



# OFFICE OF THE COMMONWEALTH'S ATTORNEY

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THE CITY OF FALLS CHURCH

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September 8, 2017

Chief Farr:

This is to provide you with my opinion on the criminal culpability of Officer Steven Yanda and Officer Matthew Chattillion arising from the shooting of Daniel George Boak on May 17, 2017. After a comprehensive investigation and a thorough review of the facts and evidence collected, it is my opinion that when each officer fired his weapon at Boak each was doing so in response to an immediate and serious threat of imminent danger of death or serious bodily harm to Officer Yanda, other officers, and others present. Therefore, the use of deadly force by the officers in the circumstances confronting them was justifiable, and I would not seek any charges.

### Agencies Undertaking the Collection, Analysis and/or Review of Information

Office of the Commonwealth's Attorney for Arlington County  
Arlington County Police Department  
Arlington County Fire Department  
Fairfax County Police Department (helicopter aerial video)  
Office of the Chief Medical Examiner  
Division of Forensic Science

### Items Reviewed

#### 1. Law Enforcement Investigative Reports and Supplements

##### Officer Reports

Officer Claude (Ray) Gardiner, Jr. Report  
Officer Daniel Gardner Report  
Cpl. Patrick Smithgall Report  
Officer Alex Friert Report  
Officer Christina Alcorta Report  
Cpl. Brock Roman Report

Officer Darryl Wilson Report  
Sgt. Stephen Taphorn Report  
Cpl. Michael Lennon Report  
Cpl. Steve Gomez Report  
Officer Jenna Bartholomew Report  
Officer Ryan Reese Report  
Officer Michael Keen Report  
Lt. David Green, Jr. Report  
Lt. Michael Watson Report  
Sgt. Donald Fortunato Report  
Sgt. John Letos Report  
Sgt. Matthew Owens Report

Detective Supplements

Detective Rosa Ortiz Supplement (joint with Detective Greg Seibert)  
Detective Greg Seibert Supplement (joint with Detective Rosa Ortiz)  
Detective Gary Skeens Supplement  
Detective Doug Johnson Supplement  
Detective Bruce Silvernale Supplement  
Detective Steven Roeseler Supplement  
Officer Jason Cox Supplement  
Detective Sara Bertollini Supplement  
Detective Scott Whalin Supplement  
Detective Daniel Ohr Supplement  
Officer Leah Mason Supplement  
Detective Randall Mason Supplement  
Detective Kyle Stahl Supplement  
Detective Christine Riccio Supplement  
Detective Jasmine Senn Supplement  
Detective Darrel Taber Supplement  
Detective Joanbel Echenique Supplement  
Lt. Michael Rowling Supplement  
Lt. Kip Malcolm Supplement

Agent Supplements and I.C.P.D. Evidence Forms

Cpl. Matthew Ravinskas  
Cpl. Daniel Smaldore  
Cpl. Bridgett Meyer  
MPO John Donaggio  
MPO Joe Restino (with scene diagram)  
Cpl. Krizza Balderrama (ACPD death scene checklist)

2. Photos

Photos of Officer Steven Yanda  
Photos of Officer Steven Yanda's weapon

Photos of back of ambulance (Medic 105)  
Photos of Daniel Boak  
Photos of Daniel Boak's vehicle  
Photos of Officer Matt Chattillion  
Photos of Officer Matt Chattillion's weapon  
Photos of Officer Erik Einbinder  
Photos of Officer Erik Einbinder's weapon  
Photos of Sgt. Mohammed Tabibi's weapon  
Photos of Officer Megan Dent-Carman's weapon  
Photos of Officer Christian Hauser  
Photos of Officer Joshua Estep  
Scene Photos  
Vehicle Photos

### 3. Videos

Video extracted from cell phone of Thurman McNeill  
Video extracted from cell phone of Rosalind Rogers  
Video extracted from cell phone of Tyrone Wilson  
Officer Yanda in-car camera video  
Officer Kang in-car camera video  
Officer Einbinder in-car camera video  
Officer Dent-Carman in-car camera video  
Fairfax County helicopter aerial video

### 4. Police Witness Statements

Officer Christian Hauser (recorded)  
Officer Joshua Estep (recorded)  
Officer Megan Dent-Carman (recorded)  
Officer Moses Kang (recorded)  
Officer Eric Einbinder (recorded)  
Officer Steven Yanda (recorded)  
Officer Matthew Chattillion (recorded)  
Sgt. Mohammed Tabibi (recorded)

### 5. Civilian Witness Statements

Rosalind Rogers  
Thurman McNeill  
Tyron Wilson  
Dawn Lewis  
Soonhoon Ahn  
Holly Kruegar  
Flora Lazo  
Timothy Crowley

Pamela Porter  
Jaimibera Restrepo Ocampo  
Walter Benavides

6. ACFD Reports

Arlington County Fire Department Incident Report  
Arlington County Fire Department Medic Report (Einbinder)  
Arlington County Fire Department Medic Report (Dent-Carman)  
Arlington County Fire Department Medic Report (Boak)

