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24th Judicial District Attorney
Parish of Jefferson

IN RE: Keeven Robinson

This is the final report of the circumstances, the investigation and the determination of criminal responsibility for the officer-involved death of Keeven Robinson on May 10, 2018.

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I. INTRODUCTION

A. Role of the District Attorney

The role of the District Attorney in this investigation and review is limited to determining whether potential violations of Louisiana criminal laws occurred, whether any person may be held criminally responsible, and whether any such criminal responsibility can be proven beyond a reasonable doubt in a court of law.

The District Attorney's foremost obligation in any criminal case is to seek justice. This is done by pursuing the evidence and the law without political consideration and according to the highest standards of ethics and integrity. Prosecutors are well-situated to conduct independent inquiries, reviews and assessments of use of force cases but must maintain their independent stature when doing so.

The District Attorney does not establish policy, practices, or procedures for any law enforcement agency and is not their legal representative. The District Attorney has no legal responsibility for determining whether disciplinary actions are appropriate for law enforcement personnel and does not represent law enforcement agencies in civil legal actions.

There are, however, established practices between the Jefferson Parish Sheriff's office (JPSO) and the District Attorney's office requiring consultation with the District Attorney for a determination of criminal responsibility on the part of an officer involved in the death of a suspect or arrestee.

Under Article 5, Section 26 of the Louisiana Constitution, the District Attorney "...shall have charge of every criminal prosecution by the State in his district." He has the power to bring or dismiss any state criminal charge. The same provision also designates the District Attorney as the legal representative of the Grand Jury and its legal advisor.

When presenting cases to a Grand Jury, the District Attorney is bound by certain legal and ethical standards. First, he must determine that the evidence warrants a conviction. (La.C.Cr.P. art. 443) Additionally, under the Rules of Professional Conduct, prosecutors are required to "refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause"(Rule 3.8).

The standard of proof for any state criminal charge is proof beyond a reasonable doubt. This is the highest standard of proof in the law, and every element of any charge must be proven beyond a reasonable doubt to obtain and support a guilty verdict.

As District Attorney, my oath requires that my office determine the facts from an objective and neutral perspective without regard for the parties involved. Once the facts are established, my office must determine which laws govern a specific set of facts and circumstances.

B. Summary

Beginning in the early part of April 2018, JPSO narcotics agents conducted an undercover investigation of Keeven “Maxx” Robinson, who was suspected of trafficking cocaine and heroin on the East Bank of Jefferson Parish. During their investigation, agents determined that Robinson utilized a black Mitsubishi Outlander with tinted windows and a temporary tag to bring drugs from his residence in Orleans Parish into a Shrewsbury neighborhood of Jefferson Parish where he would conduct his narcotics transactions. On May 10, 2018, investigators implemented their previously formulated plan whereby they would follow Robinson as he left his residence in New Orleans and travelled to Jefferson Parish. Pursuant to the plan, the agents would stop Robinson once he was in Jefferson Parish. However, while attempting to make the stop Robinson fled from the agents, first in his vehicle and then on foot. The agents ultimately apprehended him in a backyard, where a struggle ensued as Robinson resisted the efforts of the four agents who were attempting to take him into custody. Shortly after the agents secured Robinson in handcuffs, they discovered he was unresponsive. Despite life-saving efforts by several officers, EMTs and hospital staff, Robinson died. [Read JPSO Narcotics Investigation Report.](#)

C. The Apprehension of Keeven “Maxx” Robinson

During the month of April 2018, members of the JPSO Narcotics Division Group III, including Agents David Lowe, Jason Spadoni, Gary Bordelon, Justin Brister and Sgt. Joseph Waguespack, began investigating Robinson after learning from confidential informants (CIs) that Robinson was trafficking heroin and cocaine on the east bank of Jefferson Parish.

During their ongoing investigation, agents obtained information from CIs that Robinson stored narcotics at his New Orleans residence. CIs further indicated that Robinson was armed while conducting the narcotics transactions in which they were involved. Agents also learned that Robinson would routinely travel from his residence in a black Mitsubishi Outlander into a Shrewsbury neighborhood on the east bank of Jefferson Parish, where he would then distribute his narcotics from the rear yard of his mother’s residence. It was later determined that Robinson had obtained use of the Outlander in exchange for \$50.00 worth of heroin.

Upon conducting research into Robinson, investigators learned he had a criminal history - including arrests and convictions for narcotics charges, weapons violations,

resisting arrest and flight from police - and that he was on probation for being a convicted felon in possession of a firearm. [Read Keeven Robinson's criminal history.](#)

After narcotics agents utilized CIs to make controlled purchases of heroin from Robinson, they conducted covert surveillance to verify his pattern of travel from Orleans Parish to Jefferson Parish where he would conduct narcotics transactions. During this time, the agents observed that Robinson's actions were consistent with someone familiar with law enforcement surveillance techniques.

Based on their investigation, agents strongly suspected that Robinson would be armed and in possession of narcotics which increased the probability that he may attempt to evade arrest. The fact that Robinson was on active probation for being a convicted felon in possession of a firearm further elevated their concerns that he may be armed.

In light of Robinson's documented criminal history and the information the agents had gathered, they determined that the best course of action would be to isolate him from his vehicle to make their stop, thereby avoiding the inherent danger that a vehicle pursuit would pose to the agents and the public at large. Agents formulated a plan to follow Robinson as he left his residence in New Orleans and travelled to Jefferson Parish.

On May 10, 2018, agents executed their plan and followed Robinson as he drove the black Mitsubishi Outlander from his residence in New Orleans into Jefferson Parish via the Earhart Expressway. Agents were occupying several unmarked JPSO units with Waguespack, Guidry, Lowe and Brister clad in civilian attire with ballistic vests prominently displaying the word "Sheriff." Due to their knowledge that Robinson was extremely conscious of law enforcement surveillance, Spadoni and Bordelon elected to forgo their ballistic vests in anticipation of being the lead units of the rolling surveillance portion of the operation which followed Robinson.

The agents briefly lost sight of Robinson, but they re-established visual contact on Robinson at approximately 10:06 a.m. when he was observed to exit his vehicle and enter the Shell station at 2401 Jefferson Hwy. Waguespack radioed other agents to converge on the Shell station to stop Robinson. Waguespack turned into an entrance to the Shell station, off Labarre Place, while Lowe drove onto the property from another entrance at Labarre Road. As Robinson exited the business, he readily identified the undercover agents. He then quickly got into his vehicle and drove out of the parking lot at a high rate of speed. In doing so, he collided with the rear driver's side bumper of Waguespack's unmarked unit. [View photograph of vehicle damage.](#)

Robinson sped out of the Shell station turning north onto Labarre Place and into the adjoining residential neighborhood. Waguespack, Lowe, and Guidry pursued, activating their emergency lights on their unmarked police vehicles in an effort to stop Robinson. While fleeing the agents, Robinson approached the intersection of Lurline

Drive and Labarre Place, driving against traffic while approaching Spadoni who was traveling southbound on Labarre Place. Spadoni activated the police emergency lights on his unmarked police vehicle in an effort to stop Robinson; but, Robinson refused to stop, as he continued driving head-on towards Spadoni's unmarked vehicle. At the last moment, Spadoni swerved to avoid a head-on collision. The vehicles collided and spun out near the intersection of Labarre Place and Lurline Drive. [View map of vehicular flight path.](#)

