



**The Killing of Kobe Dimock-Heisler**

**August 31st, 2019 by the Brooklyn Center Police Department**

**An Overview and Analysis by  
Communities United Against Police Brutality**

4200 Cedar Avenue

Minneapolis, MN 55407

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## Foreword

For every police killing, there is a conventional narrative that is spread by police and the County Attorney to avoid holding law enforcement officers accountable. The Reinvestigation Workgroup with Communities United Against Police Brutality (CUAPB) researches all of the available evidence to find disparities in that narrative. We disseminate the authentic narrative to the families, to their attorneys, and to the media and community.

The analysis of the killing of Kobe Dimock-Heisler relies on data from the Brooklyn Center Police Department (BCPD), the Bureau of Criminal Apprehension (BCA), and the Hennepin County Attorney's Office (HCAO). The Reinvestigation Workgroup read the 1,416-page BCA investigative report which includes officer and witness interviews, 911 call transcripts, computer-aided dispatch (CAD) notes, laboratory reports and more. They also reviewed the audio and video, including body-worn camera (BWC) footage and interviews, provided by the BCA, HCAO, and BCPD. CUAPB submitted data requests with the City of Brooklyn Center to collect additional data. Supplemental video footage, news articles, and other pieces of data were collected from online sources and news outlets. CUAPB interviewed and collaborated with friends and family members of Kobe Dimock-Heisler to complete their analysis.

The Reinvestigation Workgroup works to support stolen lives taken by law enforcement in Minnesota. Previous investigation reports and the monthly Stolen Lives Justice Fund newsletter can be found online at [cuapb.org](https://cuapb.org).

## Helpful Links

[Kobe Heisler Dropbox Link](#)

[CUAPB Reinvestigation Workgroup Research Spreadsheet](#)

**Note:** Officer Akers reached out to Amity via social media earlier this year. Those text messages can be found on the “Akers DMs” tab of the spreadsheet.

[Stolen Lives Justice Fund](#)

[Stolen Lives Justice Fund January/February Newsletter](#)

[Link to Folder with Stills from BWC Footage](#)

[Link to Folder with TASER Information](#)

## Case Overview

Kobe Dimock-Heisler, twenty-one years old, was shot on August 31st, 2019 by Brooklyn Center Police Officers Brandon Akers and Cody Turner. Kobe Heisler was shot a total of six times and suffered one additional graze wound. A total of five officers, including Akers and Turner, responded to a 911 call for a possible domestic assault involving a hammer and knife at Kobe’s grandparents’ house, where he lived. The 911 call was made by Kobe’s grandfather, Erwin Heisler.

No charges were brought against the officers in the aftermath of this incident by the Hennepin County Attorney, Mike Freeman. The county attorney never met with Kobe’s family to explain what happened or how they came to their decision to not charge the officers. They cited the COVID pandemic as their reasoning. Instead, the county attorney relied entirely upon the BCA report for their decision making. Kobe’s family, loved ones, and community deserve a

complete explanation of this incident and the mistakes that were made that led to Kobe's death.

The events that unfolded after the officers arrived at the scene will be described thoroughly in this report. Our investigation shows that Kobe Dimock-Heisler died due to:

- The failure of Brooklyn Center Police Department (BCPD) Officers Akers, Turner, Holt, and Vu to follow proper domestic violence protocol, and
- The failure of Officer Akers to communicate essential information about Kobe's diagnosis and treatment status to his partners in the house, and
- The failure of Officers Akers, Turner, and Holt to use their TASERS properly and in accordance with BCPD policy, and
- The failure of Officers Akers and Turner to give commands and a verbal warning of deadly force to Kobe, thus denying him a reasonable opportunity to comply, and
- The failure of Officer Holt by using Kobe's call as a training opportunity for Officer Vu but failing to intervene when Officer Vu was escalating Kobe due to poor communication, and
- The failure of the BCPD to not properly train their officers in TASERS or verbal de-escalation.

We will show that,

- a) The officers who used deadly force violated Kobe's fourth amendment rights to be free from unlawful seizure when they fired their weapons at a fleeing person.
- b) The officers who tased Kobe violated Kobe's fourth amendment rights when using TASERS in violation of department policy by failing to give Kobe warnings and a reasonable time to comply.

### **Incident Chronology**

Kobe Dimock-Heisler, 21-years-old, was on the autism spectrum and he had lived with his grandparents since he was six years old. Kobe may have had the body and looks of a grown man, but he had the emotional maturity of a younger child. Kobe's family, like every family with an autistic loved one, had experience with how to help him work through the tough moments. Families who work together to make sure their loved ones' needs are met to help them have good days. The day Kobe was killed by Brooklyn Center police officers Brandon Akers and Cody Turner started as one of those days. A day of two loving grandparents who knew the emotional needs of their grandson enough to know that Kobe had just come off a couple of weeks of having company stay with them. So even though Erwin and Susan were planning to go somewhere together that day, they put the needs of their grandson Kobe first. They understood Kobe needed some time to decompress. So Kobe and his grandfather Erwin spent the day together where Kobe would be the happiest. Kobe's grandfather took him to the plant nursery and helped him get new plants. After a quick stop at the grocery store, they headed to Wendy's to take home food for dinner. Even though it was a favorite of Kobe's, this Wendy's often got their orders wrong. This is when an argument started between Kobe and Erwin. Kobe checked the order and it was wrong so he wanted to correct it. Erwin wanted to just get home and didn't want to deal with it. According to Erwin, Kobe was frustrated and left the car choosing to walk the four blocks home. Erwin drove away.

Once at home, Erwin became worried when it took a little longer than it usually took to walk the four blocks home. Erwin was about to go look for Kobe when he showed up, still very mad at his grandfather for leaving him and driving away. Kobe demanded an apology. Not getting one, he grabbed a hammer and a small orange paring knife and demanded one while crying. Erwin

retreated to the bedroom and called 911. His wife, Susan, who is disabled, remained in the room with their grandson, Kobe.

Erwin, while on the call with 911 and listening to dispatcher's questions, paused and changed his mind. Erwin told 911 to just forget it. When Erwin came out of the office, Kobe asked Erwin if he called the police. Erwin admitted he did. Kobe became very scared and began to self-harm by cutting his chest with the orange knife. Kobe and his grandparents were able to de-escalate the situation, and everything calmed down. Susan asked a sobbing Kobe to give her the knife and the hammer, and Kobe willingly did.

When Erwin received a call back from 911, he informed the dispatcher, "I think it's going to be alright now." Erwin knew the situation with Kobe was under control and he knew they no longer needed the assistance from the Brooklyn Center police. So Erwin told dispatch to cancel the call. Erwin told dispatch it's going to be ok because he knew Kobe was afraid of the police and everything was now calmed down. Erwin wanted to protect his grandson. Erwin knew he no longer needed any assistance with dealing with Kobe. Like many families with loved ones who have good and bad moments, this one was over for Kobe and Erwin.

Dispatch decided to move forward against Erwin's request to cancel the call. Dispatch added the call to the Computer Aided Dispatch (CAD) system that is accessible by the squad computers and aired it over the radio.

The following officers responded:

- Officer Brandon Akers (squad 3242, badge 3242)
- SWAT Officer Cody Turner (squad 323, badge 3220)

- Field Training Officer (FTO) Steve Holt (squad 3214, badge 173)
- Trainee Officer Joseph Vu, (squad 3214, badge N/A)
- Officer Sarah Fry (squad 3221, badge 32150)

Officer Akers stated that he looked up prior incidents for that address and “noticed that there was a stabbing incident at the residence in March of 2019. So I let my partners know that.” He then proceeded from half a mile away, parked about a block south of the residence at 4:22pm and waited until the other officers arrived at 4:24pm. FTO Holt also states that he looked up prior incidents in CAD while Trainee Officer Vu drove them to the scene.

As the officers were approaching this house from down the block, Officer Turner had a conversation with Officer Akers about the prior call to this house when Kobe stabbed himself in the stomach. The two officers talked about the incident and how Kobe had self-harmed in the past. Officer Frye went around the rear of the house while the other officers gathered in front and Officer Turner looked into the open window. Officer Turner then let the officers know Kobe was sitting on the sofa in view and could hear them as the windows were open.

The officers then engaged with Erwin on his front steps. Erwin is calm while clearly informing them Kobe is going to be ok. Officer Akers tells Erwin that because of the nature of the call, they have to check on everyone inside the house for safety. Erwin cautiously steps inside his home and calmly tells his wife and Kobe that the officers just have to check on them. Erwin stayed on the edge of his door, not welcoming the officers into his home, only allowing the officers to see that Susan and Kobe were safe. Officer Akers has a conversation with Susan who informs him that Grandpa and Kobe had a little fight. Officers Holt and Vu squeeze themselves in the narrow space between Erwin and the sofa to enter the home uninvited. FTO Officer Holt and his trainee Officer



Vu interact with Kobe, who is calmly sitting on a sofa. Officer Vu does a pat down of Kobe and removes Kobe's phone, places it on the sofa and then moves a completely compliant Kobe to a chair on the other side of the small rectangle living room.

Trainee Officer Vu and FTO Holt do not clear the room of weapons. They do not properly search the sofa or anywhere else. Officer Holt only moves a butter knife behind the TV. Officer Akers barely checks the sofa, just patting a couple times on top of the sofa cushion.

At this point, Officer Akers asks Erwin to step outside with him so they can talk about what happened. Erwin looks uncomfortable, but steps outside with Officer Akers. FTO Holt and his trainee Officer Vu stay inside and interact with Kobe and Susan. They do not separate Kobe from Susan. Officer Turner stays by the front door and listens to the ongoing conversations. Officer Turner's job is then to relay information from the conversations between the officers.

Even though Officer Akers starts asking Erwin about what happened with Kobe, it is apparent Officer Akers is not taking interest in why Erwin's information is important in a family with an autistic loved one. As Erwin tries to explain why he canceled the call, Officer Akers jumps in, telling Erwin he is glad he did call. Officer Akers explains his reasons on why it is important the police showed up. Erwin, alternatively, was explaining how in a family with a loved one who has autism or mental illness, the reality is you can be afraid in a split second of them and be terrified **for** them in the next. Erwin stands firm in spite of Officer Akers' persistence and instead calmly tries to describe his frustrations in dealing with some problems with insurance and Kobe's treatments. Officer Akers is unswayed by Erwin's description of what the family is working on to try and get help for their grandson Kobe. Erwin patiently tried explaining the family's important information that his grandson Kobe is autistic and just got upset and now was deathly afraid of the

police taking him away. Instead of understanding that Erwin was explaining why this is the most important part of the situation and that's what really led to why they were called.

Officer Akers paid close attention to what Officer Turner was telling him about Kobe. Inside, Trainee Officer Vu and FTO Holt were questioning Kobe. Officer Turner tells Erwin and Officer Akers that Kobe admitted to holding a knife on Erwin. Kobe admitted he **pointed** a knife at Erwin. Those are two very different descriptions. Kobe also calmly told the officers he had self-injurious behaviors, but had never done something like this before.

Officer Akers, believing Officer Turner's description that Kobe held a knife to Erwin, asked Erwin to demonstrate how Kobe held the knife. Erwin very quickly put one hand up and one down. Erwin also insisted that he did not believe Kobe intended to hurt him.

. At one point, Officer Turner steps outside to stand in front of Erwin and becomes very emotional, aggressive, and hostile. Officer Turner very dramatically explains that he was at the previous call where Kobe had stabbed himself in the stomach. Officer Turner goes on to describe how traumatic the incident was, then tells Erwin he is convinced Kobe will kill Susan and Erwin if something is not done now. Officer Turner is clearly convinced that Kobe is capable and wants to kill his grandparents, even admitting that he, Officer Turner, was being more aggressive and direct with Erwin than Officer Akers. It is concerning how Officer Turner seemed to have a real lack of understanding about how to handle a mental health situation, not only with the person who is in crisis but also with their family members.

Officer Akers still withholds the information that Kobe is autistic, not on his treatment plan, and deathly afraid of being taken away by the police. Officer Akers instead leans his hand against Erwin's minivan, watching Officer Turner who is demanding Erwin respect his opinion of

what Kobe is capable of. Neither of the officers standing with Erwin seemed interested in what Erwin thought his own grandson needed at that moment or if Erwin actually thought Kobe would kill him and his wife Susan.

Erwin knew better than anyone that Kobe had “upsets,” as he called it. Erwin had certainly experienced it more than Officer Turner. Erwin knew Kobe was coming off a schedule change with the company and how Kobe really needed to have his insurance reinstated so he could attend to his treatment plan, which would help the whole family. Officer Turner was not willing to try to understand where Erwin was at or to help Kobe. Instead, Officer Turner allowed his own fear and lack of understanding about autism and self-harm behaviors to dictate what he imagined would happen, escalating an already de-escalated situation and putting everyone at risk.

Inside the house, Trainee Officer Vu is the one questioning Kobe on what happened with his grandfather. Kobe tells Officer Vu he wanted Erwin to “fucking apologize.” Kobe answered all of Trainee Officer Vu’s questions and asked if he would be going to the hospital. Trainee Officer Vu tells Kobe he does not know. Kobe tells Officer Vu he knows that they will send him to the hospital and that Officer Vu does not need to lie to him. Kobe begins to cry and says he does not want to go to the hospital.

Because Officer Akers did not relay the important information from Erwin about Kobe being autistic and being deathly afraid of the police taking him away, Officer Vu does not have any idea he is bringing up an extremely triggering situation causing fear for Kobe about being taken away by the police. Officer Vu tells Kobe he doesn’t know what will happen, they just want his cuts checked out. Kobe gets upset at Officer Vu’s denial and then attempts to run towards the door. It is not uncommon for a person with autism to bolt in a time of stress or feeling out of control. Kobe did occasionally run to his neighbor’s house.

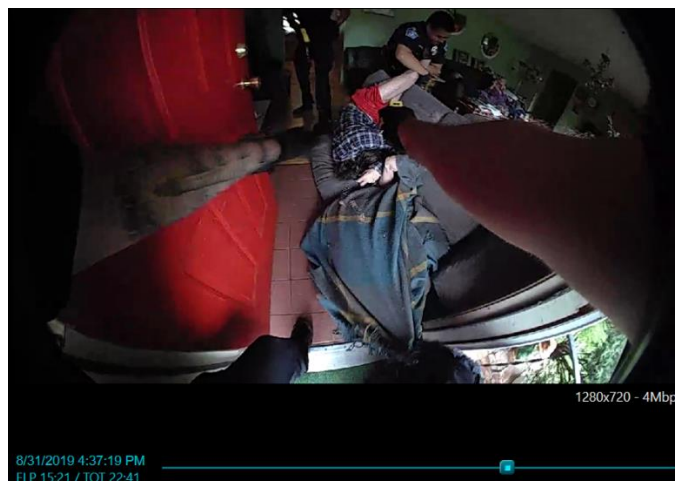
Officers Holt and Vu block Kobe's only exit, grabbing ahold of Kobe by the waist and pushing him towards the sofa closest to the door. Officer Holt, who has a hold of Kobe by the waist, knocks both of them so hard falling into the sofa that it falls over. Officer Vu then goes hands on with Kobe, who is on his back upside down on the sofa. "Hands on" means physically engaging with a person and does not involve the use of an officers' weapons. Officer Vu has Kobe by the legs. At no time did Kobe kick out at Officer Vu, who was holding him firmly.

Officers Turner and Akers run inside and these two, more experienced, BCPD and SWAT officers chose to not engage in helping assist Trainee Officer Vu in going hands-on and instead, they took out their TASERS. Officer Turner was inside the house on the end of the couch closest to the kitchen and Akers was in the entry of the doorway.