7. Department of Forensic Science

Certificate of Analysis: Narcotics found in Daniel Boak's car  
Certificate of Analysis: Ballistics  
Certificate of Analysis: Blood analysis of Daniel Boak

8. Medical Examiner Autopsy and Report

9. ECC Recording and Call History

10. Search Warrant and Search Warrant Return on  
D. Boak's vehicle

11. D. Boak Virginia Hospital Records

12. D. Boak NCIC

13. ACPD Impound Form

14. License Plate Reader Return on VGN-7173 with Wanted Person Alert

Summary of Incident

On May 17, 2017, Detective Greg Seibert of ACPD was monitoring a License Plate Reader that was positioned on Route 395 South near the Pentagon. At about 4:30 p.m., Detective Seibert received an alert via the LPR monitoring database that a vehicle traveling southbound on Route 395 from the 14<sup>th</sup> Street bridge with a Virginia plate/registration of VNG-7173 was associated with a wanted person. Detective Seibert immediately broadcast this information over ECC, and the ECC dispatcher broadcast a lookout for the vehicle. The driver of this vehicle was the decedent, Daniel George Boak, who was in fact wanted.

Officers in the area responded and Officers Eric Einbinder, Moses Kang, Megan Dent-Carman, and Joshua Estep located the vehicle driving southbound on Route 395 near Arlington Ridge Road. It was rush hour and traffic was heavy. The officers observed that

the vehicle was a black Ford F-150. Boak was the sole occupant of the vehicle. One officer noticed that Boak was digging around in the car and broadcasted this information to the other officers. The officers positioned their cars in a manner to make a traffic stop of the vehicle. The officers made a traffic stop of the vehicle in or around the middle lane of traffic on Route 395 South between Arlington Ridge Road and the Glebe Road exit. Officers Einbinder, Kung, Dent-Carman, and Estep got out of their vehicles and approached. Officers repeatedly told Boak to throw the keys out the window. Instead, Boak evaded the police cruisers by crossing lanes of traffic to the shoulder and sped away on the shoulder toward the Glebe Road exit.

Sgt. Mohammed Tabibi heard the initial broadcast, and he too responded to the area. He maintained a stationary position on the shoulder area between Washington Blvd. and South Glebe Road. From this position, Sgt. Tabibi could observe the attempt by the other officers to stop Boak's vehicle on Route 395 South. Sgt. Tabibi witnessed Boak flee from the officers and proceed on Route 395 South, passing Sgt. Tabibi. Sgt. Tabibi followed as Boak sped away, and Officers Einbinder, Kang, Estep, and Dent-Carman followed. Boak took the Glebe Road exit off Route 395 South and his vehicle got stuck in heavy traffic on the exit ramp.

The Glebe Road exit ramp is a lengthy, two-lane ramp. The ramp intersects Glebe Road. The left lane is controlled by a traffic light and permits turns onto southbound Glebe Road. The right lane on the ramp merges onto northbound Glebe Road. Officers Yanda and Chattillion also received the initial look-out call from ECC and the subsequent communications broadcasted by the responding officers. Both responded to the location via Glebe Road and placed their vehicles at the top of the Glebe Road exit ramp to prevent traffic and the suspect from proceeding. Boak was in the right lane. The traffic in front of Boak was not moving, and Boak was blocked from behind by police cruisers. The traffic in the left lane, next to Boak's vehicle, was also congested. A Toyota was to the left and a slight distance ahead of Boak's vehicle. Another vehicle was ahead of the Toyota. The cumulative effect of the traffic on the ramp made it impossible for Boak to escape by driving his car to the left. There was a narrow shoulder and a grassy area to the right of Boak's vehicle. Boak may have had space to his right to drive his car off the ramp and onto Glebe Road.

Officers Yanda and Chattillion saw Boak's vehicle in the right lane on the exit ramp, about two vehicles down from the merge onto Glebe Road. Both officers drew their weapons and approached Boak's vehicle from the front. Officer Yanda approached Boak's vehicle from the driver's side by walking down the middle of the two lanes. He commanded Boak to show his hands. Officer Chattillion approached by coming down the grassy incline on the passenger's side of Boak's vehicle, and he too commanded Boak to show his hands. Boak did not comply with the officers' commands. The officers continued to approach and yell commands. Officer Yanda proceeded to a point where he was standing in the small area between Boak's front bumper and the Toyota in the left lane. Officer Yanda saw Boak reach for the gear shift. Boak then turned the vehicle hard left and accelerated into Officer Yanda. The force of the vehicle pinned Officer Yanda between Boak's vehicle and the Toyota. Upon striking Officer Yanda, Boak did not

cease accelerating. The car continued to move into Officer Yanda. Officer Yanda described how he continued to feel an increase in pressure as Boak's vehicle continued to press him against the Toyota.

