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STOLEN LIVES JUSTICE FUND

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Communities United Against Police Brutality



Image: © King Demetrius Pendelton

Thurman Blevins

On June 23, 2018, Thurman Blevins, Jr. was shot and killed by Minneapolis Police Officers Justin Schmidt and Ryan Kelly. Minnesota’s Bureau of Criminal Apprehension investigated the shooting, and Minneapolis County Attorney Mike Freeman told the City’s version of the story when he announced that the two officers would not be charged in the death of Blevins.

In the City’s version of the story, a 911 caller notifies the police that a drunk black man is firing a handgun into the air and into the ground. Police officers respond to the call and find Blevins, who has a gun in his pocket. Blevins refuses orders to drop the gun and flees the police, until he removes the gun from his pocket and begins to turn toward the police. Then the officers, in danger from Mr. Blevins, shot him. No charges filed.

A close examination of the 2165 page BCA report, the body camera footage, and the site of the shooting tell a more complex story. It tells that no witnesses in the neighborhood heard those shots fired in the air and the ground.

It tells of the cops charging at Blevins drinking on the corner, guns drawn. It shows Blevins trying to

communicate with the officers chasing him. It shows him pleading for his life.

It shows him obeying the police order to “put it down” and removing the gun from his pocket. It shows him being shot in the back, with the officers firing 14 shots, 6 shots after Blevins is already on the ground. It shows Blevins dying without aid. Surrounded by officers.

“Minneapolis County Attorney Mike Freeman told the City’s version of the story when he announced that the two officers would not be charged in the death of Blevins.”

Which of these stories reflects the facts?

Let's begin by looking at the most common questions people ask.



Did Thurman Blevins shoot at the police?

Listening to the unfolding narrative on TV, one could believe Thurman shot at the officers. Former Police Federation President and Minneapolis Police Lieutenant Bob Kroll appeared on television after watching the body worn cameras of Officers Schmidt and Kelly and said, "They were forced to fire at the suspect only after he pointed a gun and fired at the officers," (Tim Nelson, MPR News, July 30, 2018.)

The National Center for Audio and Video Forensics (NCAVF), who was hired by the City to analyze the officers' body-worn camera footage, posted description of the incident as promotional material for their website. They posted photos of the officers surrounded by white halos along side an article that read, "One officer said the suspect was pulling out a gun and he had no choice but to shoot him in the back. Another officer said the suspect was turning to shoot and that is why the officer fired his weapon," (Appendix I, CUAPB Report).

Officer Justin Schmidt, the Officer who opened fire on Blevins spoke in his interview. "Question: At any point does the subject point the gun at you? Schmidt, "Not that, no I not that I could see. By the time I made the decision to use deadly force um I had focused on my front site (sic)," (p. 226, BCA case #2018-457)

The other Officer, Ryan Kelly, was at least 140 feet

down the alley, but he said, "And now his [Blevin's] arm is coming up and all I hear is uh a couple shots, and now I have, now he's pointing a silver handgun directly at me and I remember seeing that barrel pointed right at me and I'm pretty sure he got a shot off and I don't know where it went."

The video of both officers was later released to the public and was stabilized by the National Center for Audio and Video Forensics, at the City's request. The video never shows Blevins firing a gun. The video does show the officers' handguns firing fourteen times altogether. The audio shows fourteen shots.

Fourteen police cartridge casings are found on the ground. NCAVF reports that there are no less than fourteen reports, though they note additional rounds might have been hidden by the sound of others, (p.1995, BCA case 2018-457) It seems that the video, the audio, the shell casings, and the experts could not say that Thurman fired at the police.

There is one cartridge casing in the report that was found near the body. According to the video the casing was found approximately three feet from Blevins body. The position of the casing makes the best argument that if Blevins fired the handgun, he did not fire at the police.

When a handgun like Blevins' is fired from a standing

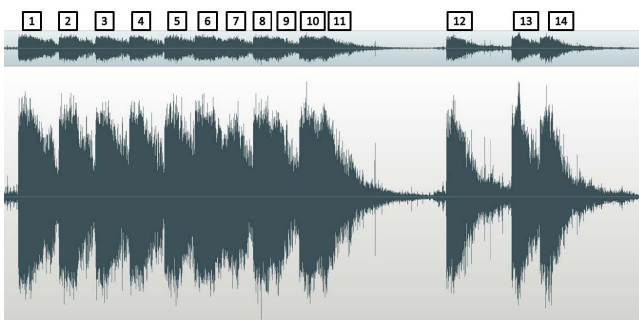
position with the gun upright, a cartridge casing is ordinarily thrown 6 to 10 feet away from the shooter, generally to the right side and somewhat to the rear. The casing attributed to Blevins gun was found within about three feet from the body. This position for the casing is only likely if the gun was close to the ground and tilted sideways, as it appears in the last red circle on the body camera footage as Blevins is falling to the ground. It seems that if Blevins fired his gun, it is likely that it was one of the last actions of a dying man.