Because both Turner and Akers chose to use their TASERS instead of helping Officer Vu, Officer Holt had to roll out the door to avoid being in the way of Officer Akers and his TASER. Kobe is trying to sit up on top of the roughly 2 1/2 foot tall loveseat. Without using the warning commands of "TASER! TASER! TASER!" that they're trained to use, both officers immediately deploy their TASERS on Kobe at the same time. This goes against known training practices and procedures. Officer Akers standing in the doorway of the house was two feet away from Kobe when he used his TASER. Officer Turner was inside the house on the other end of the loveseat and was less than four feet away from Kobe when he used his TASER. Also, they both used their TASERS as Officer Vu still had a hold of Kobe. Neither officers' TASER was effective. The model of TASER the officers used was an Axon X26P. TASERS work by firing a pair of barbed darts that are attached to electrified wires. These darts have to reach a proper distance of at least seven feet from the target when fired. The darts spread out in an arc and need the distance to reach an optimal spread and come back together to hit and incapacitate the target. When these darts strike

without reaching the proper distance, they still hurt but the electricity cannot flow through enough muscle to stop a person.

*Figure 1. A still from Officer Akers BWC footage. Officer Akers stood in the doorway of the Heisler home and deployed his taser from less than three feet away from Kobe.*



Confused and standing in the doorway, Officer Akers asks, “What's he got a knife?” Officer Akers starts to ask this as Kobe is attempting to lift himself up from the sofa, before Kobe’s right hand is even visible. Officer Akers was asking a question, but it could not have been based on anything he saw at that point.

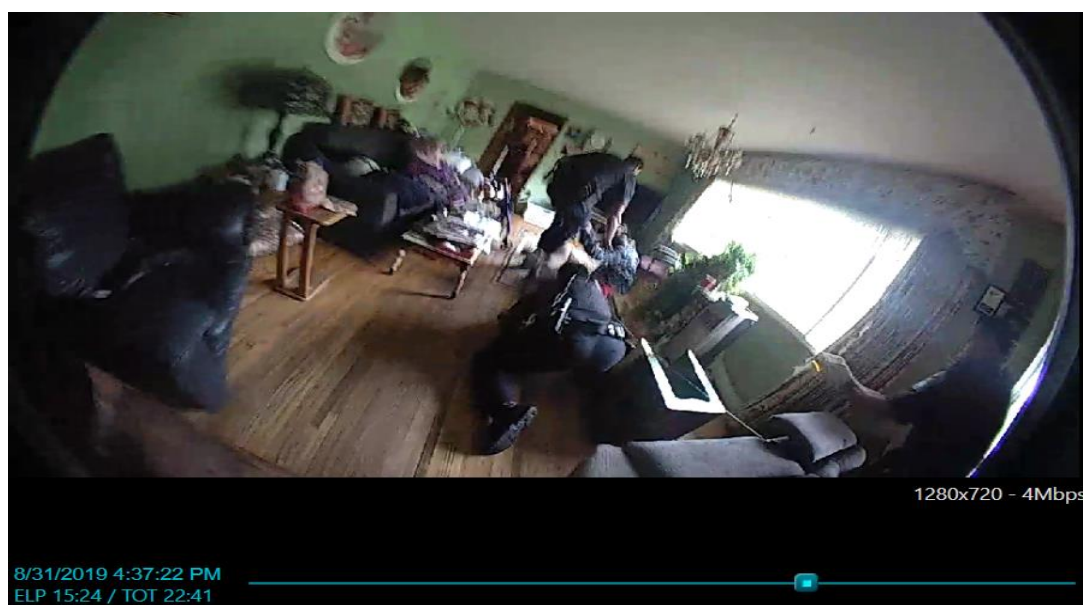
Kobe then pushes off from the sofa and runs away from Officer Vu who is the only officer struggling with Kobe. As Kobe tries running away from the officers, Officer Vu has hold of Kobe's leg and shorts, pulling them down. Kobe trips and falls to the floor towards the back hallway and the TV. While Officer Vu has a hold of Kobe’s leg, he never shows any aggression towards any officer. Kobe could have tried to defend himself and kick Officer Vu while he hung onto his leg, but he didn’t attempt to kick Officer Vu at all. Kobe was trying to protect himself.

Officer Turner then attempts to use his TASER in drive stun mode (a mode that relies on inflicting pain rather than immobilizing muscles) on Kobe while running by and misses. FTO

Officer Holt is on the other side of the overturned sofa by the door attempting to use his TASER.

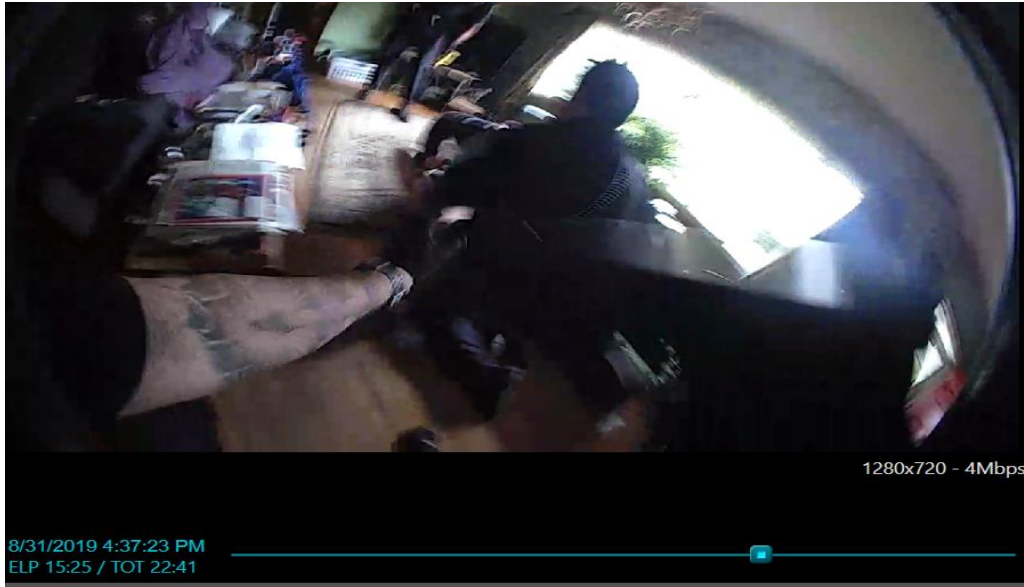
*See below bottom right-hand corner of the screen (Akers' BWC).*

Figure 2. A still from Officer Akers BWC footage. Officer Akers stands towards the end of the overturned sofa. Officer Vu is on the floor in front of him, on his knees and grabbing onto Kobe. Kobe is on the floor, his legs approximately three feet from Vu's body. Officer Turner is standing over Kobe, attempting to tase him. Officer Holt is in the right corner by the front door, also attempting to tase Kobe.



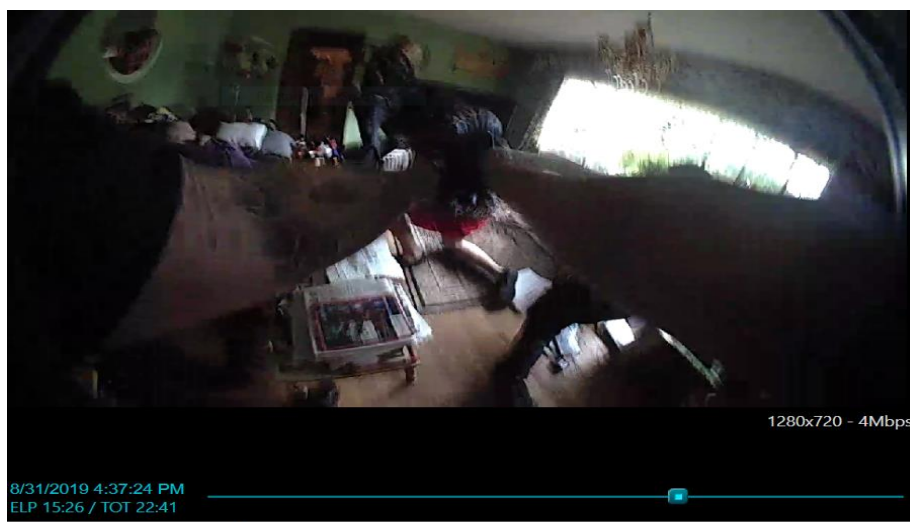
Kobe is laying on the rug and at least three feet away from Officer Vu who has finally let go of Kobe's leg and has backed away. Officer Akers already threw down his TASER and replaced it with his handgun at this point and was pointing it towards his fellow officers. Kobe is barely visible to Akers because Officer Vu is between them. *See below:*

Figure 3. Another still from Officer Akers' BWC. Officer Akers has his handgun out now, pointing it at Officer Vu's back and towards Kobe who is on the floor.



Officer Turner, standing over a curled up Kobe, then screams, “knife, knife, knife!” Kobe rolls into a sitting up position, his left knee on the floor and his right leg up. Kobe’s right hand is on the floor (it is at this point that officers would later say in their statement that Kobe was making stabbing motions towards Officer Vu). Kobe is attempting to stand up between the officers, his head down, shoulders and back hunched up in a very protective stance. Officer Akers is on Kobe's left side and Turner on his right.

*Figure 4. Another still from Officer Akers' BWC footage. Akers has his firearm pointed at Kobe's back, who is on his knees.*



Issuing no commands to drop the knife and no warning threatening the use of deadly force, Officer Akers just shoots at Kobe's left side, also firing toward his partner Officer Turner who is directly across from him on the right side of Kobe. Officer Turner, still holding his TASER, begins firing his gun, stepping and holding his gun above Kobe. Officer Turner shoots Kobe in the head. The bullet traveled at a sharp downward angle from Kobe's right temple, suggesting he had to be looking up at Officer Turner's gun, and ended up in his neck muscle on his left side. According to Kobe's autopsy, he had stippling on his face from the gun. "Stippling is **caused by unburned particles of gunpowder striking the skin**. In contrast to other substances that may be deposited on the skin, such as soot, stippling cannot be washed away. The presence of stippling indicates that the muzzle of the gun was within 2 feet of the victim's body when it was discharged."<sup>1</sup> Further evidence that Officer Turner fired at such a close distance is provided by the location of one of his casings. The following three photos show one of Officer Turner's casings found on the sofa Kobe's grandmother Susan was sitting on.

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<sup>1</sup> J. Scott Denton, Adrienne Segovia, James A. Filkins; Practical Pathology of Gunshot Wounds. Arch Pathol Lab Med 1 September 2006; 130 (9): 1283–1289. doi: <https://doi.org/10.5858/2006-130-1283-PPOGW>



*Figure 5. Photo from the BCA Crime Scene photos showing a clear plastic knife sheath on the floor with the item number 18 tent attached.*



Kobe was also shot in the left side of his hip, the bullet hitting his left psoas muscle. These two injuries, in addition to the other four gunshot wounds, indicate that Kobe was facing away from both officers when he was shot.

Lastly, even though FTO Holt did try using his TASER, Trainee Officer Vu and FTO Holt did not fire their guns. Officer Vu and Officer Holt, the officers who were speaking with Kobe and had the best viewing angle of Kobe, never saw a knife. Susan never saw a knife. Akers in his interview says, “I have no idea where he got that knife from.”

In the remainder of the report, we will examine the statements made by the involved officers to the Bureau of Criminal Apprehension agents who investigated the case. Then, we review Officer Akers’ body-worn camera (BWC) footage followed by a detailed analysis of the autopsy. Fourth, we provide a thorough policy analysis of the missteps of BCPD and their officers. Finally, we refute the claims made by Hennepin County Attorney Mike Freeman as to why the officers were justified in killing Kobe Dimock-Heisler.

## Officer Interviews

There were four Brooklyn Center Police Officers who responded to the 911 call at the Heislars' home on August 31st, 2019. The following pages include links to each officers' interview audio, interview transcript, and sketch.

The officers were interviewed by BCA agents between one to three days after the incident. We will first review the statement of Trainee Officer Vu, followed by Officers Turner, Akers, and Holt. The tables below include **excerpts from** the officer interviews on the left and in the right column, we provide an analysis of what was said compared to other evidence including BWC footage and other officer or witness statements. Additionally, in the analysis we pull out facts that are important for the totality of the circumstances.

[Joseph Vu](#)

[Cody Turner](#)

[Brandon Akers](#)

[Steven Holt](#)

### Joseph Vu

Basic Info	
<p>Officer Joseph Vu, at the time of Kobe's death, was a trainee officer with the Brooklyn Center Police Department. He had been given the trainee job offer approximately two to three months prior to the incident and was currently undergoing his field training. On August 31st, 2019, he was working with field training officer (FTO) Steven Holt.</p> <p>Officer Vu was interviewed by BCA agents Michelle Frascone and Mike Phill on September 2nd, 2019.</p>	
<p><a href="#">Interview of BCPD Officer Joseph Vu 1.wav</a> (23 minutes)</p>	
<p><a href="#">Transcript Vu</a></p>	
Excerpt from Interview	Analysis
<p>Um after about a five to ten minute conversation the suspect learned that an ambulance was going to check on him and <b>he believed that he was going to be placed on a</b></p>	<ol style="list-style-type: none"> <li>1. Kobe was afraid he was going to be taken away by the police.</li> <li>2. Kobe tried to run away because of that fear.</li> </ol>

<p><b>mental hold. And at that point he decided to fight with officers and try to leave.</b> Um I tried to hold him. Hold him down. Tried to put you know tried to restrain him. Um and at some point during that confrontation shots were fired and he was, shot. Um during, during prior to the shots being fired <b>I was kinda on the ground with him and he was I don't know how you explain it. He was getting up kind of and I couldn't really see from my point of view where his hands were prior to the shots being fired. I heard knife, knife, knife. And then I heard the shots being fired.</b></p>	<ol style="list-style-type: none"> <li>3. Officer Vu admits he could not see Kobe's hands. Even though Officer Turner's description is that Kobe was making thrusting motions while looking behind himself at Officer Vu and Holt.</li> <li>4. Officer Vu and Officer Holt were placed in danger from Officer Turner and Akers lack of warning for everyone before firing.</li> </ol>
<p>The interviewer asks Officer Vu, <b>"Did he seem um agitated when he was speaking to you or anything like that?"</b> Vu responds, <b>Not at the beginning of the conversation. He seemed fairly calm and um de-escalated.</b> And, that was yeah I mean he didn't seem like anything was going to happen. And then eventually, I was notified by Officer Turner that he had knife wounds on his chest and stomach so I asked him, asked to see them. And at that point I called North Memorial to come to the scene.</p>	<ol style="list-style-type: none"> <li>1. Kobe was calm and de-escalated when the officers arrived.</li> <li>2. Because Officer Holt and Officer Vu were not informed by Officer Akers that Kobe was autistic and deathly afraid the police were going to take him away. The officers did not realize they were triggering Kobe by talking about the ambulance.</li> </ol>
<p>So my assumption was they put him on a evaluation for three days and then he was further committed after that. Um and then at some point he, the ambulance was mentioned again because I wanted to reiterate to him that they're here to check out his wounds. And then he said that I was lying and he said that I was just trying to commit him. Um and he started to break down at that point. Um he kept putting his head down and trying to, trying to not speak to us or he kept he his, his behavior started to change at that point.</p>	
<p>Yeah, he said I don't want to be committed again. You guys are lying to me. Um I, you know he, eh kept reiterating the fact that he didn't want to go with the ambulance. Um and, and so at some point and he kept I think</p>	<ol style="list-style-type: none"> <li>1. Kobe's flight instinct took over and he attempted to run away. This response is extremely common among people with autism.</li> </ol>