Lowe, who began his pursuit of Robinson's vehicle at the Shell Station, arrived at the crash scene and positioned his vehicle in front of Robinson's vehicle to prevent him from fleeing again. As he was exiting his vehicle he observed Robinson frantically trying to get out of his car. Simultaneously, other agents who had been pursuing Robinson from the Shell station arrived at the crash scene. [View photograph of crash scene.](#)

At that point, Robinson exited his vehicle and fled on foot. As Robinson fled from his vehicle, agents again identified themselves as police officers and ordered Robinson to stop, but to no avail. Robinson quickly scaled a six foot fence located between #7 and #9 Labarre Place, and then continued running through yards and jumping fences as agents pursued him on foot. Robinson ran across Lurline Drive and then around 606 Lurline Drive with agents in pursuit. Spadoni later recalled that during the foot pursuit he saw a black female who yelled to Robinson, "Quit running. You know you got asthma." Other agents recalled only hearing a woman yelling. Detectives later identified this woman as Robinson's cousin, Shantrell Moran. [View map of foot pursuit.](#)

Robinson fled back across Lurline Drive, in between 601 Lurline Drive and 605 Lurline Drive, where he jumped a 4-foot-high chain link fence into the rear yard of #11 Labarre Place. While attempting to make good his escape by climbing over a 6-foot-high wooden fence separating #11 Labarre and #15 Labarre Place, Brister caught up with him. View photographs of 6-foot fence [here](#) and [here](#).

Unable to get over the wooden fence, Robinson disregarded Brister's verbal commands to stop and surrender. Robinson then assumed a fighting stance, and a struggle ensued as Brister tried to subdue Robinson and take him into custody. As Robinson continued to struggle and resist Brister's efforts, Brister was joined by Spadoni, Bordelon and Lowe. Agents were eventually able to take Robinson to the ground where he continued to actively resist. Throughout the struggle, which agents estimated lasted two to five minutes, their concern that Robinson may have been armed with a weapon was heightened by his continued resistance and his refusal to obey their verbal and physical commands to remove his hands from underneath his body in the area of his waistband.

Spadoni pinned Robinson's legs and fought to gain control of his arms as Robinson continually attempted to raise his head and upper body while thrusting both arms underneath his body reaching towards his waistband where a weapon may have been concealed. In response to Robinson's actions, Lowe focused his attention on Robinson's upper body, head and shoulders. Simultaneously, in an effort to handcuff Robinson, Bordelon assisted Brister in gaining control of Robinson's left arm. The agents were ultimately successful in handcuffing Robinson.

Detective William Whittington of the Major Crimes Multi-jurisdictional Task Force arrived on the scene within minutes of Robinson being handcuffed. Brister and Bordelon were with Robinson when Whittington arrived. Both agents were winded and trying to catch their breath and Robinson was handcuffed in the prone position. Whittington attempted to speak to Robinson but he did not respond. After a few moments a second attempt to engage Robinson was made to no avail at which time they rolled Robinson over and found an asthma pump underneath him. After learning that Robinson may be an asthma patient, Whittington attempted to conduct a sternum rub which is a technique used by law enforcement to test the level of consciousness. Whittington then attempted to find a pulse and was unsuccessful. Brister immediately began administering chest compressions and a request for EMS was expedited.

Detective Thorin Guidry, who participated in the pursuit of Robinson but did not witness his apprehension, arrived in the area and found Spadoni out of breath and sweating. Spadoni sat in Guidry's truck while Guidry went to locate and assist the other officers. When Guidry arrived in the rear yard of #11 Labarre Place, Brister was performing chest compressions on Robinson. Guidry relieved Brister and took over chest compressions on Robinson.

EMT Tammy Dardar was the first medical personnel to arrive on the scene and immediately took charge of administering aid to Robinson. She then took over CPR and Guidry continued to assist with the breathing bag. Despite the efforts of Brister, Whittington, Guidry and the EMTs, Robinson showed no signs of life. EMTs transported Robinson to Ochsner Medical Center (Ochsner) on Jefferson Highway where he was pronounced dead.

Prior to EMTs transporting Robinson to the hospital, they requested that JPSO search Robinson's person. As a result, JPSO 1st District Patrol Sgt. Shawn Minnis searched Robinson's person; and, in addition to the asthma inhaler, he found the following items on Robinson:

- \$248 in cash;
- A clear plastic bag containing 30 individual bags of heroin, with a gross weight of 10.4 grams;

- One .9 gram rock of heroin;
- A bag containing 7.8 grams of a white powdery substance of which field-tested positive for cocaine but “no controlled dangerous substances” were detected at the laboratory and;
- 1.1 grams of marijuana.

The narcotics were found in a bag hidden in Robinson’s genital area. The cash was located in his left pants pocket and included the following denominations: 7- \$20.00 bills, 6- \$10.00 bills 4-\$5.00 bills and 28- \$1.00 bills. View photographs of evidence [here](#), [here](#) and [here](#).

JPSO homicide detectives, crime lab technicians and a Coroner’s office death investigator were dispatched to the scene and to Ochsner. Spadoni, Brister, Lowe and Bordelon were directed to the JPSO Criminal Investigations Bureau where they were separated and provided audio recorded interviews to homicide detectives. Read transcripts of agents’ first statements: [Lowe](#), [Spadoni](#), [Brister](#) and [Bordelon](#).

A search of the vehicle Robinson was driving revealed in plain view between the driver’s seat and the door jamb a black Springfield XD .40-caliber semiautomatic pistol. The pistol had one round in the chamber and 14 rounds in the magazine. There was a fraudulent temporary tag on the vehicle with an altered expiration date. Additionally, the following items were found: three cell phones, a partially burned marijuana blunt, a backpack containing a nebulizer machine, 12 albuterol vials, a bottle of antibiotics in Robinson’s name, an empty bottle of Prednisone (a corticosteroid used for breathing issues), three empty inhalers, one Advair inhaler with 57 doses depleted from 250, and one bottle of Flonase. View photographs of evidence: [Mitsubishi Outlander](#), [driver’s seat](#), [closer look at driver’s seat](#), [pistol next to driver’s seat](#), [the pistol](#), [the magazine](#) and [the bullets](#).

While JPSO investigators processed the crime scenes on Jefferson Highway and Labarre Place, a search warrant was obtained for Robinson’s primary address, 3017 Audubon St., in New Orleans. During the search the investigators located \$1,777.00 in U.S. currency in Robinson’s bedroom.

JPSO investigators also retrieved surveillance video from the Shell station depicting the agent’s initial effort to stop Robinson at that location. A review of the time/date stamp on the **video** by Detective Zeagler revealed the time depicted on the video to be one minute and thirty seconds fast. The time stamp indicates that Robinson fled the Shell station at 10:08:35, making the actual time that he fled the station approximately 10:07. [View Shell video](#).