Boak was pressing Officer Yanda between Boak's car and the Toyota. Officer Yanda then fired into the car at Boak. Upon seeing Boak drive into Officer Yanda and pin him into the Toyota, Officer Chattillion quickened his approach toward the vehicle from the passenger's side. He too then fired into the vehicle at Boak. Boak was struck and became incapacitated. In total, five shots were fired. Officer Yanda fired three shots and Officer Chattillion fired two.

After the shots were fired, numerous officers approached. Officer Kang broke the driver's side window on Boak's vehicle. Officers reached through the widow, unlocked the door, and put the vehicle in reverse. Officers then moved the vehicle backward far enough to release Officer Yanda. Officers immediately began to provide medical assistance to Officer Yanda and Boak. Medics were called to the scene and transported Officer Yanda and Boak to Virginia Hospital Center. Boak was pronounced dead by Dr. Reed Smith at 1732 hours.

An autopsy revealed that Boak was struck by four bullets. One entered at the left side of the face, lateral to the left eye, and was recovered in his brain. One entered at the left side of his neck and exited at the left posterior mastoid region of the head. One entered through the lower right side of the chest and was recovered from the mesentery of the bowel. One entered at the distal posterior/medial left forearm and exited from the lateral left forearm. The medical examiner determined that the cause of death was multiple gunshot wounds of the head, torso, and upper extremities.

The firearms of Officer Yanda and Officer Chattillion were collected and sent to the Department of Forensic Science (DFS). Bullets and cartridges recovered from the scene were collected and sent to DFS for examination. The two bullets collected during the autopsy were delivered to DFS for analysis. DFS performed an examination of the weapons, bullets, and cartridges provided. DFS determined that three cartridges were fired by Officer Yanda's weapon and two cartridges were fired by Officer Chattillion's weapon. DFS determined that the bullet recovered from Boak's abdomen at the autopsy was fired by Officer Chattillion's weapon. With respect to the bullet recovered from Boak's brain, DFS could not determine if this bullet was fired by Officer Yanda or Officer Chattillion.

The LPN Alert to VNG-7173 with Wanted Person Alert

ACPD retrieved the License Plate Reader notice that alerted Detective Seibert to the Ford F-150 Boak was driving. The LPN record showed the alert to that vehicle was for a wanted person.

### ECC Recording and Police Communications

The ECC recording, records of the call history, and audio recordings from in-car camera videos were retrieved and copied by ACPD. The recordings and records show that the call went out for a wanted person driving south on Route 395 in the area of Jefferson Davis Highway. Further information was broadcast that the vehicle history showed an association with a person wanted for a gun charge, which was later changed to a fraud charge, and a prior eluding charge. Further communications indicated the person was seen "digging around in the car."

### The First Stop of Boak and Eluding: Summary of Officer Statements, Police Communications, and in-Car Camera Video and Audio

Officers Kang, Dent-Carman, Estep, and Einbinder were on duty at the time that ECC broadcasted the LPR alert that a wanted person was driving a vehicle with Virginia plate VGN-7173 on Route 395 South near the Pentagon. Each officer was interviewed. Their statements were substantially similar. The details of the initial police encounter with Boak is fully described within their interviews, the police communications, the in-car camera videos collected from their police cruisers, and the audio recordings associated with the videos.

These sources of information show that all four officers were in the vicinity and located Boak driving his Ford F-150 south on Route 395 near Arlington Ridge Road. One officer noticed that Boak was digging around in the car and broadcasted this information to the other officers. The police transmissions capture the communications where the officers discuss making a stop. The officers positioned their cars in a manner to make a traffic stop of the vehicle. The officers made a traffic stop of the vehicle in or around the middle lane of traffic on Route 395 between Arlington Ridge Road and the Glebe Road exit.

The in-car camera video recovered from Officer Einbinder's cruiser shows the officers positioning their cruisers to make the stop. The video captures Officer Kang approaching and yelling to Boak numerous times to throw his keys out the window. The video also captures Officer Estep approaching Boak's vehicle with his weapon drawn. Officer Kang is heard continuing to command Boak to throw his keys out the window, and the video shows Boak ignore those commands, maneuver to the shoulder, and drive away from the officers southbound on Route 395. The video captures Officer Einbinder and other officers following Boak south on Route 395. The video shows Officer Einbinder stop on the exit ramp where Boak had gotten stuck in traffic. It captures Officer Einbinder, Sgt. Tabibi and other officers approaching the Ford F-150 on foot. On the video, the Ford F-150 is seen moving to the left at Officer Yunda. Officer Chattillion is then seen approaching from the passenger's side and discharging his weapon twice. Officer Einbinder and Sgt. Tabibi are seen standing directly next to the vehicle, on the driver's side, when Officer Yunda gets pinned and the shots are fired. Radio traffic is heard announcing shots fired and the request for medics.