<p><b>I don't know if it was crying but he was, he put his head down with his hands on his head and he was kinda rocking back and forth or something. It was kinda more like a protective position that he was trying to be in.</b></p>	
<p><b>And then we somehow get onto the couch, he somehow gets onto the couch and falls backwards and the couch falls backwards with him and I fall on top of him or something like that.</b> And I hear a couple taser shots go off. And then he gets up. I try to grab onto his legs. And as he's getting up he tries to go back in towards the living room area. <b>And then I'm on his legs. Kinda facing down. I can't really see his hands or where, what he's trying to get to. And at that point, a little, shortly right after that I hear knife-knife-knife and then I hear the shots being fired.</b></p>	<ol style="list-style-type: none"> <li>1. Officer Vu and Kobe ended up being pushed into the couch by Officer Holt, who had Kobe around the waist.</li> </ol>
<p>The interviewer then asks, "Okay. Do you ever see the knife?" and Officer Vu responds, "Hm no because of the position I was in. <b>I couldn't even see his hands.</b>" <b>Officer Vu describes that Officer Turner, Holt, and himself were in the home when the tasers were deployed but he was not sure where Officer Akers was.</b> Officer Vu never deployed his taser.</p>	<ol style="list-style-type: none"> <li>1. Officer Vu was the closest officer to Kobe the entire time, Officer Vu could not see a thrusting motion or waving or swinging arms of a person allegedly attempting to harm him.</li> <li>2. Officer Vu was not in fear for his life.</li> <li>3. Officer Vu was not in fear for the life of Kobe's grandmother or his fellow officers.</li> <li>4. Officer Vu was a trainee who should be the first officer to become afraid.</li> </ol>
<p>The interviewer asks, "Do you recall who removed the knife from the subject's hand?" Vu responds, "Believe it was Officer Akers." The interviewer says, "Okay. And do you recall seeing it then at that point?" He says, "Um, I (sigh) tunnel vision I don't think I saw it I only saw Officer Akers using his baton to remove something out of his hand."</p>	
<p><b>Um I, didn't know that Officer Turner said on camera that he believed that he was trying to stab me. I didn't know that he</b></p>	<ol style="list-style-type: none"> <li>1. Officer Vu had a hold of Kobe's leg, first while Kobe was upside down on the sofa.</li> </ol>

<p><b>was trying to stab me. Because of the position I was in I couldn't really see what was going on with his hands and upper body.</b></p>	<ol style="list-style-type: none"> <li>2. Officer Vu had a hold of Kobe's leg after Kobe fell on the floor.</li> <li>3. Officer Vu only let go of Kobe's leg because Officer Turner attempted to tase Kobe with the drive stun mode.</li> <li>4. Officer Vu let go and then moved backwards standing up and then ending up 5 ft away in front of the sofa, next to Officer Akers.</li> </ol>
<p><b>No. I had a good idea of what was going to happen. But...it wasn't determined (inaudible) that he was going to.</b> Um and I even tried to explain to him it's not a commitment. It would be an evaluation if he did go to the hospital."</p>	<ol style="list-style-type: none"> <li>1. No decision was made about what would happen to Kobe at the time he attempted to flee.</li> </ol>
<p>The interviewer asks, <b>"Did you have any, information that this person had mental issues or anything like that?"</b> Officer Vu says, <b>"No the call notes didn't even say that he had a mental illness. I'd learned from him I, I perceived from him that he had a mental illness because...</b> of what he was saying about a commitment. So it turned more of a um I guess more of a threats of violence type call to maybe threats of violence with mental illness."</p>	<ol style="list-style-type: none"> <li>1. Officer Akers was told by Kobe's grandfather Erwin that Kobe was autistic.</li> <li>2. Officer Akers did not relay that information to Officer Holt or Officer Vu.</li> </ol>

## Cody Turner

Basic Info
<p>On September 1st, 2019, Officer Cody Turner was interviewed by BCA Special Agents Michelle Frascione and Mike Phill. Also present for the interview was Cody Turner's attorney, Earl Gray.</p> <p>At the time of the shooting, Officer Turner had been a police officer with Brooklyn Center since November 2009, a little over ten years. He attended SKILLS at Alexandria Technical College in 2007 and completed the academic portion of his law enforcement degree at Ridgewater College in Willmar, Minnesota. He worked briefly for the Upper Sioux Police Department in April 2009. Beginning in 2016, Officer Turner also attended St. Mary's University and earned his four-year degree.</p> <p>Officer Turner is a member of the SWAT team, a field training officer, and the department's</p>

armorer. He is a use of force instructor for the department and has been for approximately 3 or 4 years.

[Interview of BCPD Officer Cody Turner 1.way](#) (40 min)

[Transcript Turner Amended](#)

[Sketch by BCPD Officer Cody Turner](#)

Excerpt from Interview	Analysis
<p>I hit the priors and I saw that there was a stabbing back in March. And I can actually read a very-very-very brief synopsis of some of the notes. And so I pulled it up and looked and saw that I was on that call back in March and it jogged my memory remembering that I had been out to that home when this individual had stabbed himself in the stomach. And so knowing that and knowing that we now have a domestic with a knife my brain is thinking okay he's going down that same road he was going down before where he's, he hurt himself pretty badly last time and <b>I know he's had a history of hurting his grandfather.</b> And so when I arrived on scene with Officer Akers, we were the first ones to arrive. As I got out of my squad car and walked up behind him I said I was here for that stabbing last time and he stabbed himself pretty good in his stomach. It was a pretty brutal stab wound. And so I was already getting into this mindset that he was probably going to be, you could just tell that judging by how the call had come out with the, with the threatening of the grandfather with the knife and the hammer that he was escalating again. And so...</p>	<ol style="list-style-type: none"> <li>1. There is no history of Kobe hurting his grandfather. Kobe would run away.</li> <li>2. Kobe told Officer Vu he has never done something like this.</li> <li>3. Officer Turner and Officer Akers were on notice that they were going to a person with a history of self harm.</li> <li>4. Officer Turner knew enough at this point to call an ambulance and have Kobe be checked out for a mental health hold.</li> <li>5. Kobe was completely de-escalated when the officers arrived.</li> <li>6. Officer Turner escalated an already de-escalated situation.</li> </ol>
<p><b>He's been violent towards you in the past. I said the writing is on the wall.</b> We have to do something tonight. Like my partner has already explained to you we have to do something to try and keep you guys safe or</p>	<ol style="list-style-type: none"> <li>1. There is no evidence Kobe had been violent in the past towards his grandfather Erwin.</li> <li>2. Officer Turner is not using his training to handle a mental health call with the</li> </ol>

<p>he's gonna end up killing you. And so I tried explaining this to him because I could see that the grandfather was concerned about us arresting his grandson. He was almost going back and forth about whether or not he should have even called.</p>	<p>family or the person in crisis.</p>
<p>I'm making the decision in my head that regardless we have to, <b>we're gonna probably end up having to arrest him and take him to jail for tonight to at least try and keep him and separate him from his grandparents.</b> Cuz you can tell by how he's talking inside the home that he's very upset with his grandparents for whatever reason. I never heard the reason. But he just said the he had threatened him with the knife and that was it.</p>	<ol style="list-style-type: none"> <li>1. Officer Turner does not recognise Kobe is in a mental health crisis.</li> <li>2. Officer Turner leaves Kobe in the same living room as his grandmother Susan.</li> </ol>
<p>But as I ran by as I was running after him and <b>he fell to the ground</b> I actually ran past him and as I was passing him getting to turn as I started turning I looked down and all of a sudden he has a red knife in his hand in his right hand. And I ran past and as I'm slowing down and turning around to turn back towards him I started yelling out knife knife-knife. And <b>I see him stand up and push and kinda do like a knife jab movement . And Officer Vu was like right behind him.</b></p>	<ol style="list-style-type: none"> <li>1. There is no knife jab seen in the BWC video. Kobe was just trying to stand up. Kobe's right hand was on the floor helping him steady himself to stand up. Officer Vu was about 5 feet behind Kobe and ended up standing in front of the overturned sofa.</li> </ol>
<p><b>And the first thing I thought of is he's gonna stab him right in the head.</b> And so as I'm screaming knife-knife-knife I don't even remember drawing my firearm and I was already up and I saw him as he was doing the <b>thrust with the knife and moving with the knife I thought the only thing that I can do is shoot him because I've already tried the taser. It didn't work. My taser is gone. I don't even know where it went. And Vu is right on top of him. Officer Holt's right behind Vu.</b> The guy is probably the same size as both of them combined. And so I knew <b>grandma was sitting in the couch probably two and a half, three feet away from them</b></p>	<ol style="list-style-type: none"> <li>1. Kobe was lying on the floor when Officer Turner screamed, "Knife! Knife! Knife!"</li> <li>2. Officer Vu was about 3 feet away from Kobe's feet.</li> <li>3. Kobe was lying on the floor then rocking and steadying himself as he attempted to stand up. Kobe's arms were never moving around. Kobe's arms were by his side.</li> <li>4. Officer Turner had his TASER in his left hand when he pulled out his gun with his right.</li> <li>5. At this point, Officer Vu was at least 8ft away from Kobe's arms. Officer</li> </ol>

<p><b>at this time. Um he had already been hostile towards grandma. He had been hostile towards grandpa.</b> He acquired this knife from somewhere. I have no idea where it came from but you could see it, it was pretty distinct. Red handle and red bladed like looking like flower print looking knife. And <b>he was holding it in his right hand making this thrusting motion and I drew my firearm and fired center mass into him as he was looking back towards the officers holding the knife in his hand after he had done his first thrust.</b> And then after (clears throat) I fired my gun he collapsed to the ground. I stopped firing. We called out shots fired on the radio.</p>	<p>Holt was behind the overturned door in front of the door.</p> <ol style="list-style-type: none"> <li>6. Susan, Kobe's grandmother, was not interviewed very long. But at no time did Susan say Kobe had been hostile to her.</li> <li>7. Kobe's right hand was on the floor as he was attempting to stand up. Kobe never made it to his feet</li> <li>8. It is impossible for Kobe to be making thrusting motions with his hand on the floor.</li> </ol>
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## Brandon Akers

Basic Info	
<p>Officer Akers was interviewed by agents Michelle Frascione and Mike Phill of the BCA on September 1st, 2019. Michelle Frascione did the majority of the interviewing. Officer Akers was represented by his attorney, Earl Grey.</p> <p>Officer Akers had worked for the Brooklyn Center Police Department for five years at the time of the shooting. He received his two-year law enforcement degree from Alexandria Technical College, took the Peace Officer Standards and Training (POST) exam, and received his POST license, number 22574. Akers had worked previously as a police officer in Sisseton, South Dakota for three and a half years before coming to work at BCPD. At the time of the interview, he was also finishing a computer forensics program at Champlain College.</p>	
<a href="#">Interview of BCPD Officer Akers_1.wav</a> (23 minutes)	
<a href="#">Transcript Akers</a>	
<a href="#">Sketch by BCPD Officer Akers</a>	
Excerpts from interview	Analysis using BWC footage
Erwin told me that there had been an alterca or some	



<p>type of disturbance involving his grandson, where his grandson was in the possession of a, a hammer, and a knife. And I felt that he was really trying to minimize it. You know, obviously because it's his relative. And I just explained to him um I asked who was all in the residence. And he said that his wife and grandson were in the residence. <b>And I told him that due to the nature of the call we need to just make sure everybody is okay inside the residence. And at that time he, he opened the door and I stepped um just inside the doorway</b> and I observed a, a younger male seated on a couch with his back to me. And a, elderly female across the room, sitting on a couch. And at that time again I asked kinda directed my comments towards the, the female you know what's going on. And she said that there was an angry argument involving her grandson. <b>And at that time um two of my other partners, Officer Holt and Officer Vu um kinda came around the back of me.</b></p>	
<p><b>Um, he also informed me that his son has autism and recently was removed from treatment due to some insurance issues and stuff like that.</b></p>	<ol style="list-style-type: none"> <li>1. Officer Akers did not share the information with the other officers that Kobe was autistic.</li> </ol>
<p><b>And when I looked down, I saw that he had a knife in his right hand. And at that point, I drew my taser and deployed my taser.</b></p>	<ol style="list-style-type: none"> <li>1. Officer Akers ran into the house and pulled out his TASER, firing while Officer Holt rolled out at his feet.</li> <li>2. Officer Akers in his BWC asked "What's he got a knife?"</li> </ol>

<p>Sorry, the grandson was able to get up on his feet. And at that time, I noticed that Cody had maneuvered um to almost where we're at, one eighty to each other and the male got up and went towards uh towards my partner, Officer Turner and the, the elderly female and still had the knife. Um, however, his hands were in front of him at that time. And Officer Turner began shouting knife, knife. And I, was you know, I was scared for the safety of the elderly female. And then my partner. And somehow uh this grandson broke free from Officer Vu who had him around the legs. And it was at that time that I drew my gun.</p>	<ol style="list-style-type: none"> <li>1. The officers chose to keep Susan and Kobe in the same room.</li> <li>2. Kobe was actually on the ground when Officer Turner yelled, "Knife! Knife! Knife!"</li> <li>3. Officer Vu <b>LET GO</b> of Kobe because Officer Turner was using his TASER in drive stun mode.</li> <li>4. In drive stun mode, a TASER works more like a stun gun. Officer Turner would press it against Kobe and it delivers a powerful shock.</li> </ol>
<p>Yeah, that was another thing that I mentioned on scene was <b>I was worried about the crossfire</b>. Um we were in such a close I mean we were all so close together it was a small living room, and I don't know how many shots were fired but I know you know that can be an issue. And we did just go and do a once over.1</p>	<ol style="list-style-type: none"> <li>1. Officer Vu was in Officer Akers' line of fire, then Officer Vu moved out of Officer Akers' way.</li> </ol>
<p>Um, I just I guess in that situation speaking with the grandpa and you know based on my experience as working patrol I understand that in the heat of the moment you know people get scared and they call the police but then they have a second to cool off and and might not realize how dangerous it is. I guess in my mindset um going, going into this when I reentered the house in my head, he had already threatened somebody with two weapons. And he was in possession of one of those weapons. And we were all in close proximity. Um I didn't know if he was trying to stab my partners. Or, or what, what he was trying to do. So...</p>	<ol style="list-style-type: none"> <li>1. Officer Akers, at this point, is guessing what was going on.</li> <li>2. Kobe did not have any weapons and was searched by the officers BEFORE he tried to run away.</li> </ol>
<p>BCA agent, "Okay. So you don't know how he came to be in possession of this weapon."</p> <p>Akers says, "I have no idea where he got that knife from."</p>	

## Steve Holt

Basic Info	
<p>Officer Steve Holt was interviewed by BCA agents Brent Petersen and James Reyerson on September 3rd, 2019. Officer Kim Potter was also present as Officer Holt's union representative.</p> <p>At the time of the shooting, Officer Holt had been a police officer with BCPD for five years. Holt was a former U.S. Marine and completed two combat tours overseas. Officer Holt holds a bachelor's degree from the University of Minnesota and completed his law enforcement education at Hennepin Technical College in 2014. Officer Holt attended the FBI crisis negotiation course and is on BCPD's negotiator team. Additionally, he had been through Crisis Intervention Training (CIT). Lastly, Officer Holt is a field training officer (FTO) and was assigned to supervise Trainee Officer Vu.</p>	
<a href="#">Interview of BCPD Officer Steve Holt 1.wav</a> (1 hour)	
<a href="#">Transcript Holt</a>	
<a href="#">Sketch by BCPD Officer Holt</a>	
Excerpt from Interview	Analysis
Um after obtaining my bachelor's degree in 2012 I then attended um the uh cohort program to be licensed as a police officer. Uh and then I went through skills at Hennepin Tech.	
Officer Vu again continued to speak with Kobe. <b>And um he at first had a very calm, rational demeanor.</b> However um as he began to um talk about some things to include previous suicide attempts he became a little bit more um concerned and agitated.	<ol style="list-style-type: none"> <li>1. Kobe was de-escalated and calmed down by the time the police arrived. Kobe was also aware the police were showing up and even though he was afraid, he stayed and waited for them to come.</li> </ol>
Uh as Officer Vu continued to speak with Kobe, he became more and more upset and agitated. <b>Um it seemed that he was becoming upset about the possibility of going on some type of a uh transport hold to be evaluated for um, uh to be evaluated by a doctor.</b> Um Kobe seemed to know quite	<ol style="list-style-type: none"> <li>1. Officer Akers did not share the information that Kobe was afraid of the police and autistic.</li> <li>2. Officer Vu was aware Kobe had mental health issues.</li> </ol>

<p>a bit about the transport holds. He uh specifically in the conversation mentioned that he knew that he would um he started to go through the timeline for if he was transported and committed to when he would be released. And it seemed like as he began to talk about that um his <b>agitation and um began to grow.</b></p>	
<p>And at that point he sprung out of the chair. Which is when I, <b>I noticed him spring out of the chair and I grabbed onto him in order to uh in order to restrain him. Um, uh when I did that we, we hit hard. Um and I was having, I was trying to control him.</b> I was trying to uh prohibit him from going into the kitchen or trying to gain any type of weapons.</p>	<ol style="list-style-type: none"> <li>1. Officer Holt and Officer Vu were in front of Kobe on either side of him while he sat in the chair.</li> </ol>
<p>I continued to struggle with Kobe. Um and I got knocked into the couch. Which was by the, which was by the uh door. Um I just remember tumbling over the couch. Um I heard a Taser deploy. And then I stood up and what I saw appeared to be uh Kobe's back I had a direct line of sight, I then drew, activated and deployed my Taser. Um and then I heard uh gunshots go off. Um and I heard um I my partners um call out and then I then took the Taser cartridge off. Re-holstered my Taser.</p>	<ol style="list-style-type: none"> <li>1. Officer Holt actually rolled out the door in between Officer Akers legs and then came back in and stayed behind the overturned sofa just inside the door.</li> <li>2. Office Holt deployed his TASER when Kobe was off the sofa and trying to run towards the hallway.</li> </ol>

### Body Worn Camera (BWC) Footage

The following body-worn camera footage analysis includes stills from a 30 second clip of Officer Akers BWC footage. The original footage given to the family and CUAPB was unusable for a few reasons. First, the audio and video feeds were out of sync. The video appeared to be slower than the audio. Secondly, in the essential moments of the footage when the officers begin to shoot, the picture becomes unstable and blurry. When you pause the footage, the image is not clear. CUAPB has reviewed numerous body-worn camera footage and has never encountered this problem, even in footage where officers are in a dead sprint. We found the footage below on Bring Me the News' website, and it has the clearest image, so we have used it for our analysis.