The BCA did DNA testing of Blevins' gun. Blevins' DNA appears on the grip, magazine and bullets, but not on the trigger. (BCA Lab Number 518-08754 Report Number 10.)

A bystander in the alley, Chris Case watched the incident standing beside his car, which was struck by a police bullet that lodged in his headrest. Chris Case said, "The suspect, I never seen him shoot once." (p.572, BCA case #2018-457)

The last word went to County Attorney, Mike Freeman, "I cannot tell you that here is sufficient proof that he, in fact, lined it up and shot at the officers."

Appendix C
Blevins Incident Graphical Representation of Gunshots



Appendix C from the full Blevins report is a graphical representation of the gunshots heard on the officers' body-worn camera footage. Fourteen distinct soundwaves were identified. Fourteen shell casings, belonging to the officers, were also found at the scene. The evidence disputes that Thurman ever shot at the police officers.



Isaiah Brown, 11, held a photo of Thurman Blevins, the man killed by Minneapolis police. Photo and caption by Aaron Lavinsky, Star Tribune

What are "Stolen Lives?"

We use the term Stolen Lives to refer to people who dies at the hands of police or in the course of law enforcement activities.

Reinvestigation Workgroup

For every police killing, there is a conventional narrative that's usually in the County Attorney's report on failing to bring charge against the officer(s). The Reinvestigation Workgroup searches all of the available evidence to find disparities in that narrative. We disseminate that narrative to the families, to the attorneys of the families, and to the media.

Data Practices Workgroup

Data Requests are how we use our ability to collect government information to find training documents, policies, and other information for our investigations. The Data Practices Workgroup works with the Reinvestigation Workgroup to request data for cases and family members.

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Did Blevins point a gun at the police officers?

The National Center for Audio and Video Forensics enhanced version of the officers' badge video and audio. They stabilized the footage, slowed the footage to highlight helpful portions of the city's case, and even drew red circles around "the gun." However, everything is not as it seems. At the beginning of the encounter the video slows, and a red circle appears around the gun in Blevins' pocket. The chase begins and turns down the alley. In Blevins' final seconds, Thurman withdraws the gun from his pocket, holding it out to his right side.

The video slows, and a red circle appears around the gun. Moments later, the video slows again and the red circle appears on Blevins' left side, the side closest to Officer Kelly. Close analysis of that circle shows that the shiny object in the circle is not a nine millimeter pistol, but rather the front bumper and left front wheel of a Ben Franklin Plumbing truck in the background of the footage.

Frame by frame review of the unstabilized footage shows the truck before and just after Blevins passes in front of it. Refer to the photos on the following page.

The autopsy report of Thurman Blevins says that the fatal shot lodged against the right chest wall. The ballistics analysis shows a bullet hole in the upper left back of Blevins' T-shirt. (BCA Report, p. 1593, Item 51). Blevins was shot in the back, and whatever the direction of Blevins' gun, his torso was facing away from the officers when he was shot.

Officer Schmidt said that he made the decision to shoot without ever seeing Blevins point the gun at Officer Kelly or himself. Additionally, Schmidt says in his interview that Thurman was facing away from Schmidt when he fired (BCA, p. 225.)

“Close analysis of that circle shows that the shiny object in the circle is not a nine millimeter pistol, but rather the front bumper and left front wheel of a Ben Franklin Plumbing truck”

Officer Kelly saw the barrel “pointed directly at him.” Should we believe him? Immediately before the shooting begins Kelly is behind 4737 Aldrich. Blevins falls behind 4746 Bryant Ave North, over 40 yards away.

