side (front of) the house and few minutes later it was possible to see through the front door through the back of the house. No response from Jennings was heard.

At 1943 the SL6 (less lethal) rounds were launched again. At 1947 a set of announcements were given with no response. Ten minutes later they were repeated with the same results. An attempt was made to contact Jennings at 2003 through an open line and he failed to respond. After no response was heard from the residence, there was no contact from Jennings to the negotiators hails, nor were there any shots being fired from the home, Trooper Nicholas Kaiser (Tpr. Kaiser) deployed a UAS into the residence. Tpr. Kaiser located Jennings lying face down on the floor, upstairs, unmoving surrounded by multiple firearms, magazines, and blood on the floor.

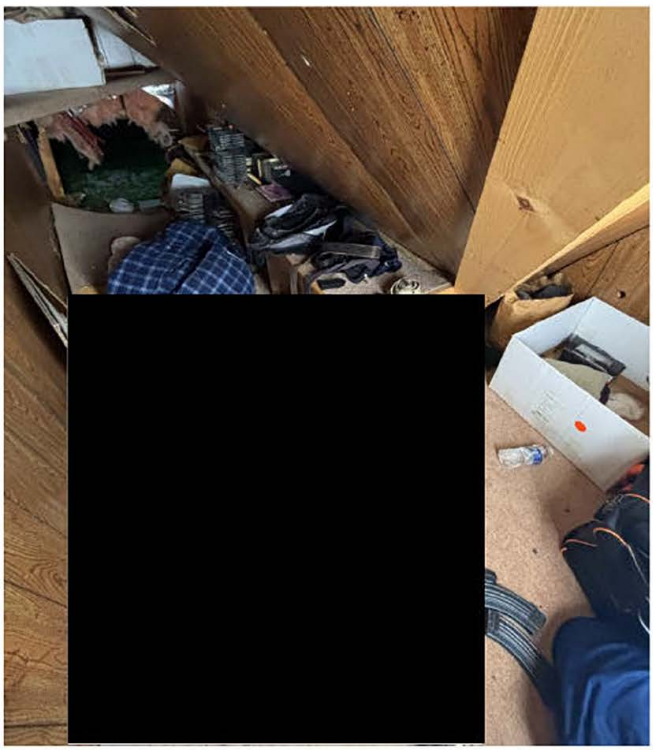
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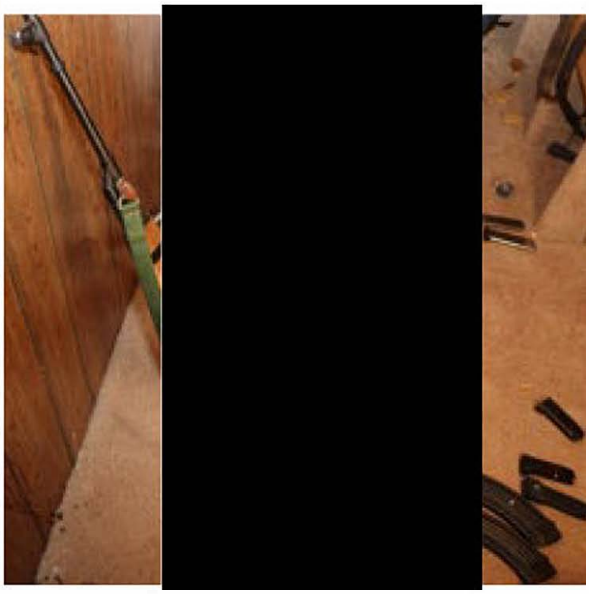
[7] The statement from Tpr. Breslin that a citizen was struck by a ricochet bullet in the stomach was unable to be substantiated, but his alleged friend did report this at the time to law enforcement; the individual never came forward nor were they identified.

[8] Tpr. Breslin fired one shot per the round count during this incident.

For officer and EMS safety the ES Team checked several times to ensure Jennings was not faking and lying in wait. At 2040 the drone lands on Jennings' leg without a response. The Rook gave Jennings a tap at 2055 without a response. At 2101 a 40mm direct impact round with a plastic crushable foam projectile was shot at Jennings by Tpr. Kearns who stood on a neighbor's roof and struck his right buttocks resulting in no movement.