On May 12, 2018, at 7:00 a.m., Dr. Van Vo, a pathologist with the Jefferson Parish Coroner's Office, performed a forensic autopsy on Robinson. Dr. Vo's examination revealed signs of trauma, specifically hemorrhaging of the soft tissues located on Robinson's neck and separation of the hyoid bone from the thyroid cartilage. In addition, she noted a lacerated left vertebral artery and separation of the 1st and 2nd cervical vertebrae.

Based on her preliminary findings, Dr. Vo determined that Robinson died as a result of compressional asphyxia and blunt force trauma; thus, his death was classified as a homicide. Asthmatic exacerbation is listed as contributing to Robinson's death. [Read Coroner's Office report.](#)

Based on Dr. Vo's classification of Robinson's death as a homicide, JPSO homicide detectives interviewed Spadoni, Brister, Bordelon and Lowe a second time. These interviews were video-taped and conducted by Homicide Commander Lt. Donald Meunier and Sgt. Thomas Gai. In light of the preliminary autopsy findings, the homicide detectives advised the narcotics agents of their *Miranda* rights before conducting the interviews. The agents waived their *Miranda* rights and voluntarily submitted to these interviews.

During these video-taped interviews each agent gave detailed accounts of his actions as well as what he was able to view and recall as to the specific actions of the other detectives. All of the agents denied the use of a chokehold or intermediate weapon such as a taser or baton during the struggle to arrest Robinson.

Agent Brister

Brister recounted that as he was pursuing Robinson on foot, Robinson "grabbed both hands on the fence (four foot chain link) and went over the fence." He then described Robinson trying to scale a six-foot wooden fence, failing and being cornered. He stated "[h]e then turns around kind of like in a fighting stance...kind of lowered his center of gravity um, kind of balls up his fist and uh like wider stance with his feet...I just with my momentum um, kind of like push him into the wooden fence to knock him off balance and from there he starts spinning around trying to punch me but we're like in very tight quarters so he's not quite able to – to make contact with me. Um, we're so tight in that little small space so um, I couldn't really defend myself by punching him cause we were too close so I threw a couple of elbow strikes. Uh, I think making contact with his head. ... It could have been the left side or maybe the back of his head."

Brister went on to depict the scene as having a width of three to four feet, with two fences and a structure enclosing the space. He relates that he attempted an armbar takedown that did not work. However, as he and Spadoni attempted to gain control of Robinson, he employed a leg sweep that did cause Robinson to fall to the ground but he continued his efforts to get up. He then delivered a couple of knee strikes to the left

side of Robinson's body. [Read Brister's second statement](#). View photographs of rear yard, [here](#) and [here](#).

Agent Spadoni

Spadoni described pursuing Robinson who hopped a four-foot chain-link fence with him and Brister following and leaping over the fence. He recounts hearing a black female on the scene yelling something to the effect of "quit running you know you have asthma". Robinson then tried to scale a six-foot fence and failed. According to Spadoni, "[h]e got down on the ground and immediately took a fighting stance and after uh, we give him several of our verbal commands to get on the ground and surrender. He refused and that's when we went hands-on and that's when he proceeded to punch and kick."

Spadoni described pushing Robinson against the fence, getting him on his stomach and Bordelon and Lowe arriving. He stated that, "[w]e finally get him on the ground, when we do get him on the ground, he continues to fight...He continues to resist and continue(s) to reach for his waistband...He's locks his arms up (underneath his body)."

Spadoni reported Brister being on Robinson's left, himself on the lower back near and straddling Robinson's buttocks and the suspect holding his arms down in front of him reaching toward his waistband. He described, "Brister next to me, Bordelon on his left and Lowe on his head. When we was [sic] on the ground, trying to get him handcuffed, he was actively resisting... uh, kept rolling his body...kept uh, locking his arms, throwing his hands in the air. Kept going to his waistband continuing...uh. When we would almost get him, detained you and you know, placed in handcuffs, continue to fight, continue to roll. Uh, and try to basically at one point he even tried to stand up, uh, I mean eventually we were able to get him handcuffed and when we did, the fighting stopped." He asserted that he did not strike Robinson.

According to Spadoni, all the involved detectives were physically exhausted when Robinson was finally handcuffed. When questioned about Robinson's level of consciousness. Spadoni replied, "he was still fighting, he was still talking...we noticed he was bleeding from his left eye, we proceeded to call EMS." He estimates the encounter lasted three minutes. Spadoni further noted that "someone rolls (Robinson) over at that point and checks the pulse, no pulse, we immediately doing CPR." [Read Spadoni's second statement](#).

Agent Bordelon

Bordelon's role that day was surveillance of Robinson's vehicle. He was positioned on Labarre Road monitoring his radio. When Bordelon observed Robinson running, he followed in his car and ultimately met up with the other agents in a rear yard on Labarre Place. When Bordelon arrived he recalled encountering a scene in which Robinson "was physically all out resistant, I see him swing, I believe with his right hand, at Brister and then they kinda start to scuffle." Bordelon further detailed that the

struggle ‘was very physical...’ He described Robinson placing his hand near his waistband and being concerned because Robinson was known to carry a weapon. According to Bordelon, “[Robinson] was on his stomach and he was reaching underneath like toward his waist. You know, he wouldn’t come out with his hands and, for nothing. And at that time, we don’t know if he still, you know, if he has a firearm or anything on him.” Bordelon also related that “I have his arm, I kinda on my knees...he tried to push himself back, you know, to try to get to his feet and I delivered a strike to the left side of his face, kinda close to his eye while still holding onto that arm. Next I know I see a handcuff on that arm and I step back. Maxx (Robinson) was face down looking to the left.” According to Bordelon, Lowe’s knee was draped on the left side of Robinson’s face diagonally across his head and neck in front of his ear. [Read Bordelon’s second statement.](#)

Agent Lowe

Lowe described using open palm strikes to Robinson’s right face and the back of his head in an effort to keep him from raising up and potentially gaining control of a weapon. He stated that his priority was getting Robinson’s head under control stating “[a]t one point I do remember kneeling on his head. I don’t remember if I had both knees on his head, if I had one knee on his neck, if my hand was on his neck but I do remember my main focus was pinning his, pinning, his head to the ground.”

Lowe further elaborated “(Robinson) was never face down at any point. I know when I try to get his head down, he’s moving it (gestures head moving head back and forth). I got blood on (gestures to the insides of his calves) both of my legs from him jerking his head around. By the time I got his head under control I don’t remember if he was facing to his left or right. I just know I had good (inaudible word(s)) control of his head. I had at least one knee on his head (narrative interrupted)...on the (right) side of his face around the ear area, basically. I had at least one knee on his head. I don’t remember where my hands were. He wasn’t moving. He couldn’t move it at all...[h]e was still squirming.” According to Lowe the struggle lasted about two minutes and once Robinson was handcuffed Lowe laid back to catch his breath. [Read Lowe’s second statement.](#)

D. Jefferson Parish Sheriff’s Office Findings and Referrals:

JPSO conducted its investigation into this matter and found that based on the totality of evidence, the four named detectives acted in accordance with Louisiana law and the Sheriff’s office policy pursuant to the use of force. JPSO concluded that the force employed by the four officers and the manner in which it was employed was both reasonable and necessary. [Read the JPSO homicide report.](#)

On August 8, 2018, JPSO presented its report and findings to the Jefferson Parish District Attorney’s office. JPSO also presented its report and findings to the FBI and the Louisiana State Police. [Read the State Police report.](#)

Members of the District Attorney's office who review homicide and police use-of force cases were assigned to review the facts and circumstances surrounding the death of Robinson. They were also directed to obtain qualified, independent experts to evaluate the actions of the officers as well as the coroner's medical conclusions regarding the cause of death.