[Link to Bring Me the News Video Clip.](#)

Time	Description	Still
00:00	The footage starts as Officer Akers is speaking to Kobe's grandfather, Erwin, outside his home. Officer Turner joins them. Erwin is leaning against his dark blue minivan with his arms crossed in front of him.	 A still image showing Officer Akers in a dark uniform standing and talking to a man in a purple shirt (Erwin) who is leaning against a dark blue minivan. They are outside a house with green siding and a white door. Another officer is visible in the background near the house.
00:01	Officer Turner quickly turns and sprints up the stairs to the front door. Someone from inside the house yells, "Cody!"	 A still image showing Officer Turner running up the green steps of a house. The man in the purple shirt is still leaning against the minivan, looking towards the officers. The house has green siding and a white door.
00:02	Officer Turner flings open the door and dashes in. Officer Akers is a few paces behind him, with his notepad and pen still in his right hand. Officer Turner runs to the end of the loveseat sofa that runs parallel to the front door.	 A still image showing Officer Turner running into the house through the open front door. Officer Akers is following him. The interior of the house is visible, showing a green loveseat sofa and some furniture.
00:03	Officer Turner is at the end of the loveseat sofa with his TASER in his right hand, facing the other officers. Officers Holt and Vu are going hands on with Kobe.	 A still image showing Officer Turner in a dark room, holding a TASER in his right hand. He is facing other officers who are partially visible in the background.

00:04 Officer Turner still has his TASER in his right hand and has drawn the TASER close to his chest. He moves from the corner of the couch and takes a sidestep further into the living room. He points his TASER at Kobe and the two officers struggling with him. One of the officers yells, "Get on the ground!"

Officers Holt and Vu are going hands-on with Kobe. Officer Vu is on Kobe's right back side, and Officer Holt is on his left. Kobe is bent over and the officers push him onto the couch. Officer Holt has his left knee on the couch and falls onto the couch. The couch tips over.



Officer Akers is standing in the doorway, his right hand is in view of the camera and is empty. Officer Akers pulls out his TASER with his left hand.



00:05 Officer Turner leans to his right and aims his TASER at Kobe, who has fallen with the couch. Officer Vu is on top of Kobe, grabbing the back of his shirt. Kobe is laying on his right side, facing towards the door. Officer Holt does a somersault off the couch towards Officer Akers who has taken a step backwards out of the front door. Officer Akers has his TASER pointed at Kobe and the other officers. An officer yells, "get on the ground!" a second time.





00:06	<p>Officer Holt rolls onto his back and has his legs in the air. He rolls out of the doorway. Officer Akers is standing over him, with his TASER still pointed at Kobe. Officer Vu has hold of Kobe's left leg and is standing on the opposite side of the tipped couch. He is leaning over the couch, trying to hold onto Kobe's leg. Kobe is on his back, both of his legs are in the air and crooked over the side of the couch that is in the air. Officer Turner is still standing at the end of the couch, with his TASER pointed in Kobe's direction. He takes a step forward.</p>	
00:07	<p>It appears that the wires on Officer Turner's TASER are out and you can hear the sound of the TASER being deployed. No warning or commands were given prior to the TASER use. Kobe is on his back on the overturned couch and is pulling his left leg towards him. He is rolling onto his right side. Kobe has his head tucked into his body and his arms are crossed over his head, in a protective position. Officer Vu is still trying to hold onto Kobe's leg and foot. Officer Akers continues to point his TASER, and extends his arms out in front of him. Officer Holt is rolling out of the front door.</p>	



00:08 An officer yells, “get on the ground!” a third time. Kobe turns into the couch (on his right side) and puts his left hand over his head. His right hand is underneath him, in the couch cushions. He puts his weight on his right hand and pushes up to try and get up. His legs are still over the side of the couch. Officer Vu is still trying to grip Kobe's lower leg. Officer Turner still has his TASER in front of him, pointing at Kobe. He is holding the TASER in one hand. Officer Akers also is holding his TASER only in his right hand. The wires from Akers' TASERS are visible. He takes a step through the front door.





00:09 Kobe uses his right hand to push off of the couch and pull himself upright. He is facing the side of the room with the TV. Officer Turner, who is barely two feet from Kobe, still has his TASER in one hand, pointed at Kobe's back. Officer Vu appears to have taken a step back, still holding onto Kobe's leg. Akers takes another step into the house, with his TASER in his right hand, pointed at Kobe. Akers says, “what's he got, a knife?”

Kobe gets off of the couch and falls forward towards the floor. Officer Turner steps forward and tries to use his TASER on Kobe in drive stun mode. Officer Vu is not in the second still, he appears to have fallen on the floor.





00:10	<p>Kobe is running away from the officers. Officer Vu is on his back on the floor, and grabs onto Kobe's left leg and red shorts. Officer Vu is grabbing Kobe over his left shoulder. Kobe is behind him and is falling down because Vu trips him.</p> <p>Officer Turner takes a step towards Kobe's direction and is leaning over Vu.</p> <p>Officer Akers steps further into the house, and steps onto the couch, putting his left hand on the couch cushion and has his gun in his right hand pointed at Kobe and Officer Vu.</p>	
00:11	<p>Officer Turner steps over Officer Vu, who is laying on the floor, still grabbing Kobe's legs over his shoulder and behind his leg. Kobe is falling onto the ground. His hands and upper body are approximately eight feet from Officer Vu.</p> <p>Officer Akers still is standing behind the couch, with his gun pointed toward Officers Turner and Vu. Holt has reappeared near the doorway on Akers' right.</p>	
00:12	<p>Officer Vu has gotten on his hands and knees. His left hand is parallel with the end table that sits to the right of the couch Susan is sitting on.</p> <p>Officer Holt is still standing near the doorway, between the overturned couch and the wall, and has his TASER pointed at Kobe. Officer Turner is standing over Kobe, who is on the floor. He is bending down and his right arm appears to be touching Kobe's left shoulder.</p> <p>Kobe is sitting on his buttocks, his two legs slightly outstretched in front of him. His right leg is slightly bent.</p> <p>In the second still, Officer Vu has gotten off his hands and knees and is sitting upright, on his ankles. He is sitting next to the overturned green end table.</p>	

Officer Holt holds his TASER far in front of him, aiming at Kobe. Kobe's upper body is out of view, but Kobe's left leg is outstretched in front of him. Officer Turner is bent over Kobe, his right arm over Kobe and his left hand is behind his back. Turner yells, "knife, knife, knife!"

In the third still, Officer Turner is standing slightly crouched on the left corner of the rug nearest to the TV. His TASER is in his left hand by his side. He is looking towards the other officers across the room. Kobe is still lying on the floor, his left leg in view of the camera. His knee is pointed towards Officer Turner at an awkward angle. Officer Vu is standing on his knees in front of Officer Akers. Officer Akers has his weapon pointed towards Vu's back and his left hand is outstretched towards Vu's left shoulder.





00:13

In the first still, Officer Akers takes a step to the left, and still has his muzzle pointed near Officer Vu's back. He holds his gun in one hand. Officer Vu remains standing on his knees, about two or three feet from the edge of the carpet. Kobe brings his right leg in, under himself in an attempt to stand up. His right arm is in the air, as he tries to get up. Officer Turner takes one backwards step, his right foot is off the corner of the rug but his left foot stays on the rug. Officer Holt deploys his TASER, the wires are visible.

In the second still, Kobe is attempting to rock forward onto his feet to stand up. His head is down, looking at the floor. Officer Turner is standing on the corner of the rug, his left foot is halfway on the rug. His TASER is in his left hand; the wires appear to be attached to Kobe. Officer Turner is reaching for his gun with his right hand, pulling it out of his holster. Officer Vu is still on his knees. Officer Akers' right hand drops out of view.



00:14	<p>In the first still, Kobe gets up, in a lunge position. His left leg is at a 90 degree angle while his right knee is still on the floor. His arms are in front of him, parallel with his left knee, and his head is facing down. Officer Vu is on his knees, his left arm is outstretched towards Kobe's left side. Akers points his gun towards Kobe, both of his hands are holding his gun. Officer Turner's left foot stays halfway on the rug but his right leg takes a step to the right.</p> <p>The second still is more blurry, which is possibly due to Akers firing his gun.</p>	
00:15	<p>The picture becomes blurry, and Akers begins shooting.</p>	

### Autopsy Information

Basic Info
<p>An autopsy was performed on Kobe Dimock-Heisler by the Assistant Chief Medical Examiner Owen Middleton, M.D. with the Hennepin County Medical Examiner's Office on September 1st, 2019 at 10:10 a.m. Special Agent Brent Petersen was present for the entirety of the examination. Kobe was roughly 6 feet 1 inches tall and 199 pounds.</p>

Gunshot Wound Information	
Gunshot Wound	Description
<p>1. Gunshot wound of the head</p> <p>Fired by: Officer Turner</p> <p><b>Lab Item #: 35</b> Agency Item #: 59.8</p>	<p>The bullet entered the right temple, stippling around the wound.</p> <p><u>Path:</u></p> <ul style="list-style-type: none"> <li>- Right temporalis muscle,</li> <li>- right temporal bone,</li> <li>- right frontal and temporal lobes of the brain,</li> <li>- right sphenoid bone,</li> <li>- pharynx, and</li> <li>- soft tissues of the neck</li> </ul> <p>The projectile was recovered from the left sternocleidomastoid muscle.</p> <p><u>Course:</u> downward and leftward</p> <p><u>Associated injuries:</u> skull fractures, subdural and subarachnoid hemorrhage, laceration of the brain, right upper eyelid ecchymosis, and conjunctival petechiae.</p> <p>The presence of stippling indicates that "the muzzle of the gun was within 2 feet of the victim's body when it was discharged." This suggests that Officer Turner, or his arm, was within two feet of Kobe's temple when he shot him. Which also means Officer Turner needed to step towards Kobe in order to shoot him in the temple.</p>
<p>2. Gunshot wound of</p>	<p>The bullet entered the lateral right shoulder.</p>

<p>the right shoulder</p> <p>Fired by: Officer Turner</p> <p><b>Lab Item #: 32</b> Agency Item #: 59.4</p>	<p><u>Path:</u></p> <ul style="list-style-type: none"> <li>- Soft tissues of the lateral right shoulder,</li> <li>- right humerus,</li> <li>- and soft tissues of the upper right posterior chest</li> </ul> <p>The projectile was recovered from the soft tissues of the upper right posterior chest, posterior to the right 1st rib.</p> <p><u>Course:</u> leftward</p> <p><u>Associated injuries:</u> right humerus fractures and right 1st rib fracture.</p>
<p>3. Gunshot wound of the right axilla</p> <p>Fired by: Officer Turner</p> <p><b>Lab Item #: 31</b> Agency Item #: 59.3</p>	<p>The bullet entered the anterior right axilla (front right armpit).</p> <p><u>Path:</u></p> <ul style="list-style-type: none"> <li>- Lateral right 1st rib,</li> <li>- upper lobe of the right lung,</li> <li>- esophagus,</li> <li>- descending aorta,</li> <li>- upper lobe of the left lung,</li> <li>- lower lobe of the left lung (graze), and,</li> <li>- lateral left 6th rib/intercostal space</li> </ul> <p>The projectile was recovered from the left chest wall.</p> <p><u>Course:</u> leftward and downward</p> <p><u>Associated injuries:</u> right 1st rib fracture, bilateral hemothoraces, left 6th rib fracture.</p>
<p>4. Gunshot wound of the left shoulder</p> <p>Fired by: Officer Akers</p> <p><b>Lab Item #: 34</b> Agency Item #: 59.6</p>	<p>The bullet entered the lateral left shoulder.</p> <p><u>Path:</u></p> <ul style="list-style-type: none"> <li>- Soft tissues of the lateral left shoulder,</li> <li>- left humerus,</li> <li>- soft tissue of the left axilla,</li> <li>- lateral left 3rd rib,</li> <li>- upper lobe of the left lung,</li> <li>- pericardium,</li> <li>- pulmonary artery, and</li> <li>- heart</li> </ul> <p>The projectile was recovered from the lateral right atrial wall.</p> <p><u>Course:</u> rightward, forward, and downward</p> <p><u>Associated injuries:</u> left humerus fracture, left 3rd rib fracture, left hemothorax, hemopericardium, pulmonic and aortic valve lacerations, right coronary artery laceration.</p>
<p>5. Gunshot wound of the left back</p> <p>Fired by: Officer Akers</p>	<p>The bullet entered the lateral left back.</p> <p><u>Path:</u></p> <ul style="list-style-type: none"> <li>- the soft tissues of the lateral left 9th intercostal space,</li> <li>- lower lobe of the left lung,</li> <li>- esophagus,</li> <li>- liver,</li> <li>- diaphragm, and,</li> </ul>

<b>Lab Item #: 30</b> Agency Item #: 59.2	- anterior-lateral right 8th rib The projectile was recovered from the anterior-lateral right chest. <u>Course:</u> rightward and forward <u>Associated injuries:</u> left hemothorax, hemoperitoneum, fracture of the right 8th rib.
6. Gunshot wound of the left hip Fired by: Officer Akers  <b>Lab Item #: 33</b> Agency Item #: 59.5	The bullet entered the lateral left hip. <u>Path:</u> - left ilium into the left psoas muscle <u>Course:</u> rightward <u>Associated injuries:</u> fracture of the left ilium
7. Graze gunshot wound of the posterior right wrist.	