Officer Einbinder's statement is consistent with what is captured on his in-car camera video. In his interview, Officer Einbinder stated that he heard the BOLO for the wanted subject in a Ford F-150, Virginia plate VGN-7173, traveling south on Route 395. He stated that he was travelling behind Officer Estep and heard Officer Estep say that he had a visual on the vehicle. He describes how they initiated the traffic stop on Route 395 South. Officer Einbinder reported that Boak was commanded to throw his keys out the window, but did not. Instead, Boak fled down Route 395 South and Officer Einbinder and other officers followed. Upon arriving at the Glebe Road Exit Ramp where Boak was trapped in traffic, Officer Einbinder stated that he got out of his cruiser and saw the Ford F-150 move left and pin Officer Yanda. Einbinder observed a "look of utter fear in [Officer] Yanda's eyes." He then heard shots fired.

Officer Kang's statement is consistent with the video from Einbinder's cruiser and with Officer Einbinder's statement. He responded to the BOLO dispatch of a wanted subject in a Ford F-150 with Virginia plate VNG-7173 on Route 395 South. He described how he and other officers located the vehicle and he positioned his cruiser in front of the vehicle to make a stop. Officer Kang stated that he exited his cruiser and gave commands to Boak. Officer Kang recounted that he saw Officer Estep and another officer attempt to open the driver's side door. Officer Kang reported that Boak then fled the traffic stop and drove south on Route 395 at a high rate of speed. Officer Kang and the other officers followed. Officer Kang stated that he heard radio traffic that the car exited at Glebe Road. Officer Kang proceeded to that location. He heard shots, but did not see the encounter between Officer Yanda and Boak. Officer Kang stated that he approached the Ford F-150 and used an ASP to break the driver's-side window. He reported that he then assisted in releasing Officer Yanda from being trapped by the vehicle.

Officer Dent-Carman's statement also is consistent with the other officers' statements and the in-car videos. She responded to the BOLO dispatch of a wanted subject in a Ford F-150 with Virginia tag VNG-7173 on Route 395 South. She described how she and other officers located the vehicle. She described the stop and approach and stated that Boak then fled south on Route 395 and exited at Glebe Road. Officer Dent-Carman followed Boak and stopped her cruiser on the Glebe Road exit ramp. She reported that she got out of her vehicle and approached Boak's vehicle, giving commands to get out of the car. She stated that she then saw the F-150 accelerate directly into Officer Yanda. She stated that she saw Officer Yanda fire his weapon at the driver, but was not certain how many shots were fired.

Officer Estep's statement is also consistent with the other officers' statements and the videos. Officer Estep reports that he was patrolling the area of South 15<sup>th</sup> Street and South Hayes Street. He heard the dispatch relating to the LPR alert to a wanted subject on Route 395 South. Officer Estep drove to the location and observed the vehicle on Route 395 South near Arlington Ridge Road. He believed Officer Einbinder was behind him at that time. Officer Estep transmitted that he spotted a "black Ford F150, left lane." He described the traffic stop of the vehicle. He reports that commands were made to the driver, but the driver did not comply. Officer Estep stated that he observed the driver



maneuver around traffic on the right side and drive away southbound on Route 395. Officer Estep and other officers followed. Officer Estep arrived at the Glebe Road exit where the defendant was stopped in traffic. Officer Estep stated that when he approached he saw Officer Yanda wedged between the Ford F-150 bumper and another vehicle, and he saw the suspect bleeding. Officer Estep reported that the driver's side door of the Ford F-150 was locked. He witnessed Officer Kang break the driver's side window and Officer Chattillion back the vehicle away slightly to free Officer Yanda. Officer Estep stated that he assisted in moving Officer Yanda to a safe location and then returned to the F-150 to remove the keys. Officer Estep reported that he applied gauze to Boak's neck and Sgt Matthew Owens then approached with a medical kit.

Sgt. Mohammed Tabibi also responded to the dispatch alerting officers to the wanted subject traveling on Route 395 South in a vehicle with Virginia tag VGN-7173. Sgt. Tabibi stated that he responded to the area on Route 395 South between Washington Blvd. and South Glebe Road and maintained a stationary position on the shoulder area. He stated that he observed the first stop attempt occurring behind him and then witnessed the Ford F-150 use the shoulder area to flee southbound on Route 395. The vehicle passed Sgt. Tabibi and entered the exit ramp for South Glebe Road. Sgt. Tabibi observed the vehicle stuck in traffic on the exit ramp in the right-hand lane. Sgt. Tabibi stated that he broadcasted the location of the vehicle and then exited his own vehicle to approach. Sgt. Tabibi stated that he saw Officer Yanda and another officer, later determined to be Officer Chattillion, approach the vehicle from the front, and he heard the officers yelling commands to Boak. Sgt. Tabibi reported that he approached the driver's side door and pulled the handle, but the door was locked. Sgt. Tabibi reported that he then saw Boak's vehicle lurch forward and pin Officer Yanda against a white Toyota. He then heard gun fire. Sgt. Tabibi stated that he directed another officer to break the window of Boak's vehicle in order to move the vehicle and release Officer Yanda from his pinned position.