II. OTHER MATTERS CONSIDERED

A. Witnesses presented by Robinson family attorneys:

1) Shantrell Moran

On May 10, 2018, the day of the incident, Shantrell Moran was interviewed by WWL-TV. She identified herself as Robinson's cousin and told the reporter that she first saw Robinson while she was walking on Jefferson Highway. According to Moran, Robinson tried to turn his vehicle around to pick her up, but he ended up fleeing from the police officers. She also told the reporter that during the foot pursuit she overheard Robinson tell the police that he was tired but the police began beating him. She added that Robinson was not resisting arrest, but only running from police because he knew the police were going to beat him. [View Shantrell Moran's WWL-TV interview.](#)

Attempts by the JPSO to interview Moran had been unsuccessful. At our request, Moran arrived at the District Attorney's office for an interview on September 14, 2018, approximately four months after the incident. She was accompanied by Ms. Hester Hilliard, an attorney representing members of Robinson's family and who was present during the entire interview. Moran stated that while she was walking on Lurline Drive, she heard a crash coming from Labarre Place. Before she could turn around, she saw her cousin [Robinson] running from an alley between two houses being chased by two police officers. This contradicts Moran's statement to WWL on the date of the incident wherein she stated that she first saw Robinson on Jefferson Highway.

Moran recalled that she shouted to Robinson, "Maxx stop running, you know you have asthma." Moran then stated that she heard Mr. Robinson tell the police "I'm tired" as he was running from the officer.

In response to questions regarding her WWL interview, Moran was asked to explain why she reported that Robinson was running because "he knew" the police were going to beat him. Moran admitted she did not know why Robinson was running from the police, but was aware that "he had problems with the law over drugs and weapons." Although Moran stated that she was unaware if Robinson had any drugs or weapons on him at the time she saw him running, she agreed that may have been the reason that he was running.

Moran then detailed her location and Robinson's path as she witnessed Robinson running from the police, until the point where she said she saw him get on his knees, raise up his hands and surrender to the police (side yard of 601 Lurline Drive). Moran then advised that she saw two police officers restrain Robinson in a prone position while a third officer beat him on the right side of his face. She further indicated that only three officers, and not four, were engaged in the struggle with Robinson. She then stated that she ran to a neighbor's house to call Robinson's mother. She stated that upon returning to Lurline Drive and Labarre Place she witnessed the ambulance and police presence. Moran advised that she knew of no other witnesses to the event.

During the interview, Moran advised that she had previously been interviewed by members of the FBI. During her FBI interview she accompanied them to the scene for the purpose of detailing her observations but advised that the FBI did not find her statement to be truthful.

In an effort to better understand where Moran was positioned in relation to the events she had described, the assistant district attorneys requested that Moran and Ms. Hilliard accompany them to the scene. At the scene Moran pointed out places of significance to the investigation. Moran again indicated that the struggle she witnessed between Robinson and the officers took place in a side yard on Lurline Drive, as opposed to the rear yard of #11 Labarre Place where it actually took place.

Based on the fact that Moran's statements were inconsistent with the evidence, she was again interviewed on November 13, 2018, by the Chief Investigator for the District Attorney, Vince Lamia. This follow-up interview was audio-recorded. During this interview, Moran stated that she first saw Robinson on Lurline Drive. This contradicts her statement to WWL-TV on the day of the incident in which she indicated that she first saw him on Jefferson Highway. Moran reiterated that the struggle she witnessed between Robinson and the officers took place in a side yard on Lurline Drive, as opposed to the rear yard of #11 Labarre Place where the apprehension occurred. She also stated that there were only three, not four officers involved in the struggle. When asked if the events could have taken place in the rear yard of #11 Labarre Place, where it actually occurred, Moran stated "if it was on that side of the fence, I would not have been able to see anything. Because I wasn't going to walk back in that alleyway while, you know, the police is doing their job, or whatever." [Read Shantrell Moran's statement.](#) [View Moran's scene diagram.](#) View Moran side yard photographs [here](#), [here](#) and [here](#).

2) **Shannon Brown**

On October 19, 2018, approximately five months after the death of Robinson, Attorney Hester Hilliard presented Shannon Brown to be interviewed by members of the District Attorney's office. Brown's interview took place on Labarre Place with Ms. Hilliard present. Brown advised that she did not witness any of the interactions between Robinson and the police, nor any of the events leading up to Robinson's death. Brown stated that she had just arrived at #17 Labarre Place and that from her vantage point,

she observed EMS personnel dragging “Keeven” from the rear yard area between #12 and #14 Labarre Place. She added that she observed the EMTs throw Keeven on a stretcher and that she could tell he was dead because he had a “broken neck and busted ribs.” However, what Brown described during her interview places the EMS activity with Robinson on the opposite side of the street from where Keeven Robinson was actually treated and transported.

B. Other Witnesses:

1) Natallia Phelan

On the day of the incident, Phelan was delivering mail in the area and heard the sound of cars speeding and a crash. She then observed a black male jump out of a car and start running, being chased by several police officers some wearing vests. She did not witness the officers apprehend Robinson. She contacted 911 at 10:07:48 and after struggling to communicate with the 911 operator, handed her phone to Detective Whittington who begins to speak to the operator. At 10:11:11 Whittington advised the dispatcher of the 14:108 (Resisting Arrest) and requested EMS. At 10:11:51 Whittington advises dispatcher that subject has a laceration to the face. Whittington ends the 911 call at 10:12:45. Her 911 call and her statement to the JPSO were reviewed by members of the District Attorney’s office. [Listen to Natallia Phelan’s 911 call.](#) [Read her interview transcripts.](#)

2) Officer Melvin Thompson

Deputy Melvin Thompson was the first uniformed officer to arrive on the scene. Thompson was patrolling a nearby neighborhood when he heard dispatch put out the call of the crash at the intersection of Labarre Place and Lurline Drive. This call went out at approximately 10:09:38 and Thompson arrived on the crash scene at 10:11:18.