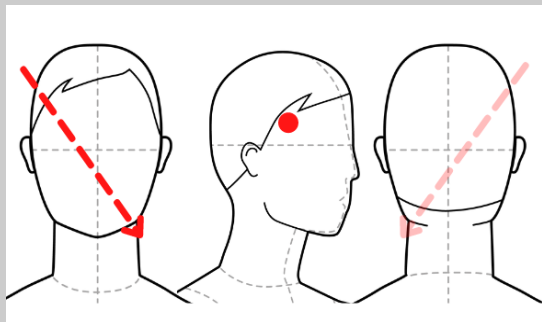
Wounds Matched to the Officer who Fired		
Officer	Weapon Information	Shots Fired
Officer Akers	Glock 17 Gen 4 9mm Luger Serial No. TKE572 Lab Item #: 25	<u>Lab item 30 (GSW#5):</u> - Entered left back - Recovered from the anterior-lateral right chest  <u>Lab item 33 (GSW#6):</u> - Entered lateral left hip - Recovered from left psoas muscle  <u>Lab item 34 (GSW#4):</u> - Entered lateral left shoulder - Recovered from the right atrial wall (heart muscle). <b>All wounds went rightward and forward. Officer Akers shot Kobe on Kobe's left side and from behind him.</b>
Officer Turner	Glock 17 Gen 4 9mm Luger Serial No. TKE584 Lab Item #: 26	<u>Lab item 31 (GSW#3):</u> - Entered front right axilla (front right armpit) - Recovered from left chest wall  <u>Lab item 32 (GSW#2):</u> - Entered lateral right shoulder - Recovered from upper right posterior chest

		<p><u>Lab item 35 (GSW#1):</u></p> <ul style="list-style-type: none"><li>- Entered the right temple, with associated stippling</li><li>- Recovered from left sternocleidomastoid muscle of the neck</li></ul> <p><b>All wounds from Turner went leftward and/or downward. Officer Turner shot Kobe on Kobe's right side and from above him. The wound on Kobe's temple from Officer Turner is the only wound with associated stippling, meaning it was fired at a close range.</b></p>
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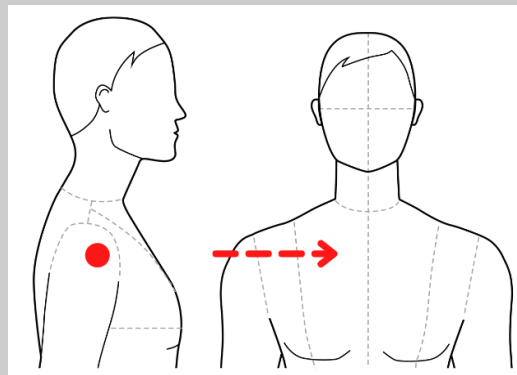


**Visual Depiction of Kobe's Gunshot Wounds**

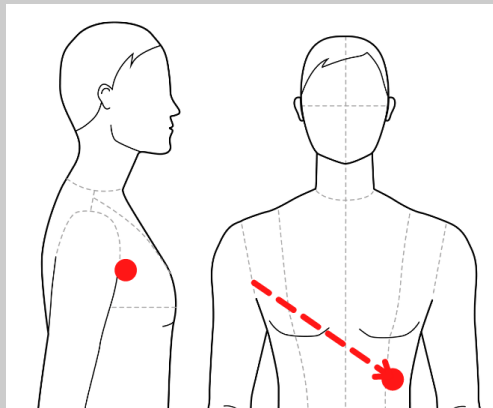
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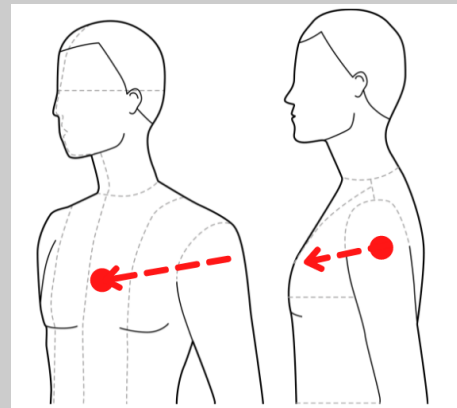
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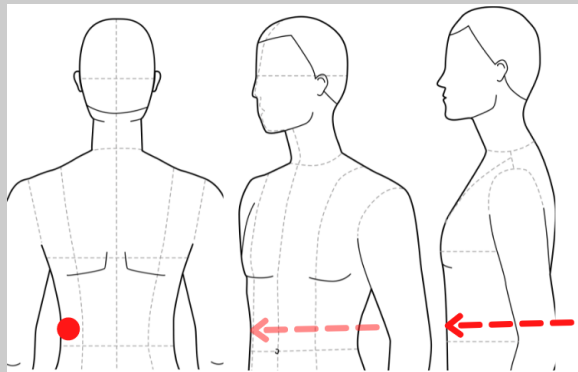
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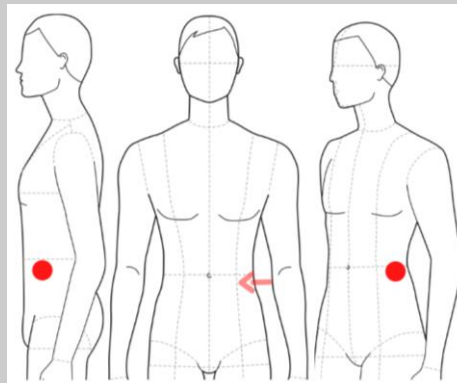
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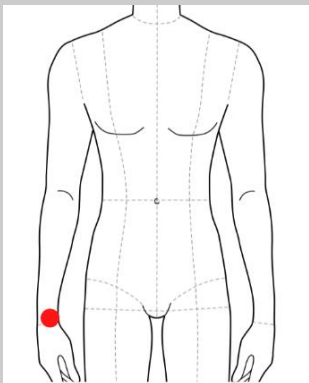


6.





7.



[LINK to the Autopsy Report](#)

[LINK to Autopsy Photos](#)

## **Policy Analysis**

Kobe had a bad moment with his grandparents that day. However, when the Brooklyn Center Police Department arrived at the Heisler house, they didn't walk into an ongoing domestic call. They walked into a calm home, because Erwin and Susan knew how to de-escalate Kobe. The two grandparents had done it many times before. However, the officers, through many reckless and negligent decisions, escalated the situation into a dangerous one that led to Kobe's death.

The officers escalated the situation by failing to follow their departmental policies on TASER use and use of deadly force. They neglected to follow standard law enforcement training and procedures on responding to domestic violence calls, which created an unsafe situation not only for themselves but for Kobe and Susan. Further, the officers violated basic rules of officer safety by failing to properly check the home for weapons and not practicing weapon discipline. Finally, the officers used the Heisler's 911 call as a training opportunity for their new trainee, Officer Vu, and in doing so, turned a calm situation quickly into a deadly one.

The following policy topics will be discussed:

[Improper Use of Tasers](#)

[No Commands or Warnings Given](#)

[Officers Did Not Follow Proper Domestic Violence Response Protocol](#)

[Officers Failed to Properly Check for Weapons](#)

[Lack of Weapon Discipline Created Crossfire Issues](#)

[Field Training Officer Program](#)

## 21 Foot Rule

### **Improper Use of Tasers**

Officers Akers, Turner, and Holt all deployed their TASERS on Kobe Heisler but were unsuccessful because they failed to follow their training and the proper guidelines for TASER use.

At the time of the shooting, the BCPD issued its officers the Model x26P TASER. TASER devices, as described in BCPD policy 304.2 are devices “intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.”

In order for a TASER to successfully administer an electric shock to the target, the officer must fire the weapon from an appropriate distance. TASER’s have a cartridge that, when fired, releases two wires with probes on each end that are embedded into a person’s skin or clothing. The TASER company manual recommends that they be fired from a distance of seven to ten feet in order for the wires to conduct a charge that can incapacitate the subject.

If officers fire from too close of a distance, the device may not work properly. At closer distances, the wires are not able to deploy and attach to a target with the proper spread. A minimum 12-inch probe spread is optimal for the TASER to work.<sup>2</sup> For example, a NYPD sergeant who used a TASER device on a pregnant 17-year-old girl was too close for the device to be effective.<sup>3</sup> The officers attempted to tase Kobe three or four times. A single trigger pull

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<sup>2</sup> Axon 2019 TASER manual for Model X26P, January 2019.

<https://cityoflamesa.us/DocumentCenter/View/15078/Taser-X26P-User-Course-2019-PowerPoint>

<sup>3</sup> <https://www.nydailynews.com/new-york/shot-pregnant-teen-taser-standing-close-article-1.2973729>

discharges an electrical charge for a 5-second cycle.<sup>4</sup> Officers Akers, Turner, and Holt all discharged TASER cartridges with wires and probes at Kobe. During the period when the officers discharged their TASERS, they were standing within approximately two to four feet of Kobe. The officers were too close to Kobe for the TASER to work effectively. BCPD Training Sergeant Mike Peterson testified in the trial against former BCPD officer Kim Potter that “if an officer is too close to a person, the Taser will only create pain and not neuromuscular incapacitation (i.e. muscle contraction), which is the goal of using a Taser.”<sup>5</sup> Additionally, APM Reports’ Curtis Gilbert spoke to MPR News<sup>6</sup> following Kobe’s shooting about why TASERs may have been ineffective in this case. He said,

We don't know specifically what went wrong in this case, but what we do know is that Tasers can be ineffective for all kinds of reasons...There's the issue of the range of the Taser. They don't have a dramatic effect on people when they're fired at too close of a range. And that's a problem because close range is where cops typically use Tasers. And at those ranges where cops typically use them, they tend to have less of that classic Taser effect where you freeze up and fall to the ground.

Application of the TASER device may be used per BCPD policy 304.5.1 when a) the subject is violent or is physically resisting and b) when they’ve demonstrated by words or actions an intention to be violent or to physically resist and reasonably appears to present the potential to harm officers, himself, or others.

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<sup>4</sup> Axon 2019 TASER manual for Model X26P, January 2019.

<https://cityoflamesa.us/DocumentCenter/View/15078/Taser-X26P-User-Course-2019-PowerPoint>

<sup>5</sup> <https://spokesman-recorder.com/2021/12/14/potter-trial-police-testify-on-taser-training-use-of-force-policies/>

<sup>6</sup> <https://www.mprnews.org/story/2019/09/09/taser-in-brooklyn-center-shooting>

Kobe had not made any violent actions nor spoke violently to any of the officers or others. Kobe, who was in distress after speaking to Officer Vu, got up to flee the room. He did not kick, push, or hit at the officers. He was attempting to run away when Officer Vu grabbed a hold of him. “Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual,” (BCPD Policy 304.5.1). As will be discussed in the following section, the fleeing response (also known as elopement) is common among people with autism when they are scared or in stress.

Officers should precede the use of a TASER device with a verbal warning, according to BCPD policy 304.4. The purpose of a warning is to “a) provide the individual with a reasonable opportunity to voluntarily comply, and b) provide other officers and individuals with a warning that the TASER device may be deployed.” Not one officer gave Kobe a verbal warning that they were going to use the TASER, and therefore gave him no opportunity to voluntarily comply with the officers. The officers also did not give Kobe any commands to comply with. As civil rights lawyer Debra Cohen said in the NYPD TASER case, “A stun gun is not going to take the place of hands-on control or patience and good judgment.”<sup>7</sup>

Multiple applications of the TASER device are not recommended and should be avoided per BCPD policy 304.5.4. “Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles.” Officers deployed their TASERS on Kobe three times, once at 16:37:46, 16:37:53, and 16:38:26<sup>8</sup>. Officers Akers and Turner claim that the TASER deployments had no effect on Kobe. According to the policy manual, “if the first application of the TASER device appears to be ineffective in gaining control of an

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<sup>7</sup> <https://www.nydailynews.com/new-york/shot-pregnant-teen-taser-standing-close-article-1.2973729>

<sup>8</sup> BCA Report, pages 331, 1085, & 1291

individual, the officer should consider certain factors before additional applications,” including whether the probes are making proper contact, whether the individual has the ability and been *given a reasonable opportunity to comply* and whether verbal commands or other tactics may be more effective. After firing the probes, the officers did not reassess or give Kobe a reasonable opportunity to comply. The fact that multiple officers were firing their TASERS and did not give verbal warnings made it even more impossible for officers to reassess the situation and for Kobe to have an opportunity to comply with commands.

Another issue regarding BCPD TASER use and training is that officers must be recertified annually per BCPD policy 304.9. Officer Brandon Akers’<sup>9</sup> and Officer Turners’<sup>10</sup> training records do not show any TASER training or record of annual recertifications. The last time Officer Holt was recertified was in November 2016, two years and nine months before the incident.<sup>11</sup> Officer Holt had gone almost three years without a refresher. This reflects a serious gap in BCPD training and suggests the City was not properly training its officers on TASER use prior to Kobe’s death.

Lastly, it is notable that shortly after Kobe’s shooting, the BCPD purchased new TASERs for its officers. For example, Kim Potter was issued a new TASER, model 7, in March 2021. The TASER model 7 is optimized for “increased probe spread at close range, where 85% of [TASER] deployments occur,” according to Axon’s website.<sup>12</sup> The model 7 darts fly straighter and faster. And, the new model has a simultaneous two cartridge reload feature. The new cartridge design clips two cartridges together, allowing the user to load both in one single action. Also called a back up shot, this “allows for a second cartridge to be loaded and fired.”<sup>13</sup> Perhaps the department

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<sup>9</sup> BCA Report, pages 544 - 546

<sup>10</sup> BCA Report, pages 552-556

<sup>11</sup> BCA Report, page 549

<sup>12</sup> <https://www.axon.com/products/taser-7>

<sup>13</sup> <https://www.axon.com/products/taser-7>

purchased the new TASER that is a) optimized for close ranges and b) allows for a second cartridge because the TASER x26Ps were used improperly in this incident and created a dangerous situation.

Officers Akers, Turner, and Holt created an unnecessary danger to Kobe's life when they did not properly deploy their TASERs. They failed to give warning and thus failed to give Kobe time to comply and failed to give themselves time to assess the situation and try other tactics. BCPD failed to ensure that Officers Steve Holt, Brandon Akers, Cody Turner, and Joseph Vu were properly certified on TASER use.

### **Elopement, Fleeing, or Bolting: A Common Response for People with Autism**

Having the police called to your home is a stressful and scary situation for anyone. But for someone with a mental illness and a history of commitment in mental health institutions, the fear is much greater. This was the position Kobe was in. Kobe was terrified of the police and being taken away. Yet, Kobe did not run away when his grandpa called 911. His grandparents de-escalated the situation, as they had done many times before. Kobe only fled from the scene because the officers escalated the situation and Kobe was scared of being committed to the hospital.

It is very common for people with autism to have this flight response, also known as elopement. A study done in 2012 found that nearly half of children with autism spectrum disorder attempt to bolt or wander from a safe place (Anderson et al., 2012)<sup>14</sup> Elopement can be triggered

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<sup>14</sup> Connie Anderson, J. Kiely Law, Amy Daniels, Catherine Rice, David S. Mandell, Louis Hagopian, Paul A. Law; Occurrence and Family Impact of Elopement in Children With Autism Spectrum Disorders. *Pediatrics* November 2012; 130 (5): 870–877. 10.1542/peds.2012-0762

by intense feelings of avoidance and panic<sup>15</sup>; it is a type of fight or flight response that causes a huge amount of stress for the individual.

Kobe did not elope from the scene until the officers escalated his fear of being committed. Kobe was aware that the police would be coming but he did not run away prior to them arriving even though he had the chance to. Seven minutes elapsed between when Erwin made the 911 call and when the officers arrived. He knew the officers were coming and would want to talk to him. He had time to run before they arrived. But Kobe chose to stay.

However, when Kobe realized that he was going to be committed based on Vu's line of questioning and the impending arrival of the ambulance, he began to become visibly upset. He told the officer not to lie to him, that he knew he'd be committed. Kobe started to cry, he put his head in his hands and tried rocking back and forth to self-soothe. Officer Vu did not try to calm Kobe down by reasoning with him or being honest. Officer Vu tried to change the subject to whether Kobe had eaten that day or what his favorite hobbies were. And while Kobe was emotionally immature, Kobe was smart. He knew what was going to happen, and the evaluation process, and yet, Trainee Officer Vu was addressing him as if he were a child. Kobe became overwhelmed with panic and a strong urge to avoid the strong likelihood of a hospital commitment. He bolted and tried to run away before the officers stopped him.

Even if Kobe hadn't bolted, Kobe was not yet made aware that he wasn't free to leave the scene. As far as Kobe knew, he was not under arrest. Officers Vu and Holt had made no decision whether to arrest Kobe. Officer Vu told Kobe that EMS was coming to check on his injuries, but

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<sup>15</sup> <https://www.autismbc.ca/blog/elopement-and-policing/#:~:text=%E2%80%9CElopement%20is%20a%20type%20of,part%20of%20an%20autism%20diagnosis>



Kobe knew that there was a high likelihood that he would be evaluated and placed on a 72-hour hold. Kobe told the officers he had been evaluated and hospitalized before. The officers were aware that this brought up negative memories and emotions for Kobe – they could observe it in his body language. So when Kobe began to run, he had no reason to believe that he could not run away from the officers. It was his understanding that he was not under arrest nor was it confirmed that he would be evaluated.

### **No Commands or Warnings Given**

The officers failed to give Kobe any commands throughout the duration of the incident besides “get on the ground, get on the ground!” in the beginning of the struggle. The lack of commands shows that the officers made no attempt to de-escalate with Kobe and that they denied Kobe the opportunity to comply.