The React Team with Tactical Entry Dogs (TEDs) all had Body Worn Camera (BWC) on when they attempted entry into Jennings' home. The React Team had to use a ram to break the barricaded back door (black side) at 21:12:57. Immediately upon entry the React Team found four steps up and another barricaded door which required the ram as well. They cleared the first floor and located James Jennings upstairs lying face down on the floor unmoving, but the officers could only see one hand which contained a firearm (hammer cocked) pointed at officers outside; Jennings' other hand was not visible as Jennings was laying on it. The React Team checked and found no pulse and a bullet wound to his head. The React Team was concerned for all subsequent officers and EMS that they be notified of cocked firearm in Jennings' hand. EMS confirmed he had no pulse and he was deceased. The React Team noticed Jennings was surrounded by numerous firearms, that Jennings was wearing a shoulder holster with a 1911 style pistol with the hammer cocked, but they left the weapons and noted blood splatter, massive amounts of reserve ammunition, the huge gun safe in his bedroom, and they preserved the scene for investigators and evidence technicians.





The REACT Team officer needed to move the rifle to check Jennings for a pulse. The rifle was in that location on the wall when the officers entered the residence.

James Jennings was located in an attic space accessed from the master bedroom. He suffered from four gunshot wounds, including a gunshot wound to the left rear of his head, two gunshot wounds to his left arm and one gunshot wound to his left wrist. Originally there was a search warrant obtained by Tpr. Nelson based on the allegations of [redacted]. After the shooting there was a second search warrant obtained by D/Sergeant Frank Bayly (Sgt. Bayly) to locate evidence regarding the shooting, both were signed by Judge Manly of the 67th District Court in Flint.

MSP Bridgeport Crime Lab responded to the scene. They collected evidence and documented the scene. The Crime Lab found Jenning's body encircled by guns and ammunition. The Crime Lab recovered from the west bedroom closet/attic where Jennings was found a .45 auto caliber Sig Sauer 1911 semiautomatic pistol from a holster on Jenning's chest, a 7.62x39mm caliber Norinco model NHM91 semiautomatic rifle from the floor, a .22 long rifle caliber, Ruger, model 10/22 Carbine, semiautomatic from the floor, and a .45 auto caliber Taurus model PT-24/7 ProCDS semiautomatic pistol from underneath Jennings. The .45 caliber Taurus semiautomatic pistol that was underneath Jennings was positively identified by the Firearms/Toolmarks Unit as having fired one of several casings that was located directly next to Jenning's body. The MSP Bridgeport Crime Lab also recovered six 9 mm fired cartridge casings, five .45 auto caliber fired cartridge casings, as well as three fired bullets from the second story of the residence.



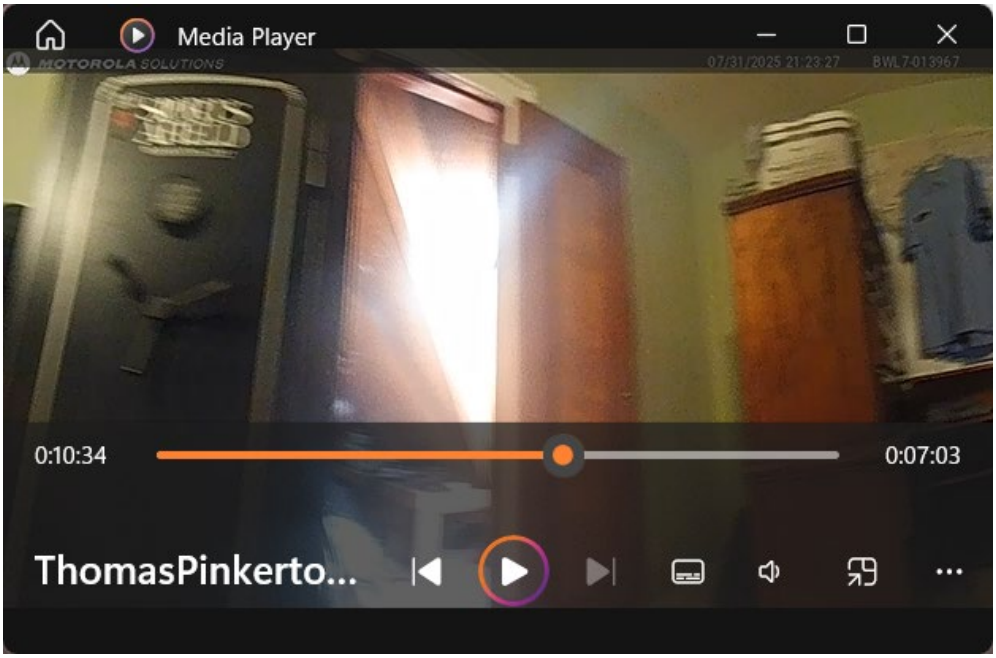
Weapons recovered near Jennings as well as fired cartridge casings from a .45 auto caliber and two fired cartridge casings from a 9mm Luger recovered from the east bedroom floor (one of the rooms Jennings was firing at ES Team from).



