

October 28, 2020

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ATTN: Citizen Appointees

Mr. Aaron Dail

Ms. Margaret Daniel

Dear Council Members,

My name is Tamika Palmer. Thank you all for your public service. If not for our prosecutors, there would be no effective system of justice.

It is my understanding that in situations where a duly appointed prosecutor responsible for a case is unable or unwilling to prosecute, the Council will see that a legitimate prosecution goes forward in the hands of a public prosecutor who is ready, willing and able to represent the Commonwealth appropriately.¹ As such, in accordance with KRS 15.715, I hereby respectfully request that the Council afford relief in the form of appointing a competent and capable prosecutor willing to handle the case involving the death of my daughter, Breonna Taylor.

Admittedly, it is nerve racking to even bring you this request for relief. I understand and appreciate that each of you, as prosecutors, must establish and maintain a collaborative and positive relationship with law enforcement. Yet here, I am asking for each of you to evaluate the unwillingness and refusal of Kentucky's highest-ranking prosecutor to present charges against law enforcement officers. It is my humble request to each of you that, while reviewing this application for relief, any relationships you may have with law enforcement, along with any potential ideals and preconceived notions regarding cases of this nature, please be set aside.

On March 13 of this year, Breonna was killed when police officers forcibly entered her home with a battering ram and shot her several times. Breonna was unarmed and posed no threat. Nearly all the shots fired at her were while she was disabled and on the ground.

¹ "The aggrieved citizen should apply for relief to the 'prosecutors advisory council' created by KRS 15.705, which has the responsibility to see that any legitimate prosecution goes forward in the hands of a public prosecutor ready, willing and able to represent the Commonwealth appropriately. It provides a system for replacement of a prosecutor in the event of "incapacity," "refusal" or "failure" to act in any certain case or cases "without sufficient grounds," "inability," or "conflict of interest." *Commonwealth v. Hubbard*, 777 S.W.2d 882, 885 (Ky. 1989) (Liebson, dissenting on other grounds).

From September 21-23, evidence surrounding Breonna's death was presented to a Jefferson County grand jury. Following the proceedings, Attorney General Daniel Cameron had me drive nearly an hour to his office in Frankfort, where he proceeded to tell me that his prosecution team was only able to obtain an indictment against LMPD officer Brett Hankison. The Attorney General advised me that the grand jury declined to indict other officers and that his team had done the best they could.² A.G. Cameron and one of his prosecutors then advised me that I should consider finding peace through the Lord and watched as I sobbed uncontrollably.

While I was riding back to Louisville, stopping and getting sick on the side of the highway along the way, A.G. Cameron was being shuffled across town to make a national press conference. There, he announced to a worldwide audience that his prosecutors walked the grand jury through every homicide offense, that the grand jury applied the facts to the law and that the grand jury, upon reviewing the evidence, determined that the officers were justified in killing Breonna.³ These statements were flat out lies. The Attorney General proceeded to repeat these lies in follow-up media interviews.

Multiple grand jurors, upon hearing what A.G. Cameron had to say, pursued legal action to obtain the right to clear the record. I am aware of the concerns expressed by the Commonwealth Attorneys Association in response to the grand jurors' request to speak out. While several of you supported the arguments to prohibit the grand jurors from speaking, hopefully we at least agree that a prosecutor should not misrepresent important facts surrounding a grand jury presentation and then be permitted to rely upon secrecy rules to preclude the truth from being disclosed. Neither

² Attorney General Cameron never advised me that the wanton endangerment charges were unrelated to Breonna; he also never advised me that his office had not presented or recommended any other charges to grand jurors.

³ See Exhibit 1, transcript of Daniel Cameron's conference and interview.

a victim nor a suspect should have to endure a lifetime of being misled about the events giving rise to the outcome of the grand jury proceeding.