#### Video from Officer Yanda's in-car Camera

The in-car camera video collected from Officer Yanda's cruiser captures the incident visually and audibly. It shows the sequence of events with clarity. Officer Yanda places his cruiser at the top of the ramp to prevent traffic from proceeding. Officer Yanda then draws his weapon and walks towards the driver's side of Boak's truck while giving verbal commands to Boak. The video shows the driver's side door open slightly and momentarily. Officer Yanda continues to shout commands. The door then quickly closes and Boak turns the vehicle hard to the left and accelerates directly into Officer Yanda, pushing him backward and pinning him between the bumper of Boak's truck and another car. Boak does not release the pressure of the vehicle against Officer Yanda. Officer Yanda then fires into the vehicle.

The video captures the efforts of other officers to get Officer Yanda released. Officer Kang breaks the driver's side window, and the car is moved backward to release Officer Yanda.

#### Video From Balcony Directly Above the Incident

The exit ramp for Glebe Road where this incident occurred runs parallel to an apartment complex at 2400 S. 24<sup>th</sup> Road. Apartments fronting the ramp have balconies looking over the ramp. A video shot from one of the balconies captured the incident after the shots were fired. Although the video begins after the shots were fired, it captures a close and compelling view of Officer Yanda trapped between the two vehicles.

#### Summary of Statements of Officers Yanda and Chattillion

Officer Yanda and Officer Chattillion were both interviewed following the incident. The statements of both were substantially consistent.

Officer Yanda stated that he heard the initial broadcast of an alert from an LPR about a wanted subject. Officer Yanda reported that he also heard the police communications about the initial stop on Route 395 and the eluding by the suspect. Officer Yanda drove to the area via Glebe Road and stopped his cruiser in front of the left lane of the exit ramp to stop traffic. Officer Yanda stated that he saw the suspect vehicle stopped on the ramp and approached from the driver's side. His weapon was drawn. Officer Yanda reported that, as he approached, he repeatedly commanded the suspect to "show me your hands." The driver just looked at him, and Officer Yanda was not sure if he was going to comply. Officer Yanda stated that he then saw the suspect manipulate the gear shift. Officer Yanda reports that he was, at that moment, between the front bumper of the suspect vehicle and a white Toyota sedan. Officer Yanda stated that the suspect vehicle came forward at him. Officer Yanda describes what happened next as follows: "I could feel the pressure on my leg increase, which meant that he was not just bumping me. He was continuing to come forward. I discharged my weapon."

Officer Yanda stated that he recalled pressing the trigger and firing three rounds. He heard a fourth shot, so he assumed Officer Chattillion fired one from the passenger's side. Officer Yanda stated that he was still pinned up against the Toyota after the shots were fired. Officers got the car in reverse, but he was not sure how they did so.

Officer Yanda stated that he could not recall the suspect saying anything as he was giving the suspect commands. He only remembered the suspect staring at him. Officer Yanda said he could not see the suspect's hands until he reached for the gearshift. Officer Yanda then repeated the crucial moments in the incident and stated as follows: "I could feel pressure on my leg increasing. He wasn't just bumping me and then reversing. He continued to come forward. So, it seemed he was trying to injure or kill me. I feared for my life."

Officer Chattillion's statement is consistent with Officer Yanda's in-car camera video and Officer Yanda's statement. Officer Chattillion stated that he responded to the BOLO broadcast and arrived at the intersection of South Glebe Road and the exit ramp from Route 395 South. He parked his vehicle in the intersection to block traffic. Officer Chattillion said that he exited his cruiser and approached the Ford F-150 using the elevated grassy area to the left of the guard rail. Officer Chattillion explained that this location allowed him to have a visual of the driver through the passenger's side window.

Officer Chattillion stated that he saw the driver move his hands downward toward the center console. Officer Chattillion explained that he then drew his weapon and commanded the driver to "stop the vehicle." Officer Chattillion stated that he saw the vehicle accelerate forward and strike Officer Yanda, pinning him against a white sedan. According to Officer Chattillion, the striking of Officer Yanda appeared intentional, because the driver had enough room to the right to flee. Officer Chattillion observed Officer Yanda "fighting to stay on top of the car so he doesn't get sucked underneath and run over." Officer Chattillion stated that Officer Yanda had "a look of pain on his face." Officer Chattillion reported that he feared Officer Yanda's life was in danger or that Officer Yanda was going to get seriously injured. Officer Chattillion stated he therefore fired two shots through the passenger window in the direction of the suspect. Officer Chattillion stated that he heard multiple shots fired, but did not know who else fired. Officer Chattillion said that he entered the vehicle through the front passenger door and placed the truck in reverse to assist in freeing Officer Yanda.

#### Summary of Civilian Witness Statements

Numerous civilian witnesses were interviewed, including the drivers of vehicles in the immediate vicinity of the shooting and people in the adjacent apartment building who witnessed the incident. Those witnesses who saw substantial parts of the incident gave statements that were consistent with respect to the material facts and, importantly, with respect to the sequence of the facts. They saw the officers approach. Some heard the officers giving commands. They saw the Ford F-150 turn into and strike Officer Yanda, pinning him between two vehicles. They then heard shots fired. One civilian witness who watched the incident from his nearby balcony concluded his statement by saying: "He [Officer Yanda] was clearly trapped between the vehicles and had every right to open fire."