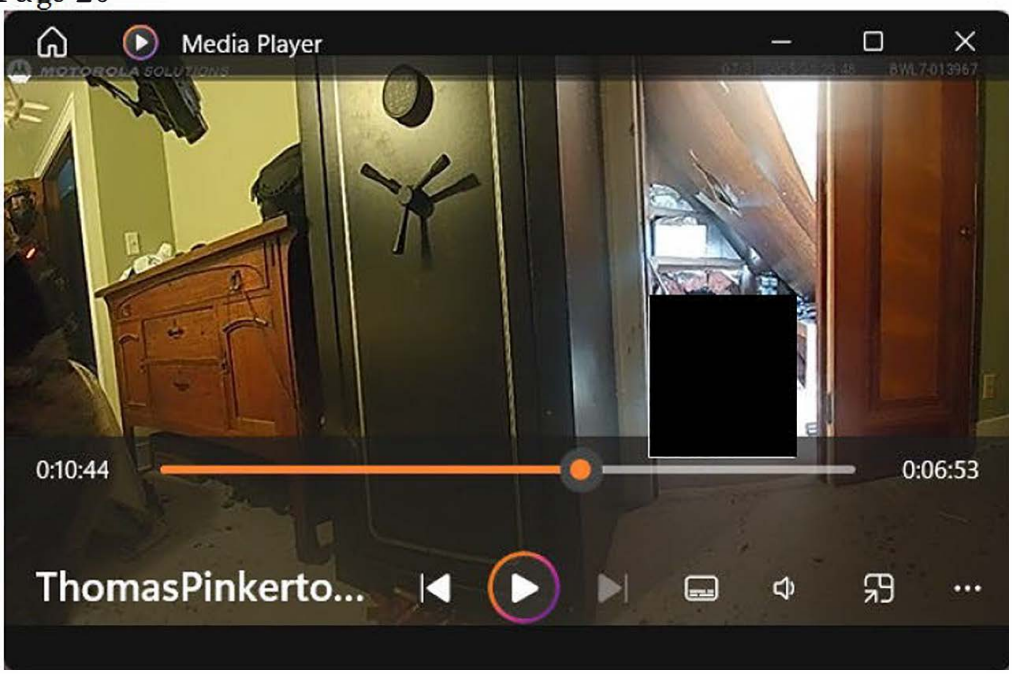
When the MSP Special Investigation Section 2nd District team (Sgt. Rodgers, Detective Seargent James Plummer (Sgt. Plummer), and Detective Seargent Benjamin Murphy (Sgt. Murphy)) first investigated Jennings' home they found

multiple alarms going off inside and water coming down through the ceiling onto the first floor. There was a variety of ammunition near an ammunition box on a table and blood was dripping down from the ceiling. There was a single .45 caliber round ammunition sitting on the kitchen counter. In the bedroom there was a police evidence bag on the floor beneath the desk and a variety of court papers for Mr. Jennings. Inside the closet there were numerous zip ties affixed to a set of handcuffs and a roll of packing tape affixed to a dispenser. Those were noted as they were similar to what was described by [redacted] in her interview with the initial troopers from Flint Post and the items were photographed.

The stairs leading to the second floor were partially destroyed and covered in debris with an empty gun holster near the bottom step, shell casings were on the floor and the room to the east had numerous shell casings on the floor. There was biological material on the door trim in the hallway. In the master bedroom the exterior wall was missing, and the odor of tear gas was present. They located a small box on a dresser in the master bedroom with several pieces of identification belonging to Mr. Jennings along with a braid of human hair and an extremely large gun safe with nine shotgun shells sitting loose on the floor at its base. Mr. Jennings was located deceased in the attic/storage room off of the master bedroom, face down in a pool of blood. He was wearing a shoulder holster and multiple rifles visible within arm's reach along with multiple magazines of ammunition near his body throughout the master bedroom and cubby in attic room his body was photographed in place and undisturbed.



Jennings' gun safe is located in the master bedroom and is as tall as the doorway and just as wide. It is adjacent to the room Jennings was found in.



View from the master bedroom looking into the attic storage room/closet where Jennings was located. The gun safe is to the left of the doorway

Autopsy

Dr. Brian Hunter, MD and Dr. Elizabeth Cline, MD from the Genesee County Medical Examiner's Office conducted the autopsy on James Andrew Jennings on August 4, 2025. The autopsy disclosed four distinct gunshot wounds, one to the right temporal scalp, two gunshot wounds to the upper left arm, and one to the left dorsal wrist. The cause of death was listed as multiple gunshot wounds and the manner of death was ruled a homicide.