When the court denied the Attorney General's efforts to block the grand jurors from speaking, the truth was finally revealed:

*"The grand jury did not have homicide offenses explained to them. The grand jury never heard anything about those laws. Self-defense or justification was never explained either. Questions were asked about additional charges and the grand jury was told there would be none because the prosecutors didn't feel they could make them stick. The grand jury didn't agree that certain actions were justified, nor did it decide the indictment should be the only charges in the Breonna Taylor case. The grand jury was never given the opportunity to deliberate on those charges and deliberated only on what was presented to them."*⁴

*"The grand jury was only allowed to consider the three wanton endangerment charges against detective Hankison. No opportunity to consider anything else was permitted."*⁵

Had multiple grand jurors not come forward, placing themselves and their freedom in jeopardy, my family would have remained in the dark as to these lies expressed by A.G. Cameron following the proceedings. It is incredible to think that the grand jurors were more compassionate and truthful about my daughter's case than the state's highest-ranking prosecutor. The Attorney General's unwillingness and refusal to prosecute Breonna's case, despite grand jurors confirming that they found probable cause to indict the officers on multiple offenses, calls into question whether we face a "stacked deck" when the perpetrators are members of law enforcement.

⁴ Exhibit 2, Statement from Grand Juror 1.

⁵ Exhibit 3, Statement from Grand Juror 2.

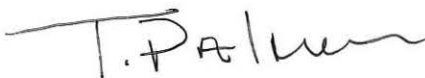
A.G. Cameron's actions assured that the grand jury was deprived of the right to indict officers on crimes associated with gunshots into my daughter's home, into her body and into the homes of the black neighbors living above her and behind her. A.G. Cameron's actions also assured that an indictment would be rendered in association with the gunshots fired into the home of the white neighbors living beside Breonna.

Relief is warranted and necessary. The Attorney General's conduct undermines the trust and integrity of the entire process. Despite A.G. Cameron's efforts to try and pawn decisions on the grand jury, the fact remains that he refuses to prosecute a case in which multiple grand jurors found that probable cause existed to indict all the officers. Grand jurors did not believe officers were justified in killing my daughter, yet A.G. Cameron denied them of their right to render a decision reflecting the same.

At a minimum, my daughter deserves, as do all aggrieved victims, a competent and capable prosecution team which is committed to properly investigating the case, evaluating the law from an unbiased lens, presenting the evidence and allowing the grand jurors to perform the functions guaranteed to them under the law.

Thank you for all consideration of this request. No mother should be deprived of justice and truth surrounding her child's death simply because the perpetrators were police officers.

With Respect and Gratitude,

A handwritten signature in black ink, appearing to read "T. Palmer", with a stylized flourish at the end.

Tamika Palmer

ARGUMENT

“The jury system calls on the lawyer to have faith in the common man — that the average citizen can be relied on, when given an adequate explanation, to understand a problem, apply reason to it, and arrive at a wise solution. This faith in the common man to solve his problems by his own reason is of the essence of a democracy. In the few cases in which the [prosecutor] is unable to persuade the grand jury and the Attorney General disagrees with its action, his recourse is not to prevent the grand jury from finding and returning an effective indictment.”¹

Prosecutors maintain uniform and efficient enforcement of criminal justice throughout the Commonwealth.² They have the responsibility to serve the public as impartial advocates in a criminal prosecution to ensure “that justice shall be done.”³ When presenting a case to a grand jury, prosecutors shall do so with full vigor, regardless of the status of the defendants in the case.⁴ Prosecutors shall provide the grand jury with accurate explanations of the law and assist with drafting indictments.⁵ As the grand jury acts as the “conscience of the community,” prosecutors must allow the grand jury to fully consider a case and render a decision reflecting a “conscientious conclusion.”⁶ It would be “grossly wrong” for a prosecutor to usurp the exclusive power of grand jurors to determine whether indictments should be found and returned in cases.”⁷ In Breonna Taylor’s case, Attorney General Daniel Cameron abdicated these duties.

On March 13 of this year, unannounced police officers forcibly entered Breonna Taylor’s home with a battering ram and, when confronted with one lawful warning shot from Breonna’s boyfriend, fired at least 32 bullets in response. Six bullets struck and killed Breonna. Throughout this time, Breonna was unarmed and posed no threat; nearly all the shots fired at her came after

¹ *United States v. Cox*, 342 F.2d 167, 169-170 (5th Cir. 1965) (quoting in part Colonel E.R. Mattoon, *The Lawyer as a Social Force*, 15 Ala. Law, 55, 64 (1954)).