At approximately 10:14:33, Thompson observed 2 narcotics agents walking out from the side yard of # 11 Labarre Place. Thompson could see that the agents were disheveled and showing signs of exhaustion which prompted him to make his own call to EMS for the “suspect” based upon the crash scene adding “need to look over a couple of deputies” based upon his observation of the agents. The statements of the officers establish that Robinson was already in custody before any agents exited the rear yard of #11 Labarre Place. [Listen to Melvin Thompson’s radio transmission.](#)

3) East Jefferson Emergency Medical Services (EJEMS)

EMT Tammy Dardar operated an EJEMS sprint unit. She was the first to arrive on the scene where one of the deputies directed her to a backyard area and advised her that CPR was in progress. When she arrived, Brister was performing CPR on Robinson. She asked him to briefly stop, so she could confirm pulselessness and then resume. Robinson was pulseless and not breathing on her arrival. She put Robinson on the

monitor and Thorin (Guidry) arrived with a personal mouth device. She told Brister to go sit down because he looked like he was going to pass out, but she was focused on Robinson and could not assist Brister. According to their statements, EMT's Joshua Hill and Kemberly Wilkerson arrived and were directed to the backyard where they located Tammy Dardar and a JPSO officer engaged in resuscitation efforts on Robinson. Hill and Wilkerson then assisted Dardar in preparing to transport Robinson to the hospital. Robinson was ultimately transported to Ochsner accompanied by EMT's Dardar and Hill. [Read Darder's statement.](#) [Read Hill's statement.](#)

EMT Michael Ortiz arrived in the backyard of the house where EMT Dardar was treating Robinson. Ortiz was asked to assist Brister who had appeared to be short of breath. Ortiz tended to Brister until EMTs Alicia Tate and Jaiden Jackson arrived. Brister was subsequently transported to Ochsner. [Read Tate's statement.](#) [Read Jackson's statement.](#) [Read Ortiz's statement.](#)

C. Duration of Encounter

Based on the Shell Station surveillance, Robinson fled the Shell station in his vehicle at 10:07 a.m. EMS was first requested by Whittington via Phelan's 911 call at 10:11:11 advising the operator of a 14:108 (Resisting Arrest). Spadoni and Brister both stated that they requested via radio that someone call EMS after Robinson was handcuffed because he had a laceration on his face. Whittington heard their radio communication and at 10:11:51 he advised the 911 operator that the subject had a laceration to the face. The time from Robinson's flight from the Shell station at 10:07:00 to Whittington requesting EMS for laceration to face at 10:11:51 is approximately 5 minutes.

Thompson observed the 2 agents exiting the rear yard of #11 Labarre Place appearing winded and disheveled and requested EMS to check the officers and the subject at approximately 10:14:33. The time between Robinson's flight from the Shell station to Thompson's request for EMS when he observed two agents exit #11 Labarre appearing winded and disheveled at 10:14:33 is approximately 7 minutes. The investigation later revealed that Thompson observed two agents as they exited the rear yard of #11 Labarre after Robinson was handcuffed. Listen to JPSO dispatch and radio transmission: [Part 1](#) and [Part 2](#).

Based on a review of the video surveillance, 911 call and JPSO radio dispatch, Robinson was in custody within five minutes of fleeing the Shell station.

D. Keeven Robinson's Prior Criminal History

Robinson's criminal history includes arrests for felony and misdemeanor charges in both Jefferson and Orleans Parishes. At the time of this incident, Robinson was on probation for being a felon in possession of a firearm.

Robinson had the following state court convictions:

- Pleaded guilty as charged on November 2, 2012, to illegal use of weapons or dangerous instrumentalities (LSA-R.S. 14:94).
- Pleaded guilty as charged on January 19, 2016, to possession of marijuana less than 14 grams (LSA-R.S. 40:966(C)).
- Pleaded guilty as charged on March 3, 2016, to being a convicted felon in possession of a firearm (LSA-R.S. 14:95.1) in Orleans Parish.
- Pleaded guilty to simple criminal damage on January 3, 2017 (LSA-R.S. 14:56(B)(1)) in Orleans Parish reduced from home invasion when person under 12 present (LSA- R.S. 14:62.8(B)(3)). Prosecutors dismissed charges of convicted felon in possession of a firearm (LSA-R.S. 14:95.1) and domestic abuse aggravated assault (LSA-R.S. 14:37.3(A)).

E. Prior Complaints Against Officers:

1) All 4 officers:

(a) Juda Ben DeRouen vs Gary Bordelon, Justin Brister, Jason Spadoni, and David Lowe Case No. 2:18-cv-07809. Alleged physical and sexual abuse by all four of the officers during a "strip search" of his person. The matter is stayed by the Federal Court pending the resolution of DeRouen's open criminal charges in the 24th Judicial District Court for violations of LRS-14:96 Aggravated Obstruction of a Highway and LRS-14:108.2 Resisting a Police Officer by Force arising out of this arrest. DeRouen was arrested on 8/31/2017 and this complaint was filed on 8/15/2018.

2) David Lowe:

(a) Eddie James Williams vs David Lowe, et al.

Case No. 2:18-cv-00916. Williams alleged that he was punched in the eye, thrown to the ground and beaten until he urinated on himself. Williams was treated at University Hospital for his injuries. The Federal Court granted summary judgment and dismissed the case against Lowe and all other defendants with prejudice. Williams pled guilty as charged in the 24th Judicial Court to violations of LSA-R.S. 14:95.1 Felon in Possession of a Firearm, LRS-40:969 Possession with Intent to Distribute Alprazolam, LSA-R.S. 40:966(C) Possession of Heroin, arising out of this arrest. Williams was arrested on 7/11/2017 and this complaint was filed on 1/29/2018.

(b) In Re: Item No. JPSO J-03910-17 State v. Joshua Mederos

The District Attorney's office conducted a use of force review on David Lowe for an incident which took place on September 23, 2017. As Lowe was standing outside the driver's side of Mederos' vehicle in an attempt to arrest him for a narcotics violation, Mederos reversed his vehicle into Lowe's unit several times in an effort to escape. Mederos struck Lowe's person with his vehicle knocking him backwards before accelerating directly toward Lowe, prompting Lowe to discharge his weapon out of fear for his life and safety. Mederos struck Lowe with his vehicle again knocking him to the ground before making good his escape. Mederos was charged with violations of LSA-R.S. 14:(27)30 Attempted Murder of a Police Officer, LSA-R.S. 14:55 Aggravated Criminal Damage, LSA-R.S. 40:966(A) Possession with Intent to Distribute Marijuana, LSA-R.S. 40:967(C) Possession of Oxycodone, LSA-R.S. 40:969(C) Possession of Clonazepam, and LSA-R.S. 40:967(C) Possession of Methadone. All charges were subsequently dismissed after Mederos was killed in an unrelated accident. After a use of force review of this incident, Lowe was found to be justified in his actions.

3) Justin Brister:

(a) Nathaniel Rogers vs. Justin Brister, et al

Case No. 2:18-cv-11164. Rogers alleged that he was pulled from his vehicle, restrained on the ground and battered while he was handcuffed. Rogers was treated for injuries by West Jefferson EMS. The matter was stayed by joint motion in Federal Court pending the resolution of Rogers charges in the 24th Judicial District Court arising out of this arrest for violations of LRS-14:108.1 Aggravated Flight from an Officer and LSA-R.S. 14:108.2 Resisting a Police Officer by Force or Violence. Rogers was arrested on 11/25/2017 and this complaint was filed on 8/15/2018.