Gunshot wound 1: head

Entered the right temporal scalp and exited the left parietal scalp, wound path direction was right to left slightly back to front and slightly upward[9]. The range of fire was undetermined, and the report noted that accurate estimation of the range of fire was affected by the decedent wearing a baseball cap[10] at the time of the injury.

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[9] It is noteworthy that James Jennings was righthanded. Confirmed by [redacted] in SIS-0000132-25 Supp0010.

[10] The gray baseball cap in Jennings personal effects had two holes in it, one on the wearer's left side (hole A) and one on the wearer's right side (hole B). Both holes were inspected, examined and processed for gunshot residue and the results were inconclusive as having been produced by the passage of a bullet. The chemical test for lead was positive and the chemical test for nitrates was inconclusive on both holes according to Sharise Thacker, Forensic Scientist from the Firearms/Toolmarks Unit at the MSP Lansing Forensic Laboratory, Laboratory No. BP 25-2108 Record No.5. Her conclusion was the lack of discernible gunshot residue pattern may indicate that the shot was discharged from a distance beyond the maximum distance or disposition of gunshot residues, an intervening object was present at the time the firearm was discharged, or the residues were lost during the handling of the item prior to its examination.



This is the gray baseball cap that Jennings was wearing when he died. It contains two holes that appear to be entry and exit holes caused by the bullet that killed James Jennings. The GCMEO only took one photo of each side; this photo shows the entrance wound location by the blood at the red arrow.

Gunshot wound 2: left upper arm, interior surface

Entrance into the soft tissue of the left axilla where a bullet fragment was recovered from the left axilla soft tissue. The wound path direction was upward front to back, but the right to left deviation could not be determined[11]. Stippling was present on the shoulder, but no soot or definitive powder tattooing was present.

Gunshot wound 3: left lateral upper arm

Entrance in the left lateral upper arm into the soft tissue, wound path was upward; left-right and front-back deviation cannot be determined. Stippling was present on the shoulder, but no soot or definitive powder tattooing was present. There was a bullet fragment recovered[12] from the soft arm tissue.

Gunshot wound 4: left dorsal wrist

Entrance and exit wounds were gaping, an irregular wound precluding entry and exit determination. The wound path direction of left-right, front-back, and upward-and downward deviation could not be determined. There was no soot or powder tattooing. There were associated fractures of multiple carpal bones, the distal radius and ulna.

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[11] 'Right to left deviation cannot be determined' means the forensic pathologist cannot conclude which direction an injury originated from or traveled through the body, whether the bullet went from left-to-right or right-to-left.

[12] The bullet fragments that were recovered by the GCMEO from Jennings' left arm from gunshot wound 2 and 3 were submitted to the MSP Lansing Forensic Laboratory Firearms/Toolmarks Unit by OIC Sgt. Rodgers on 3-3-16 after this writer received the "last" laboratory report from the Firearms/Toolmarks Unit and found that the fragments had not been submitted. Unfortunately, the results may still be months out based upon the amount of work the Firearms/Toolmarks Unit processes. After due consideration this writer felt this investigation could conclude without it.

The clinical history listed that Jennings was 54-year-old white male with a history of diabetes, Lyme disease, depression, anxiety, and suicidal ideation.

The toxicology disclosed 350 ng/mL of Bupropion (brand name Wellbutrin or Zyban) which is a prescription medication primarily used to treat major depressive disorder, seasonal affective disorder, and to help with smoking cessation. It is in a class of antidepressants known as norepinephrine-dopamine reuptake inhibitors (NDRIs), which help manage mood and energy. Jennings also had 330 ng/mL of hydroxybupropion which is the primary active metabolite of the antidepressant of Bupropion.

The Death Scene Investigation Report prepared by Genesee County Medical Examiner's Office stated that his past medical history included that he was recently diagnosed with depression, anxiety, and suicidal ideation and from his discharge paperwork that he was recently seen at McLaren Lapeer Behavioral Health[13] for suicidal statements and depression which he has been struggling with since 2018, and reportedly had recently lost his job. Photographs of the paperwork from McLaren Lapeer Behavioral Health were taken by employees of the Genesee County Medical Examiner's Office and were included as part of the Medical Examiner's Office photographs. Some of the more disturbing statements made by Jennings upon his admission on July 5, 2025 included 'I just feel pretty low, I just feel bad, bad physically, bad headaches, blurred vision, I can't concentrate on stuff, I just got the shakes sometimes, and that he 'has nothing else left to live for and has been thinking about suicide seriously for the last three months. That I want to be the unusual one to put a double tap in my chest.'