While the gun barrel does not appear on the body camera's video until after firing begins, Kelly can see not only the 4” barrel, but can tell that it is



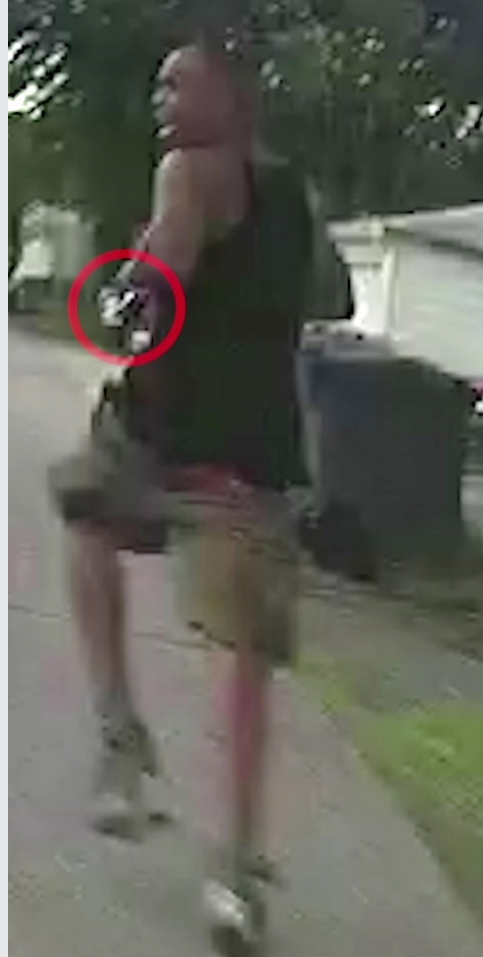
Frame 1 (top photo): The bumper, hubcap, and headlight frame of the blue plumbing truck are clearly seen in the yellow square.



Frame 2 (middle): As Mr. Blevins approached the truck, photo captures the pixels merging inside the yellow box. NCAVF circled the pixels, claiming falsely that this is a gun.



Frame 3 (bottom): Inside the red circle, NCAVF added pixels to make the merged truck pixels appear more like a gun.



The two photos above are an illustration of additional pixels placed by NCAVF to make the merged pixels of the front of the truck appear more like a gun. The photo on the left is the original photo and the one on the right is from NCAVF's enhanced footage. These are the same frames from Officer Schmidt's original body-worn camera footage and from the NCAVF enhanced footage.

Additionally, it is impossible for someone of Thurman's height and weight to have his right elbow extended and able to point a pistol on his left side in the way the NCAVF and BCA described.



Did Blevins pose a danger to the community or officers?

pointed directly at him. While there are other discrepancies in Kelly's statement, this alone raises doubt.

The only civilian witness to the shooting, Chris Case, said, "He (Blevins) finally stopped and pulled a gun out, and started to turn around and they opened fire on him."

He and Mr. Blevins were 'face to face' and that when Mr. Blevins began to turn to the left, the officers opened fire" (BCA, p. 578)

It is practically impossible that Blevins could be face to face with Mr. Case and point a gun, under his arm at Officer Kelly. Accurate shooting requires lining up the sights, taking a steady position, pausing the breath and squeezing the trigger. Officer Kelly, a SWAT-trained officer, should know that Blevins posed little danger to him at almost twice the maximum distance of the police qualification test, with his back turned.

Mike Freeman mischaracterizes Case's statement, "Mr. Blevins turned around to his left." In fact, Mr. Case says he began to turn and officers opened fire. Mike Freeman apparently found Officer Kelly credible in saying he could see down the barrel of the gun at 40 yards, and of course there was the video with the circle around the shiny chrome of the Ben Franklin plumbing truck.

Minnesota Law permits a law enforcement officer to use deadly force when necessary "to protect the peace officer or another from apparent death or great bodily harm." (Freeman's report quoting Minn. Stat. § 609.066.) So, did Thurman Blevins pose a deadly danger to the officers or the community?

When Officers Schmidt and Kelly approached Thurman Blevins in their squad car, he was seated on the curb, talking with his girlfriend, Olya Weseman, who was standing behind a baby stroller with her child. The butt of a handgun sticks out of Blevins' right rear pocket as he sits. (Schmidt BWC tape 6:25?) Is Blevins a threat to the community or the officers at this moment? Minnesota has issued over 276,000 permits to carry a firearm. That is one permit for every 18 Minnesotans. Officers Kelly and Schmidt had heard that another squad, number 460 was questioning another man matching the description in the 911 call. Do Officers Schmidt and Kelly have reason to believe that Blevins posed an immediate threat?