² See KY Const. §81

³ *Young v. United States ex rel. Vuitton et. Fils S.A.*, 481 U.S. 787, 803 (1987).

⁴ See *Hoskins v. Miracle*, 150 S.W.3d 1, 18 (Ky. 2004).

⁵ RCr 5.14.

⁶ *United States v. Cox*, 342 F.2d 167, 169-170 (5th Cir. 1965).

⁷ *Id.*

she'd been disabled and gone to the ground. A finder of fact and investigative body could determine that the police officers acted wantonly and recklessly, thereby eliminating their right to self-defense; that the officers, upon forcing entry into the home without announcing, were the initial aggressors and, thus, had a duty to retreat; and that the officer gunfire continued well beyond the presence of any threat.⁸

In September of this year, evidence surrounding Breonna's death was presented to a Jefferson County grand jury. Following the proceedings, Daniel Cameron publicly announced that the prosecutors walked the grand jury through every homicide offense, allowed the grand jury to apply the facts to the law and that the grand jury, upon reviewing the evidence, determined that the officers were justified in killing Breonna.⁹ Since Cameron's announcement, an extraordinary series of events have made clear that he, to put it bluntly, lied repeatedly to Breonna's family and the public. In fact, these lies were made to such an offensive degree that multiple grand jurors, upon hearing them, retained counsel and fought legal battles to obtain the right to clear the record.¹⁰

The first grand juror to speak out stated the following:

*"The grand jury did not have homicide offenses explained to them. The grand jury never heard anything about those laws. Self-defense or justification was never explained either. Questions were asked about additional charges and the grand jury was told there would be none because the prosecutors didn't feel they could make them stick. The grand jury didn't agree that certain actions were justified, nor did it decide the indictment should be the only charges in the Breonna Taylor case. The grand jury was never given the opportunity to deliberate on those charges and deliberated only on what was presented to them."*¹¹

⁸ See KRS § 503.120, KRS 503.055(2)(d) and KRS 503.055(4).

⁹ To add insult to injury, Cameron only permitted the grand jury to deliberate on counts of wanton endangerment for three rounds which passed into a neighboring apartment occupied by three white residents. Cameron did not permit the grand jury to deliberate on four rounds which passed into two apartments occupied by black neighbors.

¹⁰ *Anonymous Grand Juror One v. Commonwealth*, 20-CI-5721, Jefferson Circuit Court.

¹¹ See Exhibit 2, Statement from Grand Juror 1.

A second grand juror came forward and said the following:

*“The grand jury was only allowed to consider the three wanton endangerment charges against detective Hankison. No opportunity to consider anything else was permitted.”*¹²

Daniel Cameron’s actions have undermined the public’s trust in the government. In essence, he refused to prosecute the case, but then made a sham grand jury presentation and attempted to hide behind the secrecy rules in order to create a false impression that the grand jurors had found the officers’ actions to be justified. Cameron’s behavior in this case violated his professional responsibility to preserve the dignity of, and respect for, the legal profession. Daniel Cameron violated his duty to assist the grand jurors with their essential functions, which are “to inquire into *every offense* for which any person has been held to answer and for which an indictment or information has not been filed, *or other offenses which come to their attention or of which any of them has knowledge.*”¹³ Cameron, upon receiving inquiry from the grand jurors as to additional criminal offenses, blatantly disregarded his duty to assist the grand jurors by accurately explaining the law and by drafting indictments.¹⁴ Daniel Cameron violated his duty to the public to perform the job with honesty, integrity and free of bias. He violated his duty to ensure that the laws of the Commonwealth are enforced and equally applied both to persons of color and to those who are white, and to those who are police and to those who are not. If presented with a case involving a black man who, without announcing, forcibly entered a home of an off-duty police officer and then responded to one bullet from the off duty-officer with an arsenal of fire, killing an innocent bystander in the process, is there any doubt as to whether Daniel Cameron and Commonwealth Attorneys would have presented homicide charges of some degree to a grand jury?