[redacted] the assault victim and former girlfriend of Jennings for four years, told Sgt. Rodgers that Jennings had checked himself into McLaren Lapeer Hospital in early July 2025 for several days for psychiatric reasons and that he was not thinking straight and making poor decisions.

Immediately after the shooting occurred the MSP scrambled an Investigative Response Team (IRT) as part of the SIS investigative unit. All five MSP officers who discharged their weapons had photographs taken from the front, back, and both sides wearing the exact clothing and equipment that they were wearing during the incident. Their weapons and ammunition clips were all confiscated, photographed, logged, and a round count was done of the magazines and the weapons. This was done by Sgt. Murphy and Detective Seargent Michael Leddy (Sgt. Leddy) on July 31, 2025. Once the round counts were completed the weapons and ammunition were turned over to the Michigan State Police Crime Lab for testing and analysis. The

[13] There was a significant amount of paperwork for James Jennings from McLaren Lapeer Behavioral Health recovered from his 2nd story bedroom indicating an admission date of 7-4-25. In order to identify suicidal triggers, he was prescribed group psychotherapy for 60 minutes per day not less than five times a week, McLaren Lapeer conducted daily wellness checks and recommended psychiatric interventions to evaluate his behaviors in response to psychotropic medication and to provide an evaluation.

results of the round count by Sgt. Leddy and Sgt. Murphy disclosed that Tpr. Pinkerton had discharged 6 rounds from magazine #1 and 6 rounds from magazine #2 for a total of 12 rounds. Tpr. Kill discharged 5 rounds from magazine #1. Sgt. Chenet had discharged 2 rounds from magazine #1. Tpr. Breslin had discharged 1 round from magazine #1. Tpr. Alward discharged 4 rounds from magazine #1.

The Michigan State Police Special Investigation Section 2nd District investigated this shooting and submitted the results of that investigation to the Michigan Department of Attorney General. Additional investigation was then requested by the assigned Assistant Attorney General. After review of all the evidence submitted no charges are appropriate because the State would not be able to prove that the troopers' use of deadly force was not justified under the law in that the State would not be able to prove the officers were not firing in self-defense or in defense of their fellow officers and the citizens who were in the area.

V. Discussion

THE LACK OF BWC VIDEO ON ES TEAM MEMBERS

Generally, it is the policy for MSP officers under Official Order 04-20 that enforcement members who are on duty and in uniform that they shall activate the BWC system to record dispatched or self-initiated law enforcement action and all contact with individuals in performance of official duties, with certain exceptions.

One of the exceptions to the BWC policy is Specialty Units found in Official Order 04-20-5. In 04-20-5 subsection A. "Specialty Units include the Aviation Unit, Bomb Squad, Canine Unit, Emergency Support Team, Traffic Crash Reconstruction Unit, and the Marine Services Team." Specialty Unit members must activate their BWC only when serving arrest warrants or search warrants A.(3). However, 04-20-5 subsection A. (2) states,

> Enforcement members assigned to these specialty units performing tasks in which wearing the BWC would be impractical or unsafe shall not wear the BWC while performing those tasks.

All five members of the ES Team who discharged their rifles were photographed immediately after the shooting wearing all the equipment they were wearing during incident when the shooting occurred. All members of the ES Team were wearing MSP issued and clearly identified camouflaged uniforms with marked MSP Police identifiers, patches, and badges. While the uniforms of the EST members were

equipped for BWCs, the photographs are clear that no officer who discharged their weapon was wearing an active BWC at that time[14].

It is clear from the evidence provided that the ES Team was attempting to apprehend an individual who was heavily armed, who had a tactically superior position, someone who had just sexually assaulted a woman and tried to hold her hostage, who threatened to shoot a law enforcement officer, who was mentally unstable, and who threatened to commit suicide and to take the female victim with him. The ES Team members who ended up discharging their weapons were dressed in a manner to try and hide their position as they tracked Jennings through his home and avoid being shot themselves. The Michigan State Police utilize the Watchguard video system and when the Watchguard BWCs are activated they emit a red light and an audible buzz or beeb that can be seen and heard when they are activated. Activating their BWCs would have given away their location, which would have placed the members of the ES Team in further danger of being shot by Jennings. To have worn and activated BWCs in that situation would have been unsafe while they were performing their duties. In conclusion, the members of the ES Team who did not wear a BWC were following MSP's BWC policy on July 31, 2025.