#### Scene Photos

The scene was photographed and diagramed by the police evidence collection unit. The photos included the bullets and casings to document the number and location of each. The photos also included the vehicles and the surrounding area to document the spacing of the vehicles in relation to each other. The vehicle photos also captured the impression made in the Toyota by the force of Boak's vehicle pushing Officer Yanda's body against it.

#### Evidence Collection at Scene and Search Warrant of Boak's Vehicle

At the scene, police gathered five cartridges on the ground around the right and left front area of Boak's vehicle. Police also found one projectile on the ground just outside of the driver's door. This bullet was sent to the Division of Forensic Science (DFS) for analysis.

Police executed a search warrant on the vehicle. Police found a projectile inside the front passenger door frame. Police also found a box of Newport Cigarettes on the floor

between the driver's seat and the driver's door. Inside the box, police found two small zip-lock baggies. One contained the residue of a substance and the other contained three distinct white rock-like objects. These items were sent to DFS for analysis. Police also found a glass smoking device on the passenger side floor. This too was sent to DFS

#### Autopsy and Medical Examiner Report

On May 18, 2017, an autopsy was performed by the Office of the Chief Medical Examiner, Northern Virginia District. The autopsy revealed that Boak was struck by four bullets. One entered at the left side of the face, lateral to the left eye, and was recovered in the brain. One entered at the left side of his neck and exited at the left posterior mastoid region of the head. One entered through the lower right side of the chest and was recovered from the mesentery of the bowel. One entered at the distal posterior/medial left forearm and exited from the lateral left forearm. The medical examiner determined that the cause of death was multiple gunshot wounds of the head, torso, and upper extremities.

#### Certificate of Analysis: Ballistics and Firearm

Both Officer Yanda and Officer Chattillion carried a department issued Glock, .40 caliber, black in color, Model 23. The weapons were recovered from Officers Yanda and Chattillion and were sent to DFS for examination. DFS determined that the firearms were in operating condition with the safety features functioning properly.

The bullets and five cartridges recovered from the scene were collected and sent to DFS for examination. The two bullets collected during the autopsy were delivered to DFS for analysis. DFS performed an examination of the weapons, bullets, and cartridges provided. DFS determined that three cartridges were fired by Officer Yanda's weapon and two cartridges were fired by Officer Chattillion's weapon. DFS determined that the bullet recovered from Boak's abdomen at the autopsy was fired by Officer Chattillion's weapon. With respect to the bullet recovered from Boak's brain, DFS could not determine if this bullet was fired by Officer Yanda or Officer Chattillion.

#### Certificate of Analysis: Boak's Blood

A blood sample taken during the autopsy was analyzed by DFS. The following substances were found in Boak's blood:

Cocaine 0.61 mg/L  
Benzoylcegonine 0.74 mg/L  
6-Acetylmorphine 0.086 mg/L  
Morphine 0.53 mg/L  
Hydromorphone 0.0032 mg/L  
Codeine less than 0.010 mg/L  
Diphenhydramine 0.020 mg/L  
Levamisole/Tetramisole present

#### Certificate of Analysis of Narcotics found in Boak's Car

During the execution of the search warrant of Boak's vehicle, police found a cigarette box containing a small zip-lock baggie with an off-white solid material inside. Police also found a glass-tube smoking device. Both items were sent to DFS for analysis. It was determined that the substance found inside the zip lock baggie was cocaine. The smoking device was found to contain the residue of cocaine.

#### Boak History

Boak was convicted of reckless driving twice in 2007 and twice in 2010. He was convicted of eluding police in 2008. He was convicted of possession of marijuana in 2010. He was convicted of contempt of court in 2010. He was convicted of prescription fraud in 2013. He was convicted of felony drug possession in March of 2017. Also, the NCIC return on Boak noted "wanted person—caution" and "previous eluding LEO."

Family members of Boak were interviewed and told police that Boak had an addiction to narcotics and problems with authority. They specifically mentioned that Boak had a heroin addiction.

#### ACPD Directive on Use of Force

Directive 538.04 establishes the policy and procedures that govern the use of force by officers of the Arlington County Police Department. The policy statement provides that, "Officers may use force to bring an incident or non-compliant suspect under control, detain or arrest a suspect, prevent an escape, and/or protect the lives or personal safety of themselves or others. However, the amount of force applied by officers shall be appropriate and reasonable for the circumstances at hand, shall be used only when necessary to accomplish a lawful purpose, and shall be delivered in a manner consistent with the provisions of law and the requirements of this directive."

Relevant definitions contained in the Directive include the following:

**Deadly Force** – Intentional force which, if successfully affected, is reasonably likely to cause death or grave, potentially fatal injury.