Officer Schmidt begins his investigation by exiting the squad, drawing his gun, pointing it at Blevins, charging towards him, and saying, "Put your fucking hands up!" (Schmidt tape, 6:30) The entire group appears startled. Blevins picks up the liquor bottle with his right hand and begins to jog away from the two officers with drawn firearms. Blevins cannot draw the gun in his right rear pocket while holding the bottle in his right hand, and he begins to negotiate with the Officers.

The following transcription includes descriptions of violence and explicit language.

The following dialogue is from a transcription of the involved officers' BWC footage.

Schmidt: Put your fucking hands up now! Stop.

Kelly: Stop! Stop! Stop!

Schmidt: Put your fucking hands up!

Schmidt: Put your hands up!

Blevins: Why?

Schmidt: I will fucking shoot you (Schmidt BWC 6:35)

Blevins: Why?

Blevins: Why? Why?

Schmidt: Stop!

Kelly: Stop or I'll shoot (Kelly BWC 6:38)

Kelly: Stop or I'll shoot! Stop or I'll shoot!

Blevins: My liquor. Come on man.
(Schmidt BWC 6:34)

Kelly: [on radio] 420 chasing one party. 48th & Aldrich, westbound, man has a gun.

Schmidt: Put your hands up.

Blevins: I didn't do nothing, bro.

Schmidt: You've got a gun, motherfucker!

Blevins: No, I don't!

Schmidt: Yes, you do!

Blevins: It's right there, it's right there!

Schmidt: Put it down!

Blevins: [after dropping the liquor bottle in the middle of the intersection] It's back there, it's back there!

Schmidt: Put it down!

Blevins: It's back there!

Kelly: [on radio] Black tank top, brown shorts.
(person on radio repeats back.)

Schmidt: I will fucking shoot you.

Blevins: Don't shoot me, please.

Schmidt: Put your hands up.

Kelly: [on radio] Southbound in the alley, Aldrich to Bryant.

Blevins: Please don't shoot me.

Schmidt: Put your hands up.

Blevins: Leave me alone.

Schmidt: Put your hands up.

Blevins: Leave me alone [or possibly "I'm unarmed."]

Schmidt: Put your hands...

Schmidt then opens fire.

In this dialogue, Blevins appears to be negotiating while Schmidt is threatening to shoot. Which one is acting as an imminent threat to the other and to the community?

At one point the US Court for the 9th District had a rule that said, if an officer did something unconstitutional that provoked a violent response, that an otherwise reasonable use of force would be found unreasonable. The U.S. Supreme Court struck down the Provocation Rule, but said that lower courts could still analyze the totality of the circumstances to determine if the officers acted reasonably. Mr. Freeman's legal analysis failed to go beyond Blevins' failure to obey police commands and taking a gun out of his pocket in finding the shooting reasonable.

4 Public Safety or Officer Safety?

Mr. Freeman failed to look at the totality of the circumstances. We should not be guilty of the same fault and only look at whether the officers should have faced trial. We should also look at what kind of police force we have in Minneapolis and what kind we want. If we look at the actions of Schmidt and Kelly, we see that we have a police force that is concerned with the safety of officers and less concerned with public safety.

Blevins threat to public safety was at most, the two alleged gunshots fired before police arrived, one into the air, and one into the ground of a vacant lot, and the final shot he may have fired as he died. Kelly and Schmidt fired fourteen shots, four of which hit Blevins (BCA p. 185). Three bullets end up in the Ben Franklin Plumbing truck behind 4738 Bryant Ave (BCA p. 336.) One of Schmidt's

"We must ask ourselves, do we want a police force of peacekeepers, or of gunslingers?"

bullets passed through Chris Case's headrest. (BCA p.577). One bullet lodged in the wheel of a garbage bin behind 4742 Bryant (BCA p 1245). One bullet hit above the garage door at 4735 Aldrich (Id.) One bullet hit the garage overhang at 4727 Aldrich (Id.)

Perhaps another couple of bullets went through a garbage can and a garage door, but the BCA lab didn't know for sure, and no one knows where the rest of the fourteen police bullets ended up. Officer Kelly is the poster child for reckless firearm use, firing 6 shots in 3 seconds at a target forty yards away, For reference, the FBI handgun qualification course shoots at a maximum of 25 yards and agents fire 5 rounds in 15 seconds.

The contrast between officer safety and public safety ended in the alley, but was clear when Officer Schmidt engaged Blevins at gunpoint with, "Put your fucking hands up!" Schmidt's concern was not for Blevins safety, nor for Blevins' girlfriend, nor for the two-year old child in the stroller.