4) Gary Bordelon:

(a) Joseph Little vs. Gary Bordelon, et al

Case No. 2:18-cv-08944. Little alleges that Bordelon and other officers attempted to stop him as he exited a gate and that as he fled on foot he was struck by a police vehicle and knocked to the ground. He further alleges that once he was on the ground he was beaten by officers. He was treated by EMS for his injuries. The matter is currently set for pretrial and trial in Federal Court. Little pled guilty as charged in the 24th Judicial District Court for violations of LSA-R.S. 14:108 Resisting an Officer, LSA-R.S. 40:966(C) Possession of Marijuana, LSA-R.S. 40:967(A) Possession with Intent to Distribute Cocaine, LSA-R.S. 40:967(C) Possession of Oxycodone, and LSA-R.S. 40:967(C) Possession of Hydrocodone, arising out of this arrest. Little was arrested on 9/27/2017 and this complaint was file on 8/15/2018.

(b) Ernest Billizone vs. Gary Bordelon

Case No. 2:15-cv-02474. Billizone alleged that Bordelon and other officers forcibly entered his residence without a search warrant and pulled him outside while he was naked. He further claimed that he was brought back inside and handcuffed naked while officers searched his residence and destroyed his property. The Federal Court case against Bordelon was dismissed as frivolous. Billizone pled guilty as charged in the 24th Judicial Court for violations of LSA-R.S. 40:967(C) Possession of Cocaine and LSA-R.S. 40:1238.1 Possession of Gabapentin arising out of this arrest. Billizone was arrested on 6/5/2015 and this complaint was file on 7/7/2015.

(c) Zamkea Fosselman vs. Gary Bordelon, et al

Case No. 2:18-cv-02637. Fosselman alleged that she was punched in the stomach and beaten by Bordelon and other officers during her arrest. Summary judgment was granted by the Federal Court and the case against Bordelon and all other defendants was dismissed with prejudice. Fosselman pled guilty to charges in the 24th Judicial District Court for violations of LSA-R.S. 14:108 Resisting an Officer and LSA-R.S. 14:34.2 Battery of Police Officer, arising out of this arrest. Fosselman was arrested on 3/16/2017 and this complaint was filed on 3/13/2018.

F. Medicals

As part of the JPSO's subsequent investigation, search warrants were obtained for Robinson's medical records. The returns yielded the following information:

Ochsner Medical Center

Robinson was brought into the emergency room on May 10, 2018, intubated and connected to a Lucas Chest Compression device. He was unresponsive and asystole. Advanced lifesaving measures were taken, but to no avail.

Robinson was pronounced dead at 11:15 a.m. Robinson's medical records indicate a history of asthma, eczema, marijuana use, nicotine dependence and schizophrenia. However, of note, the medical records do not indicate any prescriptions for psychotropic medication.

Touro Infirmary

Records reflect that Robinson was seen on five occasions between December 2015 and October 2017 for asthma-related complaints. He received a medical diagnosis on several occasions for bronchitis asthma or asthma with acute exacerbation. His treatment plan included a simple nebulizer, Albuterol 3m/l and prednisone 60mg (3-20mg tablets)

Daughters of Charity Health Center

Records reflect that Robinson was treated there on several occasions for asthma-related complications. In particular, he was treated on November 18, 2014, for asthma with exacerbation and on December 10, 2014, for asthma with exacerbation, for which he was prescribed Flovent hfa 110mcg/act inhalation aerosol.

Louisiana Board of Pharmacy

Records obtained from this state agency show that Robinson filled three prescriptions in 2017: two for Hydrocodone and one for Tramadol. As stated above, although Robinson had been diagnosed with schizophrenia, the State has no record of him filling prescriptions for psychotropic medication.

III. INDEPENDENT EXPERTS

A. The Forensic Panel's Independent Medical Review

Given the nature of the injuries suffered by Robinson and the circumstances that led to these injuries, the District Attorney's office decided that an independent medical review would be appropriate. After considerable research and consultation, The Forensic Panel (*The Panel*) was retained to conduct an independent peer-reviewed pathology death investigation.

The Panel is recognized as a leading forensic pathology practice in the United States. A peer-reviewed death investigation is a process in which a panel of experts in Behavioral and Forensic Sciences evaluate the documented evidence and prepare a report of those findings. Peer-review ensures accountability for the forensic expert's determination of what evidence bears most on the cause and mode of death, and safeguards the integrity of the forensic investigation. [Visit The Forensic Panel's website.](#)

Dr. Marcella Fierro, M.D., *Diplomate* American Board of Pathology: Anatomic, Clinical and Forensic Pathology, was the lead physician on the investigation. [Read Fierro CV](#). The remainder of *The Panel* consisted of five additional board-certified physicians:

Vera DePalo, M.D. *Diplomate*, American Board of Internal Medicine; Critical Care Medicine and Pulmonary Diseases [Read DePalo CV](#)

William R. Anderson, M.D. *Diplomate*, American Board of Pathology: Anatomic, Clinical and Forensic Pathology [Read Anderson CV](#)

Ljubisa Jovan Dragovic, M.D., F.C.A.P., F.A.A.F.S. *Diplomate*, American Board of Pathology: Neuropathology, Anatomical, and Forensic Pathology [Read Dragovic CV](#)

David R. Fowler, M.B., Ch.B.M.Med.Path. *Diplomate*, American Board of Pathology: Anatomical and Forensic Pathology [Read Fowler CV](#)

Victor Weedn, M.D., J.D. *Diplomate*, Board of Pathology: Anatomic, Clinical and Forensic Pathology Read [Weedn CV](#)

During the course of their investigation, the *Panel* reviewed the history of the event, scene information, witness statements, police and medical reports, medical records and the pathology and toxicology findings.

The Panel agreed with the findings of the Jefferson Parish Coroner's office that compressional asphyxia and blunt force injuries were the most likely cause of death. *The Panel* concluded that the medical findings at autopsy were consistent with the detailed descriptions as provided by the officers of their actions. [Read The Forensic Panel's report.](#)

The use of a lethal chokehold was considered but ruled out. *The Panel* noted that the posterior neck injuries and vertebral injuries of Robinson are not a feature of chokeholds. In reported cases of chokehold deaths, there are often fractures of the larynx or hyoid. Mr. Robinson's neck showed separation of the hyoid from the thyroid cartilage but without fracture, and the hyoid was intact. If officers had utilized a chokehold, pressure on the left side of the neck should have caused right-sided injury, which it did not. Robinson's injuries were only on the left.

The Panel also agreed that the contusions, abrasions and small lacerations observed on examination as well as the injuries to deep and superficial muscles of the neck, torso and extremities are indicative of blunt force trauma.

Robinson's medical history and evidence of inhalers found on or around Robinson and in the search of his vehicle are indicative of someone with an asthmatic condition. *The Panel* concluded that asthma was a contributory element in Robinson's death, but not the direct cause.

Finally, while Robinson's blood was positive for THC, the active ingredient in marijuana, and two prescription synthetic opioid medicines, Tramadol and Naloxone, *The Panel* concluded that the presence of these substances did not contribute to Robinson's death.