**Objective Reasonableness** – A standard of caution wherein an officer must determine the necessity for force, as well as the appropriate level of force by evaluating the circumstances known to the officer at the time the decision to use force is made.

Directive 538.04 provides the following instructions for use of deadly force:

Officers are authorized to use of deadly force to protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; and

In assessing a potential threat, officers shall apply a standard of objective reasonableness basing their decision on the totality of the circumstances; and

When applying deadly force, officers need not select the least amount of force that can be used, but shall select a level of force that is reasonable for the given circumstances; and

Nothing in this directive requires, or encourages, officers to expose themselves to unreasonable risks, take extraordinary measures, or sustain an injury before using appropriate deadly force.

The directive essentially requires the application of a standard of reasonableness after considering all the circumstances, and it is consistent with the standards for use of deadly force established by the United States Supreme Court and Virginia Courts.

#### Analysis and Conclusion

A comprehensive review of the information obtained through the investigation compels the conclusion that Officer Yanda and Officer Chattillion acted consistent with ACPD policies governing use of force. Further, the actions of both officers were justifiable and necessary, under applicable law, to defend Officer Yanda and others present from the imminent threat of death or serious bodily injury.

The legal standard through which actions of the officers are viewed has been well defined by the United States Supreme Court and the Supreme Court of Virginia. Use of deadly force is justifiable when one is faced with imminent death or seriously bodily injury. Commonwealth v. Cary, 271 Va. 87 (2006); Commonwealth v. Sands, 262 Va. 724 (2001). There must be some overt act indicative of imminent danger at the time. Vlastaris v. Commonwealth, 164 Va. 647 (1935); Yarborough v. Commonwealth, 217 Va. 971 (1977). In the context of self-defense or defense of others, "imminent danger" is defined as "an immediate, real threat to one's safety." Black's Law Dictionary 399 (7<sup>th</sup> ed. 1999). The Virginia Supreme Court has stated that for imminent danger to exist "there must be . . . some act menacing present peril . . . [and] the act . . . must be of such a character as to afford a reasonable ground for believing there is a design . . . [to] do some serious bodily harm." Commonwealth v. Cary, 271 Va. 87 (2006). The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight. Graham v. Connor, 490 U.S. 386 (1989). Further, confrontation by the use of a deadly weapon is recognized as an important factor to consider, and the manner in which the weapon is

used is often more important than the weapon's inherent characteristics and capabilities. Floyd v. Commonwealth, 191 Va. 674 (1950).

I find it beyond dispute from the videos, the statements of the officers, the statements of civilian witnesses, and all the evidence collected that Boak drove his vehicle at Officer Yanda, struck him in the area of the waist and legs, and pinned him against another car. I further find it beyond dispute that, after striking and pinning Officer Yanda against a car, Boak continued to press Officer Yanda's body between the vehicles. The photos showing the indentation on the right rear quarter panel of the Toyota caused by the pressing of Officer Yanda's body against the car confirm Officer Yanda's statement that Boak's vehicle continued to come forward into him and press him against the other car. Boak showed no signs or indications that he would stop until he had done significant bodily injury to Officer Yanda or caused his death.

It is clear from all the evidence that Boak used his vehicle as a powerful and potentially deadly weapon, and Boak was intent on crushing Officer Yanda's body between the cars. As Officer Chattillion's observations and statements establish, Boak was not trying to flee when he turned his vehicle left at Officer Yanda, as he had room to turn his vehicle to the right, away from Officer Yanda, and make an escape along the shoulder and grassy area to the right. Instead, Boak turned his vehicle to the left to purposefully strike Officer Yanda.

The totality of the circumstances confronting Officer Yanda and Officer Chattillion at that moment presented an imminent danger of serious injury or death to Officer Yanda and potentially a danger to others at the scene, thereby justifying the use of deadly force to defend Officer Yanda and others. I find the evidence collected establishing the circumstances justifying the actions of the officers to be reliable, as all forms of evidence collected are consistent in every meaningful way:

- (1) The videos collected, particularly the one collected from Officer Yanda's cruiser, clearly show that Boak turned his vehicle left directly at Officer Yanda and pinned Officer Yanda between the weight of the Ford F-150 and the Toyota. Officer Yanda's in-car camera captured the horror and danger of the Ford F-150 driving into Officer Yanda and trapping him. The video shot by the civilian on the balcony looking over the ramp provides powerful and compelling images of the magnitude of the danger and harm Officer Yanda confronted when Boak drove his pick-up truck into him and pinned him between the two vehicles.
- (2) The statement of Officer Yanda confirms what is captured on the video. Officer Yanda describes how he approached from the driver's side and positioned himself between the front bumper of Boak's vehicle and a white sedan in the next lane. He gave verbal commands to Boak, and Boak did not comply. Boak then drove his vehicle into Officer Yanda, pinning him between the two cars. Importantly, Officer Yanda also described how he "could feel the pressure on my leg increasing." Officer Yanda stated that "he [Boak] was continuing to move forward . . . so, he seemed he was trying to injure or kill me." Officer Yanda reported that "I feared for my life."