Verbal commands during use of force encounters are crucial. They allow officers to attempt to stabilize and de-escalate a situation. In addition, effective verbal commands can “reduce the immediacy of the threat”<sup>16</sup> and give officers more time to create distance, think of other options, and use different tactics. Verbal command presence is an important tenet of law enforcement training and education. When the officers were struggling with Kobe, the only commands given were “get on the ground, get on the ground!” These commands were not particularly useful, as Kobe was struggling with officers and at one point, was tripped by Officer Vu and fell to the ground. All of the involved officers failed to give Kobe other commands. The failure to give proper

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<sup>16</sup> International Association of Chiefs of Police. *National Consensus Policy on Use of Force*. 2020. [https://www.theiacp.org/sites/default/files/2020-07/National\\_Consensus\\_Policy\\_On\\_Use\\_Of\\_Force%2007102020%20v3.pdf](https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf)

commands is a reflection of either the officers' failure to act in congruence with law enforcement training or a failure of BCPD to properly train them in verbal de-escalation and command presence.

Officers Akers and Turner did not give Kobe a verbal warning of deadly force before shooting him, therefore denying Kobe the opportunity to stop fleeing from the officers. Verbal warnings are required to give subjects a reasonable opportunity to comply with officer commands, when feasible and when the warning does not create a heightened risk for officer safety.

Under BCPD's use of deadly force policy 300.4 subdivision (b) and consistent with *Tennessee v. Garner* (1985)<sup>17</sup>, a verbal warning, if feasible, should precede the use of deadly force of a fleeing suspect who the officer has probable cause to believe has committed or intends to commit a felony involving the infliction of serious bodily injury or death and the officer reasonably believes that there is an imminent risk of serious bodily injury or death if the suspect is not immediately apprehended. Officers Akers and Turner did not give Kobe any warning of deadly force, nor did they give warnings for TASER use, as discussed earlier. There was only five seconds between when Officer Akers said, "what's he got, a knife?" and their decision to shoot him. With no verbal warnings, the officers gave Kobe no opportunity to stop, and they did not even give him commands to comply with. Kobe was attempting to flee and was not made aware, through verbal warnings, that the officers were going to use deadly force.

At the time of the shooting, BCPD policy did not fully match the state model policy<sup>18</sup> for use of deadly force regarding warnings. The BCPD policy 300.4 stated that, "under such circumstances, a verbal warning should precede the use of deadly force, where feasible." The state

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<sup>17</sup> *Tennessee v. Garner*, 471 U.S. 1 (1985). <https://supreme.justia.com/cases/federal/us/471/1/>

<sup>18</sup> MN POST Board. *Use of Deadly Force Model Policy*. N.d. <https://dps.mn.gov/entity/post/model-policies-learning-objectives/Documents/Use-of-Force-Deadly-Force-Model-Policy.pdf>

model policy also adds language for attempted use of deadly force. Police reform advocates and professional policing organizations alike have also recommended that use of deadly force policies include giving people a reasonable amount of time to comply with officer commands and verbal warnings<sup>19</sup>. Notably, the BCPD has changed their policies since 2019. Their newest policy manual<sup>20</sup> fails to include any requirements for issuing verbal warnings when using deadly force at all, reflecting a serious policy gap and potential training issue.

Officers are taught to increase their level of force proportionally to the level of force they encounter by their suspect. In this case, Kobe did not use any force against the officers, nor did he make any motion to harm them, despite the officers' claims. Kobe knew it was highly likely he would be evaluated so he chose to run. Officers Holt and Vu escalated the level of force by grabbing him. Without Kobe making any motion to harm the officers, Akers and Turner attempted to tase Kobe without warning and without giving him any instructional commands. Kobe continued to try and run. He was tripped by Officer Vu, and was trying to stand up when the officers shot him (again, without giving any commands or verbal warnings). Kobe made no stabbing or thrusting motions towards Vu. In fact, Officer Vu never saw a knife or even Kobe's hands, according to his statement.

### **Officers Did Not Follow Proper Domestic Violence Response Protocol**

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<sup>19</sup> International Association of Chiefs of Police. *National Consensus Policy on Use of Force*. 2020. [https://www.theiacp.org/sites/default/files/2020-07/National\\_Consensus\\_Policy\\_On\\_Use\\_Of\\_Force%2007102020%20v3.pdf](https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf); Campaign Zero. *Use of Force Policy Recommendations*. n.d. <https://campaignzero.org/force.html>

<sup>20</sup> BCPD 2021 Policy Manual <https://www.ci.brooklyn-center.mn.us/home/showdocument?id=104>

Officers Akers, Turner, Vu, and Holt were responding to a “911 call for service for a domestic assault with a knife”<sup>21</sup> but failed to follow proper domestic violence call protocol and created an unsafe scene.

Possible domestic violence calls necessitate a specific type of law enforcement response that ensures safety for all parties involved<sup>22</sup>. First, officers should respond directly and without unreasonable delay to the scene. Second, upon arriving to the scene, the officers should identify themselves, explain their presence, and request entry into the home. If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. Then, the officers *should separate parties prior to taking statements and ensure all of the occupants are safe*.

The officers in this case were met at the door to the residence by the 911 caller, Erwin Heisler. They were told that Kobe was going to be okay, but Officer Akers requested entry into the home to make sure that everything was okay. The officers pushed their way into the home even though Erwin stood in the entryway just enough to let Officer Akers speak with his wife and grandson inside. Officers Vu and Holt went to speak with Kobe. Officers Holt and Vu had Kobe sit in a chair in the middle of the living room, near the TV, and directly opposite from Susan. Not one officer took an interest in Susan; they did not try to speak with her separately or ensure she was safe. In a domestic call, it’s the officer’s duty to ensure that *all occupants* are safe and separated when taking statements. The officers failed to ensure Susan’s safety because they did not separate her from the other parties, nor did they take her statement at all. By failing to follow domestic violence policy, they placed Susan Heisler in harm’s way.

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<sup>21</sup> Supplemental Homicide Report from BCPD

<sup>22</sup> Law Enforcement Policy Center. (April 2019). *Domestic Violence*.

<https://www.theiacp.org/sites/default/files/2021-07/Domestic%20Violence%20FULL%20-%2006292020.pdf>

In addition, Officer Akers told the one officer who was a member of the Domestic Abuse Response Team that she was okay to leave the scene before the officers had even taken a statement from the 911 caller. Officer Sara Fry had arrived with the other officers to the initial call. Fry is a merit-award winning member of the BCPD's Domestic Abuse Response team and is specially trained to work with victims and families of domestic violence. Fry had gone to the back door when they first responded and came back to the front door when Officer Akers was exiting the home to speak with Erwin. Officer Akers gave her a thumbs up and told her "they were good", indicating she could leave.

The Brooklyn Center Police Department created the DART team in 2011 as an effort to reduce the number of domestic violence calls. Officers who belong to the DART team "work with victims and their families to provide safety planning and referrals. DART also makes sure victims understand their rights."<sup>23</sup> If Sara Fry had stayed on the scene or had been utilized by the other officers, she may have been able to ensure a safer scene. For instance, she could have made sure that Susan was separated from Erwin and Kobe and was able to give her own statement. This would have minimized officer safety issues and her expertise on domestic violence could have helped make sense of this complex situation.

### **Officers Failed to Properly Check for Weapons**

In addition to not properly separating the parties in the house, the officers failed to properly check the home for weapons and created an unnecessary risk of harm to themselves, Susan Heisler, and Kobe.

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<sup>23</sup> <https://ccxmedia.org/news/brooklyn-centers-dart-program-helps-domestic-abuse-victims/>

The officers arrived at the scene knowing that the 911 call involved the use of a knife and a hammer. Officer Akers entered the home at 16:26 and the knife was not secured by the officers until 16:29, three minutes later. The hammer was not secured until 16:33, seven minutes after they first entered the home. Susan Heisler also had secured a wrench with the hammer, but did not think Kobe had used it. Officer Turner chose to not take the wrench, and left it with Susan on the couch. Although Akers asked Erwin Heisler if Kobe had any weapons on him and Erwin told him twice that he did not and that he had taken them from him, none of the officers tried to locate the weapons until three minutes later.

Secondly, besides asking Erwin about the weapons Kobe had earlier, none of the officers asked Kobe or Susan about other weapons in the home. Officer Vu does a pat search for weapons on Kobe and asks him if he has any weapons on him. Kobe says no, only that he has his phone in his pocket. Neither Vu or Holt, who are interviewing Kobe, ask him if there are other weapons in the room or in the home. Part of ensuring a safe scene is to ask about weapons in the home, not to just tunnel in on the weapons mentioned in the 911 call. The officers failed to secure other weapons that were in the home.

None of the officers checked the couch where Kobe was originally sitting for weapons. Officer Akers claims that he checked the loveseat sofa where Kobe was first seating for weapons and told Amity via text message that he had no clue where the knife came from. A review of Akers' BWC footage shows that Akers lightly patted the blanket on top of the couch for less than 1 second. The two officers who pat-searched and interviewed Kobe did not check the couch for weapons either. Instead, they moved him to a chair across the room, closer to his grandmother.

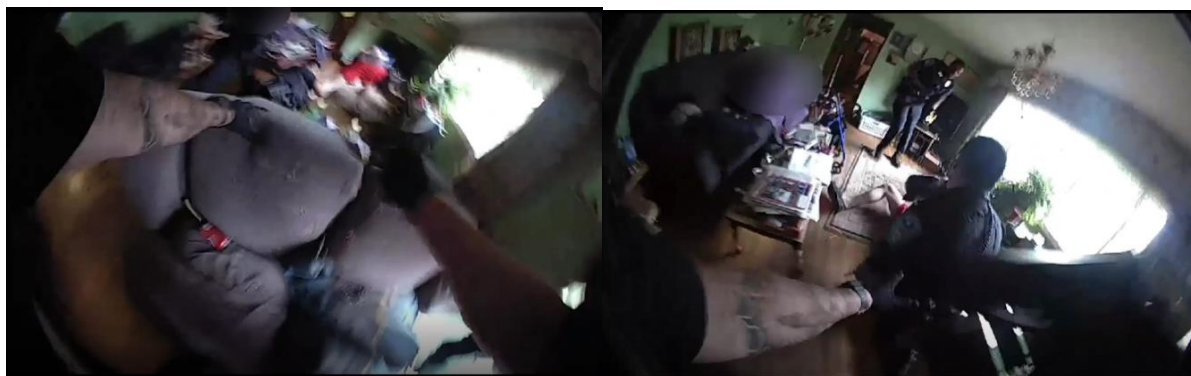
The officers had multiple opportunities to make the scene safe and secure any weapons in the home. However, they took several minutes to secure the weapons they knew were on the scene,

they failed to ask about additional weapons in the home, and they failed to adequately search the couch where Kobe was originally seated for weapons. These failures created an unsafe scene and contributed to Kobe's death.

### **Lack of Weapon Discipline Created Crossfire Issues**

There are four universal firearms safety rules: 1) assume all guns are loaded, 2) always point the muzzle in a safe direction (or never point it at something you are not willing to destroy), 3) keep your finger off the trigger, and 4) be sure of your target and what is beyond it before you make the decision to shoot. Officers Akers and Turner violated two of these rules when they shot Kobe Heisler. It is by sheer dumb luck that these two officers only injured Kobe and that Susan Heisler, Officer Vu, and themselves left the scene unharmed.

The first rule Officer Akers and Turner violated is number 2: always point your muzzle in a safe direction, or never point it at something you are not willing to destroy. This rule is also known as muzzle safety or muzzle discipline. Multiple times during the situation with Kobe, the officers pointed their muzzles at or in the direction of their partners – a serious violation of gun safety. See the following photos for Akers' lack of muzzle discipline:





The second rule Officer Akers and Turner violated is to be sure of your target and what is beyond it before you make the decision to shoot. Officer Akers and Turner were on opposing sides of the small living room when they began firing. They were in each others' backgrounds when they shot, which created a high risk for potential crossfire injuries. In addition to pointing their muzzles toward each other, Officer Turner shot at Kobe when Officers Holt, Akers, and Vu were in the background.



Officer Turner knew that his fellow officers were in the background. He purposely stepped forward towards Kobe, who was allegedly armed with a knife and trying to harm Officer Vu, to



kill Kobe with a shot to the temple. Officer Turner, as a use of force instructor, department armorer, and member of the SWAT team, knew of the multitude of officer safety issues that were present. He knew he was shooting in the direction of his partners, so he aimed his shot directly at Kobe's head in order to kill him and avoid hitting the others.

Officer Akers and Turner knew the rules of gun safety and were trained in use of force by BCPD but acted either recklessly or negligently anyways. BCPD policy 300.8 requires officers receive "at least" annual training on their use of force policy and the use of force learning objectives provided by POST. Officer Turner completed various use of force, SWAT, and handgun in-service training as recently as May 2019. Officer Akers also completed his handgun qualification in May 2019. There was also a departmental in-service training on use of force two days prior to the shooting, according to Officer Steve Holt.<sup>24</sup> The two would have known that it was reckless to fire their weapons from opposite sides of the room and with their fellow partners in the background.

### **Field Training Officer Program**

Officer Holt tried to ensure that Trainee Officer Vu got as much experience being the primary officer on calls as much as he could. The field training officer program is supposed to pair probationary officers with the best officers to transition the trainee from an academic setting to real-time uniformed patrol experience. However, Holt neglected his responsibility as a FTO by not stepping in when he saw his trainee was escalating Kobe and that the call was changing from a domestic to a mental health call. Holt prioritized the training of his officer over Kobe and the Heisler's mental and physical well-being.

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<sup>24</sup> BCA Report, page 179.

The call originally came out as a domestic with a knife and hammer. The officers quickly established, by looking at the prior calls and speaking to one another, that Kobe had previously attempted to commit suicide and stabbed himself in the stomach. Knowing this complexity when walking up to the house, Holt still wanted his trainee to be the primary officer as much as he could. So, the officers saw it as a training opportunity for Trainee Officer Vu to be the main officer interacting with Kobe.

“If a trainee struggles to the point of risking someone's safety, a field training officer should step in,” Brian Higgins, an adjunct professor at John Jay College of Criminal Justice, told the Associated Press<sup>25</sup> after Kim Potter killed Daunte Wright. The Wright killing was another incident in which a BCPD FTO did not step in to assist their trainee and it escalated to a deadly incident. Officer Vu was speaking to Kobe, he was struggling with and agitating Kobe. From the beginning of his conversation with Kobe, Officer Vu demonstrated poor and ineffective communication. For example, the first question he asks Kobe is “can you tell me what’s going on?” Kobe describes why he was upset about being left behind. Instead of asking follow-up questions or repeating back to Kobe what he just heard, Officer Vu asks again, “What happened today?” Kobe says, “What I just said.”

Officer Vu continues to ask questions like this throughout the interview with Kobe. At one point, Vu confuses Kobe’s grandfather with his dad. Minutes into the interview, he has to re-ask Kobe’s name. Officer Vu repeatedly asks the same questions, even though Kobe is answering him. Or he asks redundant questions that he already knows the answer to. Officer Vu does not even appear to be listening to Kobe. At one point, Kobe is becoming obviously upset because Officer

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<sup>25</sup> <https://accesswdun.com/print/2021/12/1064957>

Vu called an ambulance. Kobe tells him he knows that they're going to commit him. Officer Vu says he doesn't know what's going to happen, and Kobe says, "you're lying to me." Kobe's voice is shaking, you can tell he is close to crying and is scared. Instead of expressing empathy or trying to calm Kobe down, Officer Vu tries to change the subject. He asks Kobe if he had gotten something to eat, even though Kobe told him moments earlier that his grandfather had left him at the Wendy's and he had to walk home. Kobe begins to cry. He bends over in his seat and puts his head in his hands.