¹² See Exhibit 3, Statement from Grand Juror 2.

¹³ RCr 5.02 (emphasis added)

¹⁴ RCr 5.14.

The Prosecutor's Advisory Council has the authority and "responsibility to see that any legitimate prosecution goes forward in the hands of a public prosecutor ready, willing and able to represent the Commonwealth appropriately. It provides a system for replacement of a prosecutor in the event of 'incapacity,' 'refusal' or 'failure' to act in any certain case or cases 'without sufficient grounds,' 'inability,' or 'conflict of interest.'"¹⁵ Relief is warranted and necessary. At a minimum, Breonna Taylor deserves, as do all aggrieved victims, a competent and capable prosecution team committed to properly investigating the case, accurately interpreting the applicable law, presenting the evidence and the law without bias and allowing the grand jurors to perform the functions required of them under the law.

1. DANIEL CAMERON'S DERELICTION OF DUTIES WARRANTS PROSECUTORIAL REPLACEMENT.

The grand jury serves to investigate allegations of criminal conduct and determine whether probable cause for crimes exists, operating independent of the prosecutor.¹⁶ Daniel Cameron's duties owed to the grand jury included, but were not limited to: accurately presenting the evidence in an unbiased manner; advising the grand jury that, as an investigative body, they had several mechanisms and rights available to them to obtain evidence; explaining all elements of the law and any applicable criminal offenses; advising the jury that they had the authority to indict on all criminal offenses for which probable cause exists, and permitting the grand jury to in fact indict on those offenses.

An essential part of a prosecutor's job is to "preserve the grand jury, rather than the prosecutor's private deliberations, as the chosen forum for ascertaining the truth about criminal

¹⁵ *Commonwealth v. Hubbard*, 777 S.W.2d 882, 885 (Ky. 1989), citing KRS §15.705.

¹⁶ *Fletcher v. Graham*, 192 S.W.3d 350, 363 (Ky., 2006) ("the hallmark of the grand jury is its independence from outside influence.").

accusations.”¹⁷ The prosecutor shall present the grand jury with the full panoply of legal options that could arguably apply to the facts of the case and then allow the jurors to apply the facts to the law and determine whether probable cause exists for indictments. “History demonstrates that grand juries...derive their independence from an un-reviewable power to decide whether to indict or not.”¹⁸ It is the grand jury, rather than the prosecutor, that determines not only whether probable cause exists as to the recommended charges, but also whether to charge on additional offenses, lesser offenses, numerous counts or a single count.¹⁹

Despite the clear demarcation of duties between the prosecutor and the grand jury, Daniel Cameron usurped the authority of the grand jury when he unilaterally decided that the jurors would not be instructed on the laws or be permitted to deliberate on charges related to Breonna’s death. Cameron’s actions were in blatant violation of his “absolute ethical obligation to observe the independent status of the grand jury and to ensure that indictments are returned in a just manner.”²⁰ A “decision not to prosecute someone who would likely be indicted and could be convicted is a form of prosecutorial nullification.”²¹ “We can think of no matter that would more affect the duties of a grand jury...than an instruction informing it that the very offenses which it is investigating...could never be criminally prosecuted.”²²

A. Daniel Cameron grossly misstated the law to clear the officers of criminal conduct.

While on the podium speaking to a national audience, Daniel Cameron announced that “my job is to present the facts to the grand jury and the grand jury then applies those facts to the law.”

¹⁷ *Kyles v. Whitley*, 514 U.S. 419, 440 (U.S. 1995); *Rose v. Clark*, 478 U.S. 570, 577-78 (1986).

¹⁸ *United States v. Navarro-Vargas*, 408 F.3d 1184, 1204 (9th Cir. 2005) (dissenting on other grounds).

¹⁹ *Id.* at 1186.

²⁰ *Commonwealth v. Baker*, 11 S.W.3d 585, 588 (Ky. App. 2000).

²¹ *Id.* See also *United States v. Cox*, 342 F.2d 167, 169-170 (5th Cir. 1965) (Attorney General placed under contempt for instructing his prosecutor to not indict.).