USE OF FORCE, USE OF DEADLY FORCE & RELATED POLICIES

All Michigan State Police officers are required to follow Official Order 05-01 Subject Control and Use of Force and Official Order 05-02 Use of Deadly Force[15].

OFFICAL ORDER 05-01 Subject Control and Use of Force

05-01-1 OBJECTIVELY REASONABLE USE OF FORCE

> A. Under the Fourth Amendment of the United States Constitution, a law enforcement officer may only use such force as is "objectively reasonable" under all of the circumstances. The standard that courts will use to examine whether the use of force is constitutional was first set forth in Graham v. Connor, 490 U.S. 386 (1989), and expanded by subsequent court cases. The reasonableness of a particular use of force must be judged from the perspective of a reasonable law enforcement officer on the scene at the moment the force was used, rather

[14] The REACT Team entered Jennings' home after the drone located him face down on the second floor. Pursuant to MSP policy all members of the entry team wore active BWCs which included Tpr. Thomas Pinkerton. Tpr. Pinkerton was the only member of the REACT team who had discharged his weapon.

[15] Some portions of Official Order 05-01 Subject Control and Use of Force and Official Order 05-02 Use of Deadly Force were not included in this memorandum as they were not relevant to this situation or analysis.

than with 20/20 vision of hindsight. The reasonableness must account for the fact that law enforcement 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.

B. Reasonableness will be determined by balancing the nature and quality of the intrusions with the countervailing governmental interests. The question is whether the law enforcement officer's actions are objectively reasonable in light of the facts and circumstances confronting the officer. Objective factors will determine the reasonableness of force including, but not limited to, the severity of the crime, whether the suspect poses an immediate threat to the safety of the law enforcement officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

OFFICAL ORDER 05-02-1 Use of Deadly Force

A. Deadly force is any use of force that creates a substantial risk of causing death or serious bodily harm.

B. Deadly force is authorized to protect enforcement members or others from what is reasonably believed to be a threat of death or serious bodily harm.

C. Deadly force shall be exercised only when all other reasonable efforts to subdue the subject have failed or reasonable efforts cannot succeed without endangering the life of the enforcement member or others.

D. If a verbal warning is feasible under the circumstances and doing so will not increase the risk of injury to the member or any other person, the enforcement member should identify themselves as a law enforcement officer and give a verbal warning of their intent to use deadly force.

OFFICAL ORDER 05-02-2 FIREARMS

B. Enforcement members and authorized non-enforcement members shall consider the totality of the circumstances when deciding to draw, point, or discharge a firearm, including, but not limited to, the following factors:

(1) Severity of the offense.

(2) Risk of injury to innocent bystanders.

(3) Immediate threat to the enforcement member(s) and the public.

(4) Apparent age of the suspect

(5) Victim-suspect relationship.

(6) Knowledge of the suspect's identity.

C. Life-Threatening Felony

(1) Firearms may be drawn, pointed, or discharged to affect an arrest when an enforcement member has probable cause to believe a person has committed a life-threatening felony listed in Section 05-02-2 C.(2) below or has escaped from custody after having been arrested for or convicted of committing a life-threatening felony.

(2) Whenever used in the Official Orders, life-threatening felonies are:

a. Murder and attempted murder

d. Kidnapping (MCL 750.349, MCL 750.349a, MCL 750.349b)

(3) An enforcement member shall not discharge a firearm on a person who is fleeing on suspicion alone that such person may have committed a life-threatening felony or solely because a person fails to stop on command or runs a blockade.

F. Drawing Firearms

(1) Firearms may be drawn or displayed only when an enforcement member or authorized non-enforcement member, is confronted with a potentially life-endangering situation.

In this case the evidence shows that James Jennings had already shot at law enforcement officers multiple times and showed a proficiency with his firearms. The ES Team either saw or was immediately informed he was shooting at a law enforcement officers and was aware there were numerous civilians who refused to leave the area or kept returning to the area and were in danger of being shot by Jennings. Jennings had already fired into the home of one of his neighbors barely missing striking [redacted] who was sitting in his living room and the ES Team was aware of this as well. Jennings was aware that law enforcement wanted him to exit his home peacefully and that he was guaranteed that he would not be harmed as he had spoken with three separate officers asking him to do so and Jennings declined well over a dozen times; he admitted he heard the announcements over the public address system. Jennings was clearly trying to murder law enforcement officers and a severe risk to the health and safety of any citizens in the surrounding area.