Schmidt's immediate threat of deadly force, yelled profanity, and charging toward Blevins may have been an attempt to gain immediate control of the situation, but it was bad policing. Minneapolis Policies on the Use of Force and De-escalation (section 304) outline how officers

should act to gain voluntary compliance while minimizing the use of force, including containing a threat, using verbal techniques to calm a suspect, communicating from a distance, using cover to reduce exposure to a potential threat, and using additional officers. Schmidt and Kelly did none of those things and endangered an innocent woman with a baby in a stroller, the suspect, most of a block of North Minneapolis, and each other.

We must ask ourselves, do we want a police force of peacekeepers, or of gunslingers?

5 Public Officials or Police State?

In the immediate aftermath of the Thurman Blevins shooting, frequently heard reactions were, “Well, he had a gun,” and more agonizingly, “He should have just complied with the police.” Both these water-cooler comments thoughtlessly give away our Constitutional rights.

We have already discussed the fact that Minnesota has issued more than 276,000 permits to carry firearms, because the Second Amendment to the US Constitution guarantees citizens the right to keep and bear arms. Similarly the Fourth Amendment guarantees the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. This is the amendment that puts limits on the power of the police to come into your house, to stop your car, to question you about your business, to take your liberty, and to take your life.

The law of the land is that police need a reasonable, articulable suspicion to stop you, probable cause of a crime to arrest you, and an

**Who will
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imminent threat of death or serious bodily harm to shoot you. These are the interpretations of the Fourth Amendment that protect your life and your liberty. Maybe.

The reason these laws exist is that citizens questioned whether police had violated their rights. Few would say that the place to question police behavior is when a jacked-up officer is yelling obscenities with a loaded gun pointed at one's head. But if no one questions the behavior of the police at the water cooler, who will question their behavior in court. Who will protect your rights if you won't protect Thurman Blevins'?



How Much Justice Can You Afford?

When a member of our community dies at the hands of law enforcement, there are giant hurdles in the way of justice for their families and the community. The investigation of the killing is handled by law enforcement itself, and then handed off to prosecutors whose daily work depends on the support of law enforcement. No wonder that only two police officers have ever been convicted in the killing of a citizen in Minnesota, and that one of those has been downgraded from murder to manslaughter. This leaves lawsuits in civil court as the only kind of justice available to families of stolen lives. It can't bring back the stolen, or fire the cops, but it may be the only chance for families to tell the stories of the theft of their loved one's life. But even this justice does not come easy.

The killing of a community member at the hands of law enforcement leaves a scar on whole community, but for the families of these stolen lives, the question comes down to "How much Justice can you afford?" While Communities

United Against Police Brutality helps by re-investigating the law enforcement narratives, and often helping families find an attorney, that is only the beginning of bringing a lawsuit against the police. That's where the Stolen Lives Justice Fund comes in. The costs of a lawsuit

“Similarly the Fourth Amendment guarantees the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

against the police are stiff: filing fees, fees for documents, deposition costs for stenographers, videographers, and rented conference rooms, fees for transcripts, hundreds of dollars an hour for expert witnesses on crime scene reconstruction, on police procedure, on the pathology of bullet wounds, and thousands of dollars for their reports.

The thing is that cities and states don't have to worry about these costs to defend killer cops, because you are paying them through the taxes that are taken from your paycheck or added to your lunch tab, and you can't do much about that. But you can choose to help the families of stolen lives; you can even the odds for the community through your donation to the Stolen Lives Justice Fund.

So how much justice can You afford?

Can you give \$5 per month to pay for an hour of stenographer time at the deposition of a killer cop?

Can you give \$15 per month to pay for the filing of a lawsuit that lets the story finally be told at the courthouse?

Can you give \$25 per month to pay for an hour of expert witness time, so that someone can tell the cops that they are wrong?

Choose an amount and help us get justice for the families of stolen lives.

The analysis presented here was the product of a year long investigation into the case of Thurman Blevins. The full 27 page report can be found at cuapb.org

SUBSCRIBE TO THE SLJF

*The **Stolen Lives Justice Fund** pays for court filing fees, independent autopsies and investigations, and other needs of families of people killed by police. Because we have no paid staff, 100% of your contribution goes*

to direct aid for families of stolen lives. Please give any amount.

Or please consider joining a monthly subscription to the SLJF today:

\$5 \$15 \$25 Other