- (3) The statement of Officer Chattillion is also consistent with the video from Officer Yanda's cruiser and with Officer Yanda's statement. Officer Chattillion stated that he saw Boak move his hands toward the center console and radio, and Officer Chattillion then drew his service weapon. Officer Chattillion witnessed the Ford F-150 accelerate forward and pin Officer Yanda against a white sedan. Officer Chattillion deduced that this action seemed intentional because the driver had enough space to the right to flee the scene. Officer Chattillion also stated that "he could hear the engine rev up and continue to lurch forward and continue to pin [Officer] Yanda further and further between the two cars." Significantly, Officer Chattillion observed that Officer Yanda was "fighting to stay on top of the car so he doesn't get sucked underneath and run over." Officer Chattillion stated that Officer Yanda had "a look of pain on his face."
- (4) Statements of other officers on the scene are also consistent with respect to the pertinent facts. Sgt. Tabibi stated that he heard officers giving Boak verbal commands. He saw Boak open the door at one point and then shut it. Sgt. Tabibi pulled on the driver's door handle, but it was locked. He heard officers continue to give Boak commands, which Boak ignored. He then saw the F-150 drive forward and pin Officer Yanda. Sgt. Tabibi stated that Officer Yanda was stuck in between the cars with one foot in the air. Officer Yanda was clearly in a dangerous position. Officer Dent-Carman stated that, as she approached, she saw Boak's vehicle accelerate directly into Officer Yanda. She then observed Officer Yanda fire his weapon at Boak. Officer Einbinder reported that, as he approached, he saw Boak's vehicle move left and pin Officer Yanda who appeared to have a look of "utter fear" in his eyes. Officer Einbinder stated that he then heard shots and observed that Boak was hit by gun fire.
- (5) Statements of civilian witnesses further corroborate the description of the sequence of events immediately preceding the shooting. Those who saw substantial parts of the incident gave statements that were consistent with respect to the material facts and with respect to the sequence of the facts. They saw the Ford F-150 turn into and strike Officer Yanda and pin him between two vehicles. They then heard shots fired.
- (6) The ballistic evidence collected and analyzed confirms the descriptions of the shooting as described by the officers. The ballistic evidence recovered accounts for the five cartridges that were identified as missing from the officers' firearms. DFS determined that three cartridges were fired by Officer Yanda's firearm and two were fired from Officer Carillion's firearm. The cartridges were found on the ground around the right and left front area of Boak's vehicle, which is consistent with the where Officers Yanda and Chattillion were reported to be standing when shots were fired.
- (7) The autopsy found Boak was shot four times. A bullet was recovered from Boak's abdomen area. The autopsy report states that this bullet entered from the lower right side of the chest and the direction of the wound path was right to left. This bullet was recovered from the mesentery of the bowel. The videos and statements show that Officer Chattillion fired from the decedent's right. This bullet was sent to DFS and it was determined that the bullet was fired by Officer Chattillion's firearm. Another bullet was recovered from Boak's brain. The autopsy report



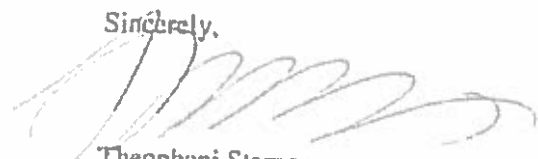
states that this bullet entered on the left side of the face, lateral to the left eye, and the direction of the path wound was left to right. The video and statements show that Officer Yanda fired from Boak's left. This bullet was sent to DFS for analysis, but DFS could not determine if the bullet was fired by the weapon of Officer Yanda or Officer Chattillion.

Additionally, historical information on Boak is also instructive. The investigation revealed that Boak had a criminal record, including a felony drug conviction and a prior eluding conviction. The NCIC reply on Boak also noted "wanted person—caution" and "previous eluding LEO." Further, family members of Boak were interviewed and told police that Boak had an addiction to narcotics and problems with authority. It was specifically mentioned that Boak had a heroin addiction.

Although this information is not a direct factor in judging the legal justifications of Officer Yanda and Officer Chattillion's actions, it does provide independent insight and corroboration on the likely behavior of Boak as described by the officers when they encountered him.

In view of all the facts and circumstances in this case, and, based on the accuracy of the facts as captured on video paired with substantial corroboration by police and civilian witnesses, I am of the opinion that Officers Yanda and Chattillion had compelling reasons to believe that Daniel Boak presented an imminent danger of serious bodily injury or death to Officer Yanda and others present at the scene. As one civilian witness who watched the incident unfold concluded, "[Officer Yanda] was clearly trapped between the vehicles and had every right to open fire." I conclude that the use of deadly force by the officers was justified. I consider this matter closed.

Sincerely,



Theophani Stamos  
Commonwealth's Attorney

cc: Officer Steven Yanda  
Officer Matthew Chattillion