James Jennings created the life-threatening emergency. The officers tried numerous non-lethal de-escalation techniques and Jennings responded by shooting at them. The officers tried another de-escalation technique, once again Jennings' responded by shooting at them again, trying to murder them. Jennings admitted he wasn't going to leave the house because he didn't want to go to jail and he didn't want to go to prison and he made threats to commit suicide by cop. Jennings then started rapid fire shooting at the FireCat so that the safety of the officers inside the FireCat was compromised. For the safety of the officers on the perimeter as well as the civilians, the officers needed to return fire.

The five ES Team officers who discharged their weapons followed the Official Orders 05-01 Subject Control and Use of Force as their use of force was objectively reasonable in light of the facts and circumstances confronting the officers. They followed Official Orders 05-02-1 Use of Deadly Force since dozens of verbal commands were ineffectual and resulted in the ES Team being shot at as well as a civilian almost being shot inside his own home, continuing other efforts would further endanger the lives of the ES Team members and deadly force was authorized to protect enforcement members and the civilians in the area from what was demonstratively believed to be a reasonable threat of death or serious bodily harm. The ES Team followed Official Orders 05-02-2 Firearms in that they were authorized under the policy to pull and eventually discharge their weapons based upon the immediate threat to the enforcement member(s) and the public.

MSP has a policy in effect Official Order 05-08 Post-Use of Force Medial Care which states,

05-08-01 POST-INCIDENT MEDICAL CARE[16]

> A. Enforcement members using force on a subject shall make medical treatment available to that subject as soon as possible whenever:
>
> (1) The subject requests medical treatment.
>
> (2) The subject complains of injury or continued pain.
>
> (3) Any enforcement member observes or suspects injury to a subject.
>
> (4) The subject does not substantially recover from the effects of a use of force within a reasonable and expected period of time.
>
> (5) The subject displays any behavior that would indicate to a reasonable person that the subject may be ill or injured.

[16] The reminder of Official Order 05-08 was not included in this memorandum as it pertained to the removal of removal of Electro-Muscular Disruption (EMD) Technology Device Probes.

However, the drone footage and the BWC footage from the REACT Team after the shooting are clear that James Jennings was deceased before they first approached his body on the second floor of his home. The Genesee County Medical Examiner's report noted the entrance wound was on the right temple and the wound path was through the right temporal bone, through the right temporal and parietal lobes of the brain, and through the left parietal lobe of the brain, through the left parietal bone and exits at an exit wound on the left parietal scalp." Jennings was not moving and had no pulse when checked multiple times. No amount of medical treatment could have revived him. The ES Team promptly called for EMS after they tried to secure the handgun which Jennings had previously cocked to prevent accidental discharge. Any attempt by the REACT members to provide medical treatment would have been pointless and perceived as interfering with the evidence scene. This policy, like all policies, requires some reason and common sense in its application. This policy was not written to address this situation where any reasonable person can see that the injury to Jennings was already fatal and no medical treatment that currently exists could bring Jennings back to life. In this case there was no reason to attempt life saving measures and therefore this policy was not violated by any member of the ES Team or the REACT Team.

SELF DEFENSE & DEFENSE OF OTHERS

In order for the State to consider charges against any member of the ES Team, an evaluation of self-defense and defense of others must be made since 1). There is evidence of both self-defense and defense of others, and 2). It has already been raised by the five members of the ES Team who all provided written statements as well as in the reports filed by other law enforcement officers, the BWC video, the videos of the FireCat, the Rook, the BearCat, the photographs, and the statements of numerous civilian witnesses.

After James Jennings fires, most likely one of his rifles, at the Emergency Support Team, the first time there is no return fire by any member of the ES Team. After James Jennings fires at the ES Team the second time only one member of the ES Team, Tpr. Pinkerton returns fire. It is only after the third time that James Jennings fires at the ES Team when they are under heavy fire and so many civilians are under threat of death that Sgt. Chenet and Tpr. Alward as well as Tpr. Pinkerton discharge their weapons, returning fire. After James Jennings starts his fourth unprovoked volley of gunfire, do five members of the ES Team return fire with their rifles and Jennings stops firing.

All five of the ES Team officers who discharged their rifles wrote out statements about how they were in fear for their own lives, the lives of their fellow officers and for the lives of the numerous civilians who kept crowding around the area no matter how many times they were pushed back and ordered to leave the area.