²² *Fletcher*, 192 S.W.3d at 364 (emphasis added).

He did not, however, allow this to happen. Rather, the Attorney General's office simply advised the grand jury that law enforcement officers were justified in using force and that the matter was not subject to deliberation. This was erroneous. As confirmed by multiple grand jurors, the applicable laws were never explained. The grand jury never heard about self-defense or justification, let alone determine that the officers were justified. Had the grand jury been presented with the full panoply of possible charges, the outcome likely would have been different; two grand jurors have publicly stated that they did not believe the officers' actions were justified.

While scrutiny over a prosecutor's handling of grand jury proceedings is relatively uncommon, "blatant, palpably-erroneous legal advice...is another matter entirely."²³ Proper administration of criminal justice dictates that we cannot simply ignore an obvious inaccurate legal interpretation made to an empaneled grand jury.²⁴ Rather, the prosecutor has a duty to provide accurate legal advice to jurors, especially on critical legal issues. The failure to do so is a "flagrant abuse" of this duty which amounts to prosecutorial misconduct.²⁵

Daniel Cameron made a blatant, palpably erroneous legal conclusion when he determined that "according to Kentucky law, the use of force by Mattingly and Cosgrove was justified to protect themselves. This justification bars us from pursuing criminal charges in Ms. Breonna Taylor's death."²⁶ This is not the law. Daniel Cameron had an obligation to identify and explain self-defense laws, including KRS 503.120, KRS 503.055(2)(d) and KRS 503.055(4) to the grand jury. Under KRS 503.120, self-defense is unavailable as a justification in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

²³ *Mason v. Commonwealth*, No. 2014-CA-001340-MR, p. 14 (Ky. App. 2017) (unpublished).

²⁴ *Id.*

²⁵ *Id.* at 13.

²⁶ Daniel Cameron. September 23, 2020.

503.120 Justification — General provisions.

(1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish justification under KRS 503.050 to 503.110 but the defendant **is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.**

(2) When the defendant is justified under KRS 503.050 to 503.110 in using force toward the person of another, but he **wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.**

As confirmed by Fred Cowan, who previously served as Kentucky's Attorney General and as a Jefferson Circuit Court Judge, it was a "clearly erroneous statement of the law" for the Attorney General to advise the grand jury that the officers were "justified." He stated further:

*"The attorney general and his team made a legal mistake in allowing the grand jurors to infer that they could not legally indict the officers. Under Kentucky law, 'justification,' or self-defense, is not a defense to the crimes of manslaughter in the second degree or reckless homicide, particularly when an innocent person, as Breonna was, is the victim."*²⁷

In this case, reasonable factfinders on the grand jury could determine that officers acted wantonly and recklessly. Officer John Mattingly states that he observed Breonna in her hallway, and that she was unarmed and not posing a threat. Despite this, officer Mattingly fired at Breonna, striking her with at least one of his rounds. By the time Officer Myles Cosgrove entered Breonna's home, she had already been shot and wounded from Officer Mattingly's gunfire. According to Kenneth Walker, Breonna went to the ground while screaming and gasping in pain and terror.

²⁷ To find justice for Breonna Taylor, Cameron must present all the facts to a new grand jury, <https://www.courier-journal.com/story/opinion/2020/10/16/breonna-taylor-case-cameron-must-offer-facts-new-grand-jury/3657610001/>.

Despite this, Officer Cosgrove fired repeatedly at Breonna and killed her. All of Officer Cosgrove's shots were directed at Breonna while she was either going to the ground or already on the ground.

Judge Cowan, in further scrutinizing Daniel Cameron's actions, observed that the grand jurors should have been "encouraged to consider whether the officers were 'wanton' or 'reckless' in forming their belief that they had to return fire in the way that they did" and that it would be improper for the prosecutors to lead the grand jury to "believe the officers' mental states were not relevant."²⁸ Reasonable factfinders properly advised on the law would likely scrutinize Officer Cosgrove's explanation of the shooting, in which he states he cannot hear gunshots or feel his hands, yet shoots into an area surrounded by blackness, recurring vivid white lights and a "distorted shadowy mass." Six months after ballistics evidence confirmed that Officer Cosgrove fired his entire fifteen round magazine, along with the additional round in the chamber, he still believes that he only fired four shots.