A. Use of Force Expert

Given the nature of Robinson's injuries and the circumstances of his arrest, the District Attorney's office decided to enlist the services of a qualified independent expert in police use of force. After a thorough search and vetting process, we retained W. Ken Katsaris. Katsaris' ability and skills are well documented; and, he is recognized as a nationally qualified expert in assessing police involved use of force. Over a 30 year career, he has trained police officers from all 50 states on proper police techniques and

protocol, including but not limited to Use of Force Policy and Procedure, Restraint Issues and Applications, Compression Asphyxia and Police Ethics. [Read Katsaris CV.](#)

Katsaris was provided the entire case file as indicated in Attachment A of his report and was retained to render an expert opinion regarding the conduct of the officers in accordance with use of force training, procedures and constitutional standards. [Read Katsaris report.](#)

1. Assessments and Opinions of W. Ken Katsaris

(a) Katsaris opined that the officers had a well thought out, planned and documented police investigative process that revealed that Robinson was a heroin dealer. This conclusion was confirmed by confidential informant controlled purchases of heroin from Robinson. Katsaris concluded that proper police procedures were used to develop the plan to arrest Robinson.

(b) Owing to the nature of their work in narcotics trafficking, Katsaris noted that the officers were well aware of Robinson's extensively documented criminal history, which included criminal possession of firearms, criminal discharge of firearms and aggravated assault with a firearm, hit and run driving, and resisting police officers. The officers were aware that on the date of the incident Robinson was on probation for possession of a firearm by a convicted felon. Katsaris stated that the complete criminal history of Robinson would put any reasonable, prudent and trained law enforcement officer on notice of the danger presented by Robinson during an arrest. Based upon these findings, Katsaris concluded that the planned and coordinated effort by the officers "was reasonable, involved sufficient personnel, and was based on proper probable cause developed to proceed with the plan to surveil and arrest Robinson."

(c) Based on the facts reviewed, Katsaris agreed that Robinson detected the presence of law enforcement at the Shell station and knew the officers were planning to arrest him. Katsaris found that the initial attempt by Sgt. Waguespack to block Robinson in at the Shell station was reasonable and appropriate based upon reasonable investigation surveillance and probable cause to arrest.

(d) Katsaris noted that Sgt. Waguespack's blocking effort was unsuccessful and Robinson was able to flee. A vehicular pursuit then began with officers utilizing their lights and sirens. Katsaris believes that at this point Robinson was knowingly attempting to evade police custody. As he fled the Shell station, Robinson collided with the rear driver's side of Sgt. Waguespack's police vehicle. Immediately following this collision, Robinson provoked a deliberate collision with Spadoni's vehicle. Following this second collision, Robinson exited his vehicle and fled on foot.

(e) Katsaris noted that the foot pursuit covered a distance of more than 700 feet from where Robinson abandoned his vehicle and included jumping and clearing several fences. The foot pursuit ended when officers caught up to Robinson in a narrow 3 ½ foot area bounded by two fences and a shed. At this point, Robinson began to

aggressively struggle with the officers, ignoring their verbal and physical commands to surrender. Katsaris noted that Robinson's extreme physical resistance was a continuation of his previous all-out attempts to evade custody, including the deliberate collisions with occupied police vehicles.

(f) Katsaris evaluated the physical struggle with the officers and the methods utilized, and compared them to recognized, trained and accepted physical control procedures utilized by law enforcement nationwide. Utilizing the description of the physical encounter by the involved officers, as well as his extensive training and expertise, Katsaris found that the officers applied appropriate, recognized and trained procedures. According to the officers, Robinson fought hard and resisted all trained control tactics and procedures even though he was struggling with four officers. Katsaris found that during the struggle the officers applied proper threat assessment to counter each of the described movements of Robinson.

(g) In Katsaris' opinion, the highest level of concern for the officers was their knowledge of Robinson's previous documented criminal record and his history of firearms possession and use. This was a critical factor as Robinson was prone on the ground, forcefully thrusting his hands and arms underneath his body in the area of the waistband. This action on the part of Robinson supported the officers' belief that Robinson was armed. Katsaris stated that it is recognized in law enforcement that the waistband is the area where most individuals choose to carry a handgun. Katsaris stated that "this action by any suspect being taken into custody would and should result in high levels of strikes, even trained kicks, to areas of the body that both result in 'distraction' and pain. The trained 'distraction' and pain compliance holds, strikes, and kicks to the various trained areas of the body are designed to cause officers to quickly end a physical struggle, especially when the resisting subject has a known history of carrying a handgun and is thrusting his hands under his body to his waist as Robinson was described doing by the officers."

(h) Katsaris reviewed the actions as described by each officer in response to Robinson's resistance and concluded that the physical restraint, pressure point control and application of hand and forearm strikes on the face, head and body used by the officers were consistent with police training provided in the State of Louisiana and throughout the United States. This training allows for the use of pressure to the shoulder blades, back, buttocks and legs as well as the strikes to multiple areas including the head

(i) In evaluating the actions of the officers, Katsaris also took into consideration the extreme level of Robinson's resistance during his arrest. Katsaris reiterated that the most peril to the officers was Robinson thrusting his arms and hands under his body in the area of his waistband. This becomes a potential deadly threat to the officers because of the potential to retrieve a firearm. Therefore, there was a need to secure Robinson's head by pinning it to the ground by a knee on top of or to each side his head which would preclude Robinson's ability to lift his head and neck upwards. He stated that law enforcement officers are trained to use such counter measures to keep the head stable and the body pinned to the ground.

(j) Katsaris concluded that the totality of the punches, strikes and securing of Robinson's head were all necessary and proper tactics used by the officers in response to Robinson's continued and escalating resistance. In Katsaris' opinion "[d]uring such active encounters, and muscular movements of the body to resist attempts to secure a

person, there is always the possibility of slipping knees or force unintended by the legs of the officers having been appropriately and tactically placed, but repositioned, not by the officer's intentions, but by the extremes of the movements by Robinson causing an inadvertent repositioning."

2. Katsaris' Conclusion

(a) All conduct by the officers was reasonable, recognized, accepted and trained procedures that are in conformance with United States' Supreme Court decisions on use of force.

(b) Given the totality of the circumstances confronting the officers at the time that the force was applied, the officers followed recognized, accepted and trained procedures.

(c) It is his opinion that the force used was not excessive.

B. STATEMENT OF LAW

A. Murder

Under Louisiana law, First Degree Murder is an intentional killing which takes place during the perpetration of another crime, such as an armed robbery; against special classes of persons, such as children or the elderly; or involves the killing of more than one person. LSA-R.S.14:30.

Second Degree Murder is committed when the offender has the specific intent to kill or inflict great bodily harm **or** when the offender is engaged in the perpetration or attempted perpetration of an enumerated felony (first degree rape, aggravated burglary...) even though he has no intent to kill or inflict great bodily harm. LSA-R.S.14:30.1.

If the District Attorney seeks to prosecute either of these crimes, he is required to bring the case before a Grand Jury for Indictment. La. C.Cr.P. art. 437.

B. Manslaughter

Under Louisiana law, Manslaughter is an intentional killing committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control or cool reflection or without any intent to cause death or great bodily harm during the perpetration of any felony not enumerated in first or second degree murder or of any intentional misdemeanor directly affecting the person; **or** when an individual resisting a lawful arrest causes a death and the killing would not fit under the definition of First Degree Murder or Second Degree Murder. LSA-R.S. 14:31.

C. Negligent Homicide

Under Louisiana law, Negligent Homicide is defined in part as the killing of a human being by criminal negligence. LSA-R.S. 14:32(A)(1). Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances. LSA-R.S. 14:12.