Right to Self Defense and No Duty to Retreat

The Michigan Model Criminal Jury Instructions state in M Crim JI 7.22 Use of Nondeadly Force in Self-Defense or Defense of Others that "a person has the right to use force to defend [himself] under certain circumstances. If a person acts in lawful self-defense, his actions are justified, and he is not guilty of [a crime]. M. Crim. JI 7.22. In making this determination one "should consider all the evidence" and should consider the following three rules, judging the individual's actions according to how the circumstances appeared to that individual at the time they acted. The first rule provides that the individual must "have honestly and reasonably believed that [he] had to use force to protect [himself] from the imminent unlawful use of force by another." *Id.* The individual need not be correct in their evaluation of the danger presented, so long as their belief was honest and reasonable. Second, a person may only use the degree of force that seems necessary at the time, and the individual must have used appropriate force under the circumstances as [he] saw them. In making this determination, one must consider whether the individual knew of another means of protecting himself, but one must also consider "how the excitement of the moment affected the choice [he] made." *Id*. Third, "the right to defend [oneself] only lasts as long as it seems necessary for the purpose of protection." *Id.* Fourth, the individual claiming self-defense must not have acted wrongfully or instigated the assault. *Id. See also, People v. Deason,* 148 Mich. App. 27 (1985) and *Brownell v. People,* 38 Mich. 732 (1878).

The Michigan Model Criminal Jury Instructions also state in M Crim JI 7.20 Burden of Proof-Self-Defense that "The defendant does not have to prove that [he] acted in self-defense. Instead, the prosecutor must prove beyond a reasonable doubt that the defendant did not act in self-defense."

Once a defendant raises the issue of self-defense and "satisfies the initial burden of producing some evidence from which a jury could conclude that the elements necessary to establish a prima facie defense of self-defense exist," the prosecution must "exclude the possibility" of self-defense beyond a reasonable doubt. *People v. Dupree,* 486 Mich. 693, 709–710, 788 N.W.2d 399 (2010). "[o]ne who is not the aggressor in an encounter is justified in using a reasonable amount of force against

his adversary when he reasonably believes (a) that he is in immediate danger of unlawful bodily harm from his adversary and (b) that the use of such force is necessary to avoid this danger. (citing 2 LaFave, Substantive Criminal Law (2d ed), § 10.4, p. 142.). *Dupree* at 707. A claim of self -defense or defense of others first requires that a defendant has acted in response to an assault. *City of Detroit v Smith*, 235 Mich App 235, 238; 597 NW2d 247, 249 (1999).

There is an additional hurdle for the People to overcome as the officers had a legal right to be there and there was no duty for any member of the ES Team to retreat nor back away from Jennings under the Self Defense Act (SDA). MCL 780.972

> (1) An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if either of the following applies:
>
> (a) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm to himself or herself or to another individual.

"Section 2 of the SDA removed the traditional common-law duty to retreat, so long as the individual engaging in self-defense or defense of others was not committing or had not committed a crime and had a legal right to be where they were when they used force." *People v. Leffew*, 508 Mich. 625, 641, 975 N.W.2d 896, "[A]side from limiting one's duty to retreat, the statute did not modify or abrogate the common-law defenses of self-defense or defense of others" or the right to use deadly or nondeadly force. *Id.* at 642.

A prosecutor may only charge said individual with a crime arising out of the use of deadly force if the prosecutor can provide evidence "establishing that the individual's actions were not justified." M.C.L. 780.961(1)(2). See also, *People v. Guajardo*, 300 Mich App 26 (2013) (discussing and upholding Michigan's Self Defense Act and the use of deadly force).

Further, the U.S. Supreme Court has also ruled regarding the right to use deadly force and in particular in the context of police officers use of deadly force. In *Tennessee v. Gardner*, the U.S. Supreme Court stated "[w]here the officer has probably cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly

force. Thus, if the suspect threatens the officer with a weapon or there is probably cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given." *Tenn. v. Garner*, 471 US 1, 11-12 (1985).

The U.S. Supreme Court also analyzed and ruled on the issue of police use of force in *Graham v. Connor*, 490 US 386 (1989). In *Graham v. Connor*, the Court held that claims alleging police officers have used excessive force must be analyzed under the Fourth Amendment "reasonableness standard" and not under a "substantive due process" approach. Id. at 395. Additionally, "[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." Id. at 396. In determining whether an officer's actions were reasonable, there must be "allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving…" Id. at 396-97.

Based on all the available evidence, the Michigan State Police Emergency Support Team's belief that deadly force was necessary was both honest and reasonable under the law. MCL 780.961 and the cited case law prohibits our office from issuing criminal charges in this case where we cannot prove that the use of deadly force was unjustified. Charges against Trooper Thomas Pinkerton, Trooper Thomas Kill, Trooper Benjamin Breslin, Trooper Curtis Alward, Sargent Steven Chenet must be denied.

VI. Conclusion

No charges may be issued against any member of the Emergency Support Team for their actions on July 31, 2025 in Otisville.

Press release: No.