Simply put, the law does not coincide with Daniel Cameron's apparent assessment that law enforcement officers, if fired upon, are blanketly justified to return fire without regard for the number of shots, the location of the shots, whether the shots are directed towards a threat, whether the shots are wanton or reckless or whether the shots are directed at an unarmed, innocent third party. Advising a grand jury that Myles Cosgrove was justified as a matter of law was an abuse of the system, demonstrating Daniel Cameron's unwillingness and refusal to prosecute the case.

Daniel Cameron also failed to educate the grand jury on the significance of an officer's failure to comply with a "knock and announce" mandate during the execution of a search warrant. The law is clear that officers instructed to knock and announce during a search warrant must do so

²⁸ *Id.*

by knocking, announcing their authority and presence and affording a reasonable amount of time for those inside the home to comply.²⁹ The Kentucky Supreme Court cites the importance of protecting home occupants and officers from potential violence as the most important reason why police officers entering a dwelling must knock on the door and announce their identity and purpose before attempting forcible entry.³⁰ It is axiomatic that the grand jury would need to understand that police officers required to announce themselves must in fact do so to be afforded the protections under self-defense laws. If reasonable factfinders determined that the officers did not announce, despite the requirement to do so, it would implicate the officers as the initial aggressors. Under Kentucky's "castle doctrine," residents may use deadly force against home intruders. While there is an exception precluding this force against law-enforcement officers, it only applies if the officers clearly announce their presence and authority in accordance with the law prior to making entry. If the officers did not announce when required to do so, then a statutory presumption applies against them that their forced entry was made with the intent to commit an unlawful act involving force or violence. Only when empowered with this knowledge could a grand jury properly evaluate whether the officers were the initial aggressors. And if the jurors determined that the officers were the initial aggressors and that they were confronted with a lawful use of force, then the officers were not justified to return force. Rather, the law requires the initial aggressor to retreat.

Whether the officers announced in accordance with the law is a disputed issue. According to at least twenty of Breonna's neighbors, the officers did not announce themselves prior to hitting her front door with a battering ram multiple times and forcing it open. Despite this, Daniel Cameron decided that the officers did, in fact, knock and announce their presence in accordance with legal requirements. When asked for an explanation, Cameron claimed that "the statements

²⁹ *United States v. Dice*, 200 F.3d 978, 982 (6th Cir. 2000) (citing *Wilson v. Arkansas*, 514 U.S. 927, 934 (1995)).

³⁰ *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

that were made by officers there the night or the morning of March 13th show that they did knock and announce.” This alone is indicative of the biased lens through which Attorney General Daniel Cameron viewed this case. He did not even allow the grand jury, as investigators and factfinders, to decide on this matter.

B. Despite Daniel Cameron’s failure to present a complete case to the Grand Jury, jurors were prepared to indict the officers.

The grand jury must have all relevant evidence in order to be “independent and informed.”³¹ “Consequently, the grand jurors deserve full, complete, and accurate information regarding how the significant expenditure of their time and energy in an exhaustive investigation effects the ultimate disposition of the cases before it...”³²

A review of the grand jury transcripts in this case confirms that critical evidence was not obtained or otherwise presented to the grand jury. The investigation and presentation were oversimplified and deficient by design. Rather than obtain and present objective evidence, Daniel Cameron had the case presented from nearly an entirely subjective standpoint. Cell phone evidence was not presented. Forensics testing was not presented. Certain ballistics and pathology evidence were not presented. A proper investigation into body camera footage was not performed. Certain radio communications were not obtained and presented. Important witnesses were not interviewed. Obvious evidence tampering was not presented.³³

Critically, prosecutors did present witnesses who supported the conclusion that the officers acted with reckless and wanton disregard for human life. Witnesses presented to the grand jury identified certain officer acts as egregious, stating that they should be subject to scrutiny in

³¹ *Fletcher*, 192 S.W.3d at 367 (citing *United States v. Calandra*, 414 U.S. 338 (1974)).

³² *Id.* at 367-368.

³³ See Exhibit 4, Case Background, for a more detailed description of the investigation and evidence presentation

determining whether an officer was permitted to use deadly force at all, let alone in a manner which killed an innocent third party. Witnesses advised jurors that the officers: must acquire a target (“target acquisition”) and determine that the target is a threat (“threat assessment”) prior to firing their weapons at the target; that the officers are accountable for every round fired and must be able to articulate the reasoning for each; that the officers are not permitted to engage in suppression firing; that the officers are not permitted to fire their weapons into areas that they cannot see, especially if those areas were potentially occupied by innocent third parties; and that, after a volley of gunshots, the officers must take a moment to reassess the threat and scan the area for additional threats before resuming fire. Grand jurors attentively listened to this evidence, taking notes and asking pointed questions. Those grand jurors who have spoken to date acknowledge that they were prepared to vote to indict all three officers on felony charges based upon this and other evidence. But despite presenting this evidence to the grand jury, Daniel Cameron then suffocated its significance when he did not permit these grand jurors to deliberate on any charges related to Breonna’s death.

C. Daniel Cameron’s conduct demonstrates a refusal to prosecute the case, a true bias favoring the officer defendants and an overall lack of integrity; a special prosecutor is necessary to restore and ensure confidence in the process.

When Daniel Cameron took the podium to discuss this case in a national spotlight, he lied to the public repeatedly about what occurred in the grand jury proceedings. He told the public twice in the same press conference that the grand jurors were presented with an explanation of all six Kentucky homicide offenses and walked through each.³⁴ This did not happen; it is now clear that the grand jurors were never afforded any explanation of homicide laws. Cameron told the public three times that the grand jury found that the officers’ actions were justified. This also did

³⁴ See Exhibit 1: Daniel Cameron Statement (September 23, 2020).

not happen; the grand jurors were never advised on self-defense or justification. Cameron told the public that the grand jury ultimately made the determination about whether to charge the officers. This was not the case. To the contrary, although this grand jury was prepared to perform all functions, Daniel Cameron deliberately blocked the jurors from applying the facts to the law.

Daniel Cameron deliberately engaged in misconduct designed to impede upon the grand jury's independent investigative and factfinding roles. When grand jurors were advised that their deliberations were limited to the sole recommendation from the prosecutors, and that this recommendation did not include any charges with relation to Breonna's death, this confirmed that Cameron refused to prosecute the case and the officers. When multiple jurors came forward to affirmatively state that they did not believe the officers were justified, it confirmed that the case presents a legitimate prosecution. The prosecutor "cannot inquire into the merits of whether indictments should be found and returned in particular cases being considered by the grand jury. Only the grand jurors themselves have that power. It would be grossly wrong for it to be usurped."³⁵ Daniel Cameron's refusal to prosecute this case lacks sufficient grounds. When Cameron attempted to use the grand jury secrecy rules to deceive Breonna Taylor's family and the public regarding the circumstances of the proceedings and deliberations, confidence in the system was destroyed. The public has no faith that justice was done in this case, further supporting the need for a new prosecution. It is actions like those of Daniel Cameron which members of the judicial system have stated undermine the integrity of the grand jury process:

³⁵ *United States v. Cox*, 342 F.2d 167, 175 (5th Cir., 1965).

“Conscientious grand jurors, instructed as were the jurors in these cases, will believe they lack any authority beyond that on which they are instructed, and will act accordingly.

Instructing a grand jury that it lacks power to do anything beyond making a probable cause determination thus unconstitutionally undermines the very structural protections [of the institution]. The power to deliberate in secret is valuable, but limiting the factors included in that deliberation circumscribes that power. Similarly, the power to make un-reviewable decisions is a serious power indeed, but limiting the range of considerations that impact those decisions undermines that power.

Indeed, there is something supremely cynical about saying that it is fine to give jurors erroneous instructions because nothing will happen if they disobey them. Grand jurors come in with no knowledge of the system, but, one would hope, a desire to fulfill their assigned role, not to flout it. Indeed, our legal system assumes that jurors have this desire, an assumption embodied in the...presumption that jurors will fulfill their role as instructed by those in authority...

Adopting a system where discretion is solely in the hands of the prosecutor would result in a “perilous decline” in the grand jury institution.

It is precisely the “regular” and “traditional” functioning of the grand jury — its potential to exercise either justice-guided discretion or compassion-based mercy...that is hobbled by [erroneous] instructions.”³⁶

CONCLUSION

“Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means would bring terrible retribution.” – Justice Louis Brandeis

Daniel Cameron violated his ethical, statutory and constitutional duties to give the grand jury a complete and accurate view of the facts, to provide the jurors with the correct and relevant laws, to defer to the jurors in deciding whom to indict and on what charges and to allow the grand

³⁶ *Navarro-Vargas*, 408 F.3d 1184 at 1214; 1217 (citing in part *Ring v. Arizona*, 536 U.S. 584, 611-612 (2002)).

jury to serve as the conscience of the community. Cameron showed no respect for the process and its required independence.

Daniel Cameron made a biased internal decision to not prosecute this case. Rather than simply announcing this, he instead had a panel of grand jurors devote their efforts to evaluating evidence on a case they would never actually get to fully decide. When Daniel Cameron tried to use the grand jurors as pawns for his own refusal to prosecute this case, he undermined the trust and integrity of the entire process. Cameron used and abused the grand jury system, misled the public and showed a blatant disregard for his legal, ethical and moral duties. Had multiple grand jurors not come forward, the public would have remained unaware that Daniel Cameron took all decisions out of the grand jury's hands.

As it currently stands, there is a black eye on the system. Daniel Cameron's obligations were not herculean. He either willfully disregarded them or was incredibly inept. Either way, Cameron's actions send a stark message to aggrieved victims in the Commonwealth that a prosecutor unwilling to proceed with a case may simply sidestep it through a secretly sacked grand jury process. Daniel Cameron deprived the grand jury of its ability to perform its functions and he deprived Breonna Taylor of true justice, in whatever form that may be. At a minimum, justice entails a prosecutor who is willing to do the job responsibly and ethically, in a manner which does not obstruct the grand jury from doing its own independent job.

For all the reasons expressed above, we respectfully request that this Council appoint a new, independent prosecutor.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "T. Palmer". The signature is fluid and cursive, with a large initial "T" and a stylized "P".

Tamika Palmer,

With the assistance of counsel
Lonita Baker and Sam Aguiar

EXHIBIT 1:

**DANIEL CAMERON PRESS CONFERENCE
TRANSCRIPT**

1 DANIEL CAMERON PRESS CONFERENCE

2 HELD ON SEPTEMBER 23, 2020

3 IN RE: BREONNA TAYLOR

4
5 ***

6
7 MR. CAMERON: Good afternoon. Thank you
8 for joining us today. I know that many in Louisville
9 and across the commonwealth and country have been
10 anxiously awaiting the completion of our
11 investigation into the death of Ms. Breonna Taylor.

12 Prior to this announcement I spoke with
13 Ms. Palmer, Breonna Taylor's mother, to share with
14 her the results from the grand jury. Many of you in
15 this room know that I had the opportunity last month
16 to meet in person with her and other members of
17 Ms. Taylor's family, including Ms. Bianca Austin and
18 Ms. Ju'Niyah Palmer.

19 I want to once again publicly express my
20 condolences. Every day this family wakes up to the
21 realization that someone they loved is no longer with
22 them. There's nothing I can offer today to take away
23 the grief and heartache this family is experiencing
24 as a result of losing a child, a niece, a sister and
25 a friend.

1 What I can provide today are the facts,
2 which my office has worked long and hard to uncover,
3 analyze and scrutinize since accepting this case in
4 mid May. I urge everyone listening today to not lose
5 sight of the fact that a life has been lost, a
6 tragedy under any circumstances. The decision before
7 my office as the special prosecutor in this case was
8 not to decide if the loss of Ms. Taylor's life was a
9 tragedy. The answer to that question is
10 unequivocally yes.

11 There's no doubt that this is