

October 13, 2023, Video Conference with Jeff Noble

Present: Jeff Noble, expert witness; Mary Moriarty, Hennepin County Attorney; Mark Osler and Sarah Davis, Deputy County Attorneys; Dominick Mathews, Managing County Attorney, Patrick Lofton and Joshua Larson, Senior Assistant Hennepin County Attorneys; Laura Vang, Case Management Assistant.

Meeting Notes:

- Mr. Noble agreed to meet with the above-listed HCAO staff to check in on his progress in reviewing the initial investigative material related to the death of Ricky Cobb and to discuss preliminary impressions and questions. Mr. Noble had been in possession of the materials for approximately three weeks. The discovery contained reports, videos, photos, and a limited amount of State Patrol policy and training materials.
- Mr. Noble acknowledged that he did not yet have opinions formalized in writing, but he was willing to discuss the case preliminarily. He acknowledged that two primary issues for his review are:
 - Whether Trooper Londregan's use of deadly force was reasonable at the moment it was used.
 - Whether Trooper Londregan and Trooper Seide's actions prior to the shooting were reckless such that they created an unreasonable danger which resulted in Trooper Londregan using deadly force.
- Regarding the reasonableness of Trooper Londregan's actions, Mr. Noble acknowledged that the review is complicated by Trooper Londregan's refusal to provide a statement. When officers do not provide statements, we do not know their actual reasoning. Specifically, here, we do not know whether Trooper Londregan fired at Mr. Cobb because he feared for his safety or Seide's safety or simply because he did not want Mr. Cobb to flee.
- Mr. Noble offered that, if Trooper Londregan shot Mr. Cobb simply to prevent him from fleeing, he would deem the use of deadly force to be unreasonable. However, Mr. Noble stated that his opinion would change if Trooper Londregan shot Mr. Cobb because he feared for Trooper Seide's safety. Mr. Noble stated that, given Trooper Seide's position in the vehicle at the time of the shooting; the likelihood that Trooper Londregan perceived that Mr. Cobb was attempting to drive away; and the likelihood that Trooper Londregan perceived that Mr. Cobb's vehicle was in motion, a reasonable officer in Trooper Londregan's position would have perceived that Trooper Seide was in danger of death or great bodily harm, specifically from being dragged by the vehicle as it continued to accelerate.
- Mr. Noble listened to concerns about using deadly force at that moment, specifically after Mr. Cobb's vehicle traveled forward, and concerns about whether it was reasonable to believe that using deadly force would incapacitate the immediate threat of Trooper Seide being dragged. It was noted that, despite two fatal gunshot wounds, Mr. Cobb still drove away, knocking down the troopers. Mr. Noble listened to additional concerns that there may have been other reasonable alternatives to deadly force at the moment Trooper Seide shot Mr. Cobb. Two alternatives were posited: (1) Doing nothing and waiting for the situation to play out without shooting Mr. Cobb or (2) verbally encouraging Trooper Seide to remove himself from Mr. Cobb's vehicle. Mr. Noble was asked whether, given these potential alternatives (i.e. doing nothing or focusing on encouraging Seide to exit the car), the use of deadly force was "necessary" at the time it was used, as the term "necessary" is used in Minn. Stat. 609.066. Mr. Noble acknowledged that the word "necessary" is complicated and tricky, and it is unclear what state legislatures mean when they include it in their use-of-deadly-force statutes. Mr. Noble stated that he could not offer an opinion on what "necessary" means under Minnesota Statute.
- Mr. Noble noted that, generally, when viewed from the perspective of modern police practices and training, the concept of "reasonably perceiving a threat of death or great bodily harm" and the concept of "reasonably believing deadly force is necessary to respond to the threat" are intertwined. Mr. Noble also noted that the necessity of using deadly force frequently is difficult to evaluate in cases because, if deadly force is used in a rapidly-evolving situation, no one can know what would have occurred in its absence.



- Regarding this case, Mr. Noble acknowledged that Trooper Londregan likely believed that, by shooting Mr. Cobb, it would have incapacitated Mr. Cobb and prevented Mr. Cobb's vehicle from dragging Trooper Seide. Ultimately, Trooper Londregan did not incapacitate Mr. Cobb, and Mr. Cobb drove away, knocking down Trooper Seide in the process. However, it is impossible to know what would have happened if Trooper Londregan had not shot Mr. Cobb. The key to the analysis is to determine whether, at the moment force was used, a reasonable officer in Trooper Londregan's position would believe that he needed to act without delay and whether the level of force authorized would include deadly force. Mr. Noble refrained from offering an ultimate opinion during the meeting on whether a reasonable officer would have believed that deadly force was necessary to prevent death or great bodily harm when Trooper Londregan shot Mr. Cobb.
- Mr. Noble listened to concerns about the risks inherent in Trooper Londregan's decision to shoot Mr. Cobb, including the risk that he could have shot Trooper Seide or another vehicle or person on the roadway or the risk that the vehicle still could proceed down the internet but without anyone controlling it. Mr. Noble offered that Trooper Londregan's decision to shoot so close to his partner was "not the best decision," but, since he did not injure Trooper Seide, that is "not an important issue in the case." Regarding the notion of Trooper Londregan shooting so close to his partner, Mr. Noble stated, "You could say 'He *shouldn't* shoot because Seide is so far in the car,' but you could also say, 'He *should* shoot because Seide is so far in the car.'"
- Mr. Noble noted that the *Graham* standard for evaluating an officer's use of force requires us to grant some deference to Trooper Londregan's decision-making, though it is often unclear to identify how much deference to give. Mr. Noble offered that he did not view this case to involve Trooper Londregan making a "split-second" decision, but Trooper Londregan did act in a quickly evolving situation.
- Mr. Noble clarified a distinction between mere "risks" and actual "threats." Deadly force cannot be used in response to a "risk" of great bodily harm or death. Instead, such force can be used only in response to actual threats. Mr. Noble opined that, in this case, a reasonable officer in Trooper Londregan's position would have viewed the threat to Trooper Seide to be real. Mr. Noble stated, "The danger was not hypothetical."
- Mr. Noble also addressed the troopers' actions prior to the shooting and whether the troopers arguably created the danger which resulted in Trooper Londregan using deadly force. The group viewed several slow-motion videos of the incident and discussed the specific factual sequence of events. Mr. Noble observed that Mr. Cobb's vehicle was moving forward before the troopers entered his vehicle and acknowledged that, if Trooper Seide never entered Mr. Cobb's vehicle, Trooper Londregan would not have been placed in the situation which prompted his use of deadly force.
- Mr. Noble did not acknowledge review of the training materials provided to him except that Mr. Noble asked whether the prosecutors could obtain additional training materials or information on how the troopers were trained on extricating people from vehicles, esp. vehicles which are running and moving.
- Mr. Noble volunteered that he was prepared to opine that Trooper Seide should not have reached into the vehicle. Mr. Noble also offered that, if the plan was pull Mr. Cobb out of his moving car, that was a "bad idea." However, Mr. Noble noted that, even if Trooper Seide's decision to enter Mr. Cobb's vehicle was unreasonable, this determination does not necessarily make Trooper Londregan's use of deadly force unreasonable. Mr. Noble acknowledged that, even if Trooper Seide should not have entered Mr. Cobb's vehicle (because he created the danger to himself), Trooper Londregan still was authorized to reasonably respond to the danger to Trooper Seide.
- Mr. Noble requested more time to review the case and consider issues raised in the meeting. Mr. Larson offered to check in with Mr. Noble in the next week to discuss a timeline going forward.