D. Justification

Louisiana law provides each citizen with the right to defend themselves and to "meet force with force," including deadly force to meet deadly force. This right to use deadly force, however, is limited only to circumstances in which human life is endangered. Deadly force may not be used to protect things such as property. Police officers, just like any other citizen, are entitled to use deadly force when their life or the life of another citizen is threatened. LSA-R.S. 14:20.

Under Louisiana law the person making a lawful arrest may use reasonable force to effect the arrest. The law provides that force is justified and constitutes a defense to prosecution for any crime based on that force when it is an authorized and reasonable fulfillment of any duties of public office, or is a reasonable accomplishment of a lawful arrest. *See* LSA-R.S. 14:18(1), (2), (3), and (7). LSA-R.S. 14:19-14:22.

E. Lawful Arrest

A person shall submit peaceably to a lawful arrest. The person making a lawful arrest may use reasonable force to effect the arrest and detention, and also to overcome any resistance or threatened resistance of the person being arrested or detained. La. C.Cr. P. art. 220.

C. DISCUSSION

A. Issue

The issue presented here is whether any of the agents involved in the apprehension and death of Robinson are criminally responsible for his death under the laws of the State of Louisiana.

B. Application of Law

The evidence establishes that Robinson died while resisting a lawful arrest by members of the JPSO. Based on the facts of this case, the death is classified as a homicide which is defined as the killing of a human being by another. However, not every homicide is a criminal act. The District Attorney is tasked with determining whether this homicide resulted from criminal behavior.

There is no evidence of an intent to kill or inflict great bodily harm on the part of the agent(s) as required by first degree murder (LSA-R.S. 14:30), second degree murder (LSA-R.S. 14:30.1), or manslaughter (LSA-R.S. 14:31(A)(1)). Nor were the actions of the officers made during the perpetration of a non-enumerated felony or intentional misdemeanor. Under the facts presented here the State cannot prove the elements of any of these offenses beyond a reasonable doubt.

The remaining question is whether the conduct of any of the officers rises to the level of gross criminal negligence resulting in a charge of Negligent Homicide. Criminal negligence exists when the offender lacks criminal intent but his conduct exhibits such disregard of the interest of others that it amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances. As with any charge, the State must prove each element beyond a reasonable doubt.

Under Louisiana law the person making a lawful arrest may use reasonable force to effect the arrest. The law provides that force is justified and constitutes a defense to prosecution for any crime based on that force when it is an authorized and reasonable fulfillment of any duties of public office, or is a reasonable accomplishment of a lawful arrest. *See* LSA-R.S. 14:18(1), (2), (3), and (7). LSA-R.S. 14:19-14:22.

An arrest is lawful when it is based on probable cause, *State v. Burton*, 416 So.2d 73, 74 (La. 1982). “Probable cause to arrest exists when the facts and circumstances known to the arresting officer, and of which he has reasonable and trustworthy information, are sufficient to justify a man of ordinary caution in the belief that the accused has committed an offense.” *State v. Surtain*, 2009-1835 (La. 3/16/10), 31 So.3d 1037, 1043. In this case, based upon Robinson’s previous actions observed during surveillance, including sales of narcotics to confidential informants, the officers possessed sufficient probable cause to arrest Robinson for distribution of heroin.

Additionally, under Louisiana law, “[a] person shall submit peaceably to a lawful arrest. The person making a lawful arrest may use reasonable force to effect the arrest and detention, and also to overcome any resistance or threatened resistance of the person being arrested or detained.” La.C.Cr.P. art. 220. In his attempt to evade a lawful arrest, Robinson fled the scene of the original attempted stop and collided with two occupied police vehicles before fleeing on foot from the scene of the second vehicle crash. Once cornered, Robinson continued to physically resist the effort of the officers to take him into custody. The evidence clearly establishes that Robinson did not “peaceably” submit to the lawful arrest.

The question then becomes whether the force used to overcome Robinson’s resistance in order to effect the arrest was, in fact, reasonable. The United States Supreme Court requires that the “reasonableness” of force by an officer be judged from the perspective of an officer at the scene, rather than judged with the benefit of hindsight. *Graham v. Connor*, 490 U.S. 386, 396-397, 109 S. Ct. 1865, 1870, 104 L. Ed. 2d 443 (1989). For that reason, as the United States Fifth Circuit Court of Appeals has recognized, “we judge the reasonableness of the force used from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight, and we avoid second-guessing a police officer’s assessment, made on the scene, of the danger presented by a particular situation.” *Garcia v. Blevins*, 957 F.3d 596, 602 (5th Cir. 2020) (internal citations and quotation marks omitted).

Fearing that Robinson was armed, officers attempted to gain full access to Robinson’s arms and hands as he continued to reach towards his waistband area where weapons are commonly secreted. The officers each described their efforts to hold Robinson’s body to the ground, as Robinson continued to try to rise to a position that may have given him access to a weapon. Lowe described how he attempted to immobilize Robinson’s head. Katsaris, the State’s use of force expert, stated, “there was a need to secure his head by pinning it to the ground by a knee on top of or to each side of the head which would preclude Robinson’s ability to lift his head upward. He further stated that “[d]uring such active encounters, and muscular movements of the body to resist attempts to secure a person, there is always the possibility of slipping knees or force unintended by the legs of the officers having been appropriately and tactically placed, but repositioned not by the officer’s intentions, but by the extremes of movements by Robinson causing an inadvertent repositioning.”

In the opinion of Katsaris, the conduct of the officers was a reasonable response to Robinson’s active resistance. The officers utilized recognized, accepted, and trained procedures that are in conformance with the United States Supreme Court decisions on use of force. Given the totality of the circumstances confronting the officers at the time that the force was applied, the officers followed these recognized, accepted and trained procedures; and, therefore the force used was not excessive.

Under the circumstances presented in this matter, the conduct of the officers was not unreasonable and excessive nor did the conduct grossly deviate below the standard of care expected to be maintained by a reasonably careful person under like circumstances. LSA-R.S. 14:12; 14:32.

The evidence establishes that the force used to counter Robinson's active resistance was reasonable and that the injuries which caused Robinson's death were consistent with the officer's descriptions of their actions. In light of this evidence the State cannot prove beyond a reasonable doubt that the conduct of the officers rises to the level of gross criminal negligence as required to prove the charge of negligent homicide.

C. Conclusion

In accordance with my oath and duty to uphold the constitution and laws of both the United States and the State of Louisiana, my office conducted an independent and comprehensive review into the circumstances and death of Keeven Robinson. Our investigation determined that Robinson's death occurred while he was resisting a lawful arrest by JPSO agents who were acting in the course and scope of their employment as law enforcement officers and under circumstances where the force used to counter his resistance was legally justified. It is my determination as District Attorney that there is no probable cause for criminal charges against the agents for their actions leading up to the death of Keeven Robinson.

Additionally, the FBI and the United States Department of Justice conducted a separate comprehensive and independent investigation of the events surrounding the in-custody death of Keeven Robinson. At the conclusion of their investigation, the United States Department of Justice declined to proceed on a federal criminal civil rights prosecution.