Officer Holt told the BCA in his statement that he believed Officer Vu was trying to de-escalate the situation by trying to "steer Kobe away from the hot button issue." Holt claims that small talk and redirection are consistent with de-escalation training. Holt, however, neglects to mention the multitude of things that Officer Vu did that are not consistent with de-escalation training. Here are some de-escalation techniques<sup>26</sup> that Officer Vu was clearly avoiding or violating, which Officer Holt should have been aware of:

- **Active listening skills.** The officer listens for the total meaning of the words spoken and conveys to the individuals that they want to understand the individual's thoughts, feelings, and behaviors. Other active listening skills include:
  - Introducing oneself,
  - Using "I" statements,
  - Mirroring/reflecting statements,
  - Summarizing/paraphrasing statements

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<sup>26</sup> Oliva, Morgan, & Compton. (2010). A practical overview of de-escalation skills in law enforcement: Helping individuals in crisis while reducing police liability and injury. *Journal of Police Crisis Negotiations*. Retrieved from: <https://de-escalate.org/wp-content/uploads/2019/02/A-Practical-Overview-of-De-Escalation-Skills-in-Law-Enforcement.pdf>

- **Officers should avoid asking “why” questions.** Officer Vu asked Kobe multiple why questions, for example, “why did you cut yourself?”

Officer Holt should have stepped in when his trainee was clearly escalating Kobe with his ineffective and abrasive style of communication. Kobe was calm when the conversation with the officers began. He became more and more upset as Vu talked to him. Again, “if a trainee struggles to the point of risking someone's safety, a field training officer should step in.” FTO Holt failed to step in, escalating the situation which led to Kobe’s death.

## **21 Foot Rule**

In any case that involves the use of a knife or cutting instrument, law enforcement and county attorneys often invoke the outdated and debunked “21-foot-rule.” The idea behind the rule, and other iterations of it, is that a subject armed with a knife can cover a 21-foot distance before an officer is able to unholster and accurately shoot his firearm at the person. This “rule” however, has little empirical support<sup>27</sup>, is an inadequate standard for police training, and has been called a myth by other law enforcement professionals.<sup>28</sup> Yet, this myth is still taught to police, asked about by the BCA in officer interviews, and repeatedly cited by HCAO Mike Freeman as part of his reasoning why officers should not be held accountable for shootings of civilians with knives.

Mike Freeman did not specifically discuss the “21-foot rule” in this case. He did, however, say in his report, “here, with an armed attacker in a confined space the most appropriate and proportional force was deadly force.” We have described earlier that Kobe was not an armed “attacker.” Kobe was attempting to flee because he was deathly afraid of being committed into the

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<sup>27</sup> *Revisiting the “21-Foot Rule”* by Ron Martinelli, <https://www.policemag.com/341203/revisiting-the-21-foot-rule>

<sup>28</sup> *Beyond the Tueller Drill* by Michael D. Janich, <https://www.policemag.com/340032/beyond-the-tueller-drill> ; Sandel, Martindale, & Blair (2020). A scientific examination of the 21-foot rule. *Police Practice and Research*. <https://www.tandfonline.com/doi/abs/10.1080/15614263.2020.1772785>

hospital. He never attempted to harm the officers and the claims made that Kobe was making “stabbing or thrusting motions” were untrue. However, the 21-foot-rule is still relevant to this case as officers frequently interpret the “rule” as a license to shoot and kill any person with a knife that is within 21 feet of them. They claim the rule protects officers from knife attacks, but CUAPB’s research has found that the risk of harm to an officer by knives is minimal.

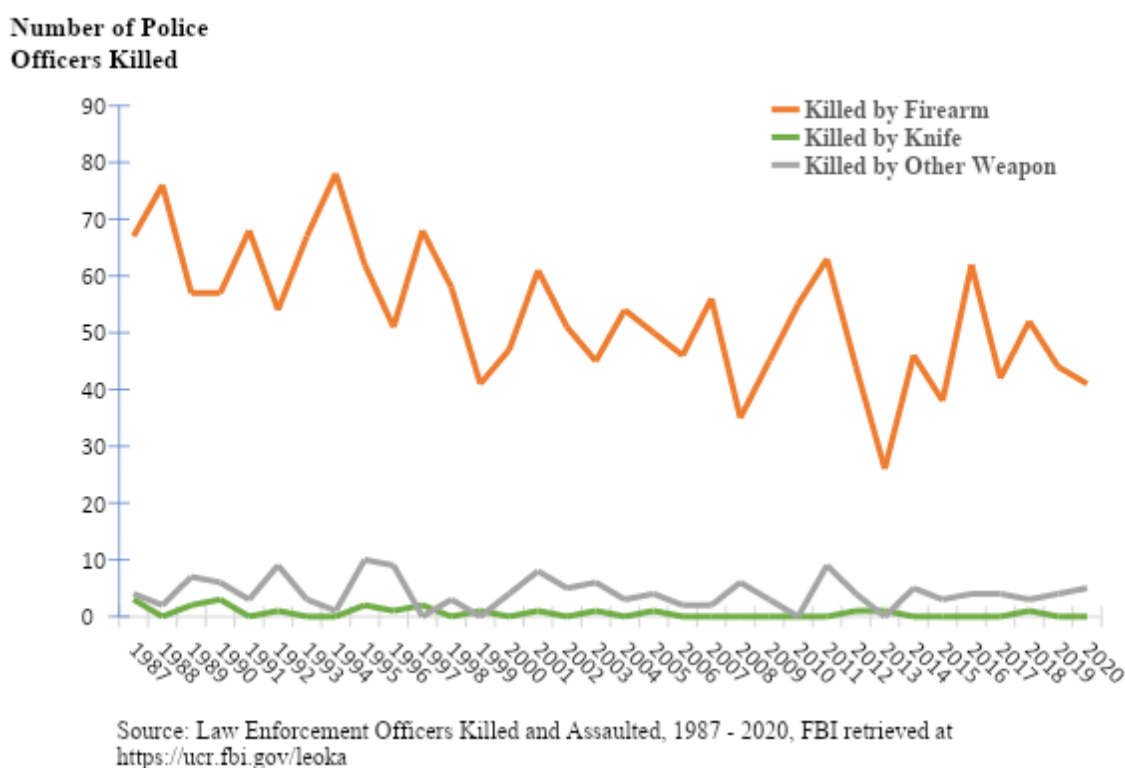
The 21 Foot Rule was created in 1983 by a former police officer and firearms instructor, Dennis Tueller. Tueller published results on what was coined the “Tueller drill” in SWAT magazine in 1983. The drill tried to estimate the time and distance it took for a person armed with an edged weapon to reach a police officer before the officer was able to a) unholster and b) take an accurate shot at the subject. The drill quickly became taught in law enforcement training as if it were a fact that a person with a knife within 21 feet of you was dangerous. Dennis Tueller himself confirmed he never taught that an officer could shoot anyone with an edged or impact weapon simply for being closer than 21 feet from the officer.<sup>29</sup> You are not suddenly safer from a knife at 22 feet than you are at 20.

The 21-foot-rule has been taught as a way to “survive edged weapons” and in order to save officer lives from knife attacks. CUAPB asked, so how prevalent is this threat to officer lives? How often are they killed, attacked, and injured by knives?

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<sup>29</sup> *21-foot Principle Clarified* by Dennis Tueller and Ken Wallentine, Youtube.  
<https://www.youtube.com/watch?v=7zhwiIjUh5E>

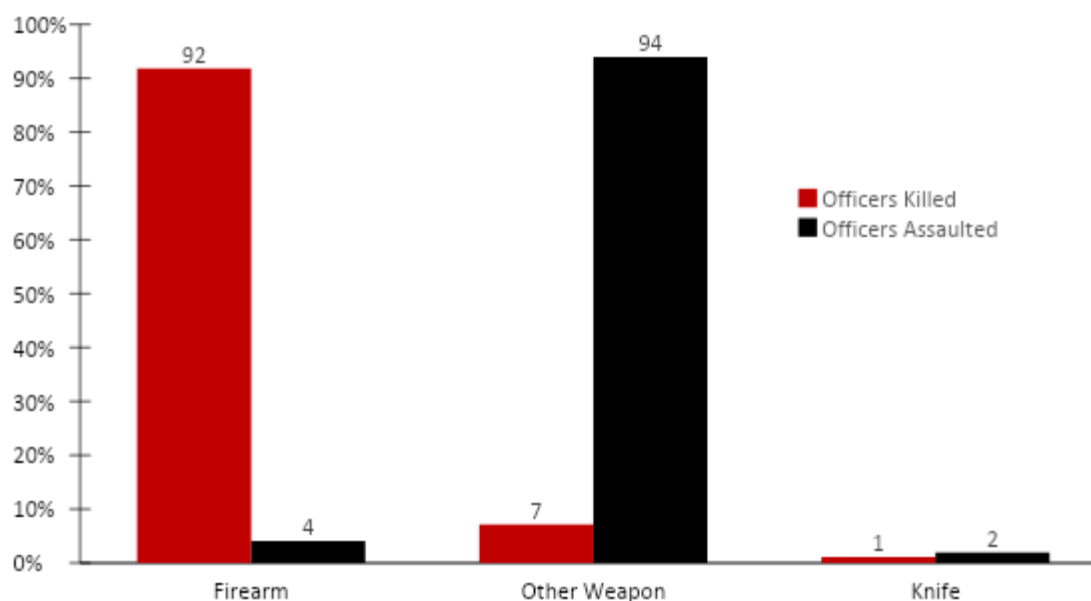
Figure 1. Total Number of U.S. Police Officers Killed per Year, 1987 - 2020



Knife attacks on police officers are extremely rare. Between 1987 and 2020, only 1.07% of police officers were killed by a knife or cutting instrument.<sup>30</sup> In other words, over the past 33 years, only 21 police officers have been killed by a knife. And the majority of these deaths occurred in close quarters or as part of an ambush. None were killed by a suspect running or charging at them with a knife, which is the scenario upon which the Tueller drills are based.

<sup>30</sup> *Law Enforcement Officers Killed and Assaulted (LEOKA) Program, 1987-2019*, Federal Bureau of Investigation: Uniform Crime Reports: <https://www.fbi.gov/services/cjis/ucr/leoka>

Figure 2. U.S. Police Officers Killed and Assaulted, 1987 - 2020



Source: U.S. Law Enforcement Officers Killed & Assaulted, FBI UCR Crime Statistics

Non-fatal injuries by knife attack are also extremely rare. Knife attacks comprise only 1.97% of the nearly 2 million police officer assaults between 1987 and 2020.<sup>31</sup> Police officers are more likely to be assaulted by hands and fists than knives.

Roughly 1% of officers killed in the line of duty are fatally wounded by knives, yet 17% of people fatally shot by the police were carrying a knife or edged weapon.<sup>32</sup> These statistics tell us this: when a police officer encounters a person with a knife, it is very unlikely he'll be killed or harmed. But when a community member, such as Kobe, has a knife and encounters a police officer, the chance of being harmed may be much greater.

<sup>31</sup> *Law Enforcement Officers Killed and Assaulted (LEOKA) Program, 1987-2019*, Federal Bureau of Investigation: Uniform Crime Reports: <https://www.fbi.gov/services/cjis/ucr/leoka>

<sup>32</sup> *Police shootings database: 2015 – 2021*, The Washington Post: <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>

This suggests that officers are trained to overestimate the risk presented by civilians with knives. Myths like this, combined with a warrior mindset and focus on self over mission, may contribute to needless deaths like those of Kobe Heisler or Travis Jordan. This is why consistent, evidence-based training for police officers is crucial. We have already seen in this case that police officers were inadequately and undertrained on the use of TASERs – this calls into question the quality of their entire use of force training curriculum.



## Countering the Narrative: A Response to the Hennepin County Attorney's

### Declination of Charges

The Hennepin County Attorney, Mike Freeman, declined to file charges against the involved officers. He announced his decision on August 5th, 2020, nearly a year after Kobe's death. The HCAO never met with the Dimock-Heisler family to discuss his decision, citing COVID as the reason. For the purpose of CUAPB's report on Kobe's death, we will be analyzing the key points from the HCAO report in chronological order of events.

[Link to the HCAO Report](#)

#### HCAO Main Point #1: The Officers Made Every Attempt to Resolve the Situation Peacefully

Mike Freeman claimed that "the officers who interacted with Kobe were aware that he was on the autism spectrum and had a history of mental illness. They spoke with him respectfully and empathetically, clearly attempting to de-escalate the situation. While this incident ended tragically, the officers involved made every attempt to resolve the situation peacefully before resorting to the use of deadly force," (page 2).

#### Counter Analysis

1. **Not all officers were aware that Kobe was on the autism spectrum because Officer Akers failed to relay that information to his partners.** Officer Akers learned from Erwin that Kobe was autistic and was not in his treatment program due to issues with health insurance. Officer Akers did not share this with Officer Turner, who was the officer liaising between the two groups inside and outside the house. Officer Akers did, however, relay information that escalated the situation. For example, he relayed to Officer Turner that Kobe had cut his chest with the knife that he had used to threaten the grandfather with. Officer Turner relayed this to Officers Vu and Holt, who radioed for an ambulance to check Kobe.

Kobe's mental illness was necessary information for Officers Vu and Holt to know. People with autism spectrum disorders respond to stimuli, and stress, in specific ways. For example, some people with ASD get overwhelmed easily by loud noises or cramped rooms. Additionally, they may bolt out of rooms, or elope, (which Kobe was attempting to do) when they are scared or anxious. Knowing his diagnosis would have enabled them to change their approach to speaking with Kobe as well as make a better decision about whether to arrest Kobe or have him evaluated.

2. **The officers did not speak to Kobe respectfully or empathetically.** First, the officers never introduced themselves to Kobe, a basic sign of respect and a de-escalation skill.

Secondly, throughout his conversation with Kobe, Officer Vu made it clear he was not listening. He asked repetitive questions that Kobe already answered. Midway through the conversation, he even had to re-ask Kobe's name. Third, when Kobe is becoming upset that Vu has called an ambulance, Officer Vu tries to change the subject as to whether Kobe has eaten or not. This line of questioning is especially disrespectful given that the argument Kobe had with his grandfather started because they got the wrong order at Wendy's and Kobe had to walk home. Fourth, throughout the interview of Kobe, Officer Vu's voice was monotone. He did not sound like he cared about Kobe's well being even though he tried to state that he was.

3. **The officers escalated the situation because they used the call as a training opportunity for their trainee who had terrible communication skills.** Officer Holt, an FTO trained in CIT and crisis negotiation, saw his trainee struggling to communicate with Kobe and he did not step in to help. Kobe was becoming increasingly upset as Officer Vu spoke to him. It is the duty of an FTO to step in if they see their trainee struggling, especially with someone who has a history of mental issues and self-harm.

## HCAO Main Point #2: Kobe Rushed His Grandmother

Mike Freeman asserted in his report that Mr. Dimock-Heisler's "attack" (which we dispute later in this section) on the officers placed his grandmother in danger. Mike Freeman claims that there was a very real possibility that Kobe could have "redirected his attack" towards his immobile grandmother since he had already assaulted his grandfather. Somewhat contradictorily, Mike Freeman also states that Kobe "abruptly leapt out of his chair, moving past the officers and toward his grandmother on the couch in front of him. Officers Holt and Vu tried to stop him," (page 2).

### Counter Analysis

1. **Kobe did not rush towards his grandmother.** He was running towards the gap between the couch and the chair near the front door. The officers were trying to stop Kobe from fleeing, not rushing towards his grandmother.
2. **The officers, not Kobe, placed Susan Heisler in danger by not following proper domestic violence call protocol and separating Kobe from his grandmother when interviewing him.** U.S. law enforcement officers are taught to separate all parties in domestic violence 911 calls. This is to ensure the safety of the officers and the subjects of the call. In this case, the officers separated Erwin and Kobe, but failed to separate Kobe from Susan. By doing so, they placed her in danger and created an unsafe scene.
3. **Kobe was not violent, and had never been violent towards his grandmother.** When Erwin had called 911, he had left Susan alone in a room with Kobe. This suggests that both Erwin and Susan were not afraid that Kobe was a threat to Susan. Secondly, Susan was the one who had asked Kobe for the knife and hammer, and Kobe *willingly and*

*immediately* gave them to her. When CUAPB investigators asked Susan about it, she said he gave them to her like it was no big deal. This is not reflective of Mike Freeman’s assertion that Kobe was “angry” at Susan for taking his “weapons” away.

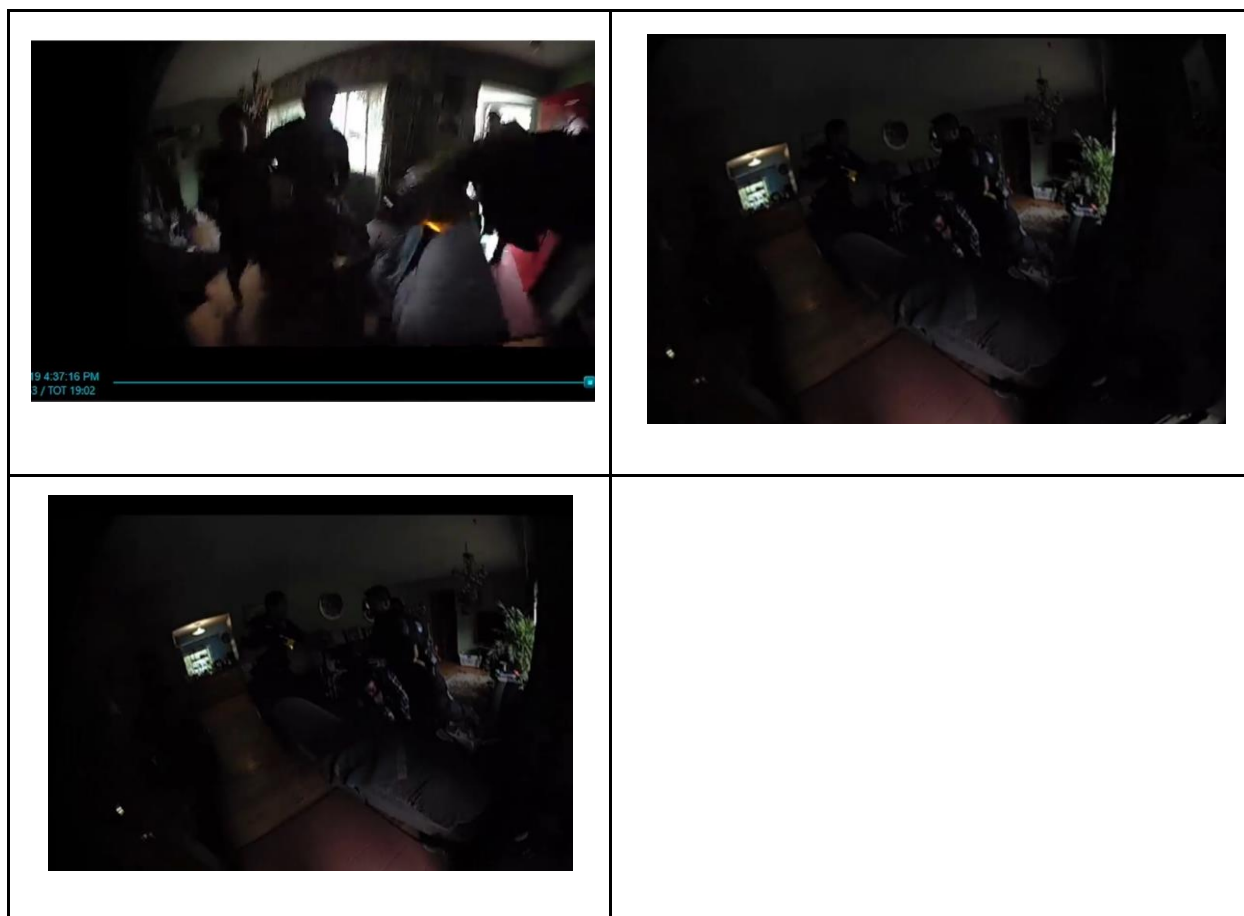
### HCAO Main Point #3: Kobe Had Hidden a Knife in the Couch

Mike Freeman asserts that because the officers checked Kobe for weapons and found none, and there were no other weapons visible, that the Officers knew Kobe had retrieved it from a hidden or unseen area. He says, “ An objectively reasonable officer in this situation would deduce that Mr. Dimock-Heisler hid the weapon intending to use it and that any assault was therefore planned to be deadly...The fact that he just retrieved the knife from a hiding spot suggested that he intended to use it in a deadly manner and that he may have been planning to use it.”

#### Counter Analysis

- 1. Kobe did not hide a knife in the couch nor plan to assault the officers.** Mike Freeman claims Kobe had hidden the knife in the couch on purpose, however, the BWC shows that Kobe wasn’t running towards the couch but the officers blocked him and knocked him onto the couch. The following photo set, shown left to right, from Officer Turners’ and Akers’ BWC footage (last two photos) shows that the officers blocked him from leaving and that he was pushed into the couch by them.





#### HCAO Main Point #4: Kobe Attempted to Attack Officers and Stab Officer Vu

Even though “Officer Vu could not see Mr. Dimock-Heisler’s hands, did not see a knife, and did not know until later that Mr. Dimock-Heisler was trying to stab him”, Mike Freeman asserts that not only did Kobe hide a knife, but he had planned to attack officers and had attempted to stab Officer Vu. Freeman wrote that because Kobe did not want to be placed on a 72-hour hold, Kobe “ultimately resorted to the drastic measure of assaulting a police officer to avoid this outcome at all costs.”

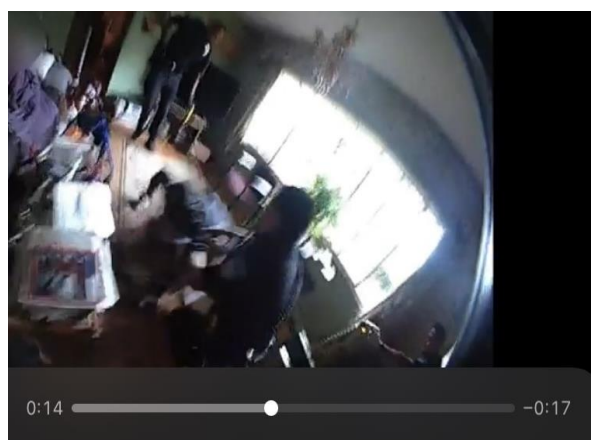
According to Freeman’s report, “Mr. Dimock-Heisler lunges at Officer Vu with the knife, goes past him, hits the ground, then gets up and attempts to attack the officers again before being shot.” In the description of Officer Turner’s statement, Freeman said, “at that point, Officer Turner saw Mr. Dimock-Heisler holding a red knife in his right hand and trying to stab officer Vu in the head.”

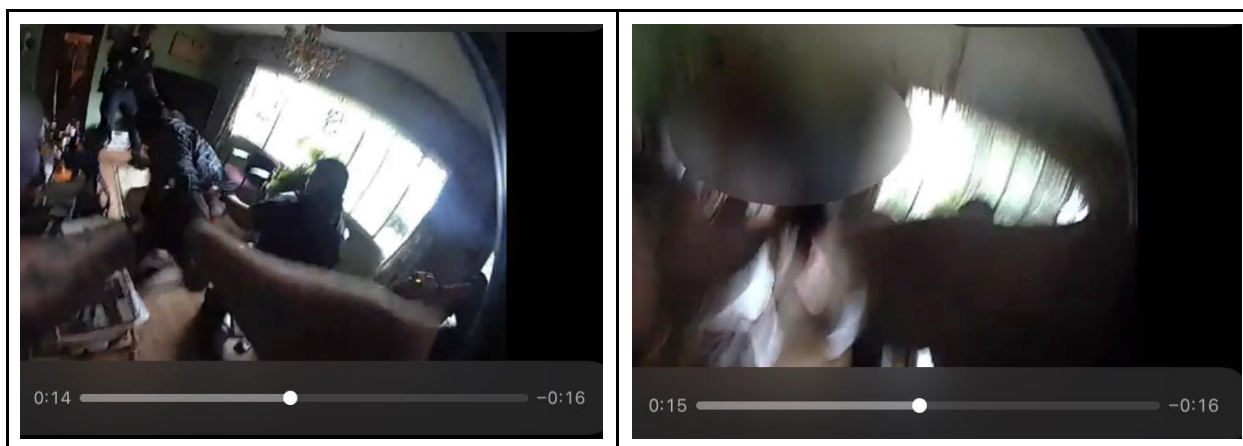
#### Counter Analysis

- 1. Kobe did not try to stab Officer Vu.** Kobe was attempting to flee the room. Officer Vu was attempting to go hands on with Kobe and throughout the incident, tried to have

a grip on Kobe's legs. After Kobe had gotten up off the overturned sofa, Officer Vu grabbed ahold of Kobe's shorts, pulling them down. Kobe tripped and fell.

The following photo set from Officer Akers BWC (shown left to right) shows that after Kobe had been tripped by Officer Vu, he was seated on his butt on the floor. He puts his weight forward, tucks his leg under his body, and attempts to stand up. He rocks forward, has his right knee and **right hand** on the floor as he attempts to stand. As he rises from the floor, his hands are in front of him and he tucks his head down, in a protective position. As Kobe is attempting to stand up, Officer Vu is seated two to three feet behind Kobe. Kobe's right arm is at least an additional three to four feet from Vu's head and vital organs due to Kobe's height. Additionally, Kobe is using his right hand to hold his weight and balance himself as he tries to stand. There is no possibility that Kobe was stabbing and thrashing at Officer Vu.





### HCAO Main Point #5: Kobe Did Not Submit or Surrender to the Officers

Mike Freeman further justified the officers' use of deadly force by saying that Kobe did not submit or surrender to the officers. Freeman repeatedly states that the officers tried to tase Kobe but they "had no effect on him." He asserts that because the TASERS had no effect on Kobe, it meant that he "would not give up and submit to the officers and would continue his assaultive behavior. Importantly, it also demonstrated that a higher level of force would be necessary to subdue Mr. Dimock-Heisler while he was armed with a knife."

### Counter Analysis

1. **First and foremost, the officers improperly used their TASERS on Kobe.** It is likely that Kobe never felt the effect of the TASER, or if anything, he felt pain from the probes. The officers fired their TASERS at too close of a distance for them to have the intended effect of neuromuscular incapacitation. **The officers' failure to deploy their weapons as they were trained and per their policy cannot be equated to Kobe's alleged refusal to "submit" to them.**
2. **Second, Kobe did not have "assaultive behavior", he was eloping from a stressful situation as many individuals with autism do.** None of the claims that Mike Freeman nor the officers made about Kobe's aggressive or assaultive behavior are in congruence with the body-camera footage. Kobe did not rush the officers or his grandma; he was attempting to flee the room. Kobe was being tackled and grabbed by Officer Vu, but Kobe never attempted to kick, punch, or push at him. Kobe was tripped by Vu, and then attempted to stand up. He never tried to stab or thrash at Vu. He was simply standing up and regaining his balance. Kobe was trying to flee, not assault the officers.
3. **Kobe was given no commands to "stop", "drop the knife", or to "show his hands" and therefore, given no reasonable opportunity to surrender or submit to officers.** The only command Kobe was given was to "get on the ground" as he was being tackled and pushed into the couch by Officers Vu and Holt. Therefore, Kobe was given no reasonable commands to comply with. Again, the officers' failure to issue commands does not equate to Kobe's alleged refusal to submit.

4. **The officers gave no warning of their use of TASERS or deadly force, and therefore, gave Kobe no reasonable opportunity to surrender to them.** Despite being required by law and their policy to issue warnings before use of deadly force or TASER use, none of the officers did so. Kobe was not made aware, as he was fleeing, that they would be escalating their level of force. He had no opportunity to surrender to them because they did not give him commands and they did not give him a verbal warning. Again, officers' failure to issue a verbal warning does not equate to Kobe's alleged refusal to submit.

#### **HCAO Main Point #5: Officers Were Justified Under the Reasonable Police Officer Standard**

Freeman concluded that, "the force used by Officers Turner and Akers was proportional to the threat Mr. Dimock-Heisler posed. Mr. Dimock-Heisler was armed with a knife, an instrument capable of causing great bodily harm or death. The fact that he just retrieved the knife from a hiding spot suggested that he intended to use it in a deadly manner and that he may have been planning to use it. Mr. Dimock -Heisler's act of making stabbing or thrusting motions with the knife in close proximity to Officer Vu's vital organs is also evidence that Mr. Dimock-Heisler intended to kill Officer Vu or cause great bodily harm. Because the officers faced deadly force, it was lawful for them to respond with equal or greater force, especially since their attempts at less lethal force (TASERs) had been ineffective. Here, with an armed attacker in a confined space the most appropriate and proportional force was deadly force. Under these facts, the officers' decision to do so was objectively reasonable and no criminal charges against Officers Turner and Akers are supported."

#### **Counter Analysis**

**Following the analysis laid out in the entirety of our report, we refute Mike Freeman's conclusion. Alternatively, we argue that:**

1. **Kobe did not pose a threat to the officers, as he was trying to flee from them.**
2. **Kobe did not hide a weapon in the couch nor premeditatively intend to assault officers with it.**
3. **The officers created an unsafe situation with Kobe by:** not properly separating witnesses, escalating a calm Kobe by using it as a training opportunity for their incompetent trainee officer, failing to communicate essential information among each other, improperly using their TASERs, failing to give proper commands and verbal warnings of force, and thus denying Kobe a reasonable opportunity to comply with the officers.

In conclusion, we assert that:

- A. The officers who used deadly force violated Kobe's fourth amendment rights to be free from unlawful seizure when they fired their weapons at a fleeing person.
- B. The officers who tased Kobe violated Kobe's fourth amendment rights when using

TASERs in violation of department policy by failing to give Kobe warnings and a reasonable time to comply.



## Appendix A. 911 Calls

[First 911 Call](#)

[Second 911 Call](#)

[Third 911 Call](#)

### First 911 Call

August 31st, 2019 at 4:17:38 PM, 1 minute 36 seconds	
Speaker	Transcript
911	911 what's the address of your emergency?
Erwin Heisler	(no response)
911	Hello?
Erwin Heisler	Yes, I have an emergency.
911	What's the address, sir?
Erwin Heisler	5918 Halifax Avenue North.
911	What's the emergency?
Erwin Heisler	My, my grandson has gotten violent. He's (threatening us)
911	Okay. How old is he?
Erwin Heisler	21.
911	M-kay. Does he have any weapons?
Erwin Heisler	Well, he just has a hammer and a knife...
911	Does he have them in his hand?
Erwin Heisler	Yeah.
911	Okay. And is he still in the house with you?
Erwin Heisler	Yes.
911	Alrighty. What's your name, sir?

Erwin Heisler	Erwin Heisler.
911	Okay. Does he know you're calling the police?
Erwin Heisler	No, probably not.
911	Alrighty. Is he gonna fight with the police?
Erwin Heisler	I hope not. No probably not. I don't think so.
911	Has he been drinking or doing any drugs today?
Erwin Heisler	No.
911	Okay. Does he have access to any vehicles?
Erwin Heisler	No, probably not.
911	Okay. When you say probably not, Erwin, what do you mean?
Erwin Heisler	No, he doesn't.
911	Okay, Alright. And no drinking and no drugs?
Erwin Heisler	Not to my knowledge.
911	Will you put out my domestic?
911	You been fighting physically? Like has he hit you?
Erwin Heisler	No.
911	Pushed you? Shoved you?
Erwin Heisler	No.
911	Anything?
Erwin Heisler	No.
911	But he's carrying around a hammer and a knife threatening you?
Erwin Heisler	Oh forget it.
911	No. No, Erwin.
-	(short pause)
Erwin changes his mind and disconnects the call.	

## Second 911 Call

Time withheld, 9 seconds	
Speaker	Transcript
-	Busy signal
911	(inaudible)
911 attempts to call Erwin back but he does not answer.	

## Third 911 Call

Time withheld, 37 seconds	
Speaker	Transcript
-	Dial tone/phone ringing
Erwin Heisler	Hello.
911	Erwin? This is the police department.
Erwin Heisler	He's probably gonna be okay. Just forget it.
911	Well we're not gonna forget it. We're on the way out there, okay? I just needed to get some in, additional information such as did you...are you still there with me?
Erwin Heisler	(no response)
911	Erwin?
Erwin Heisler	(no response/couple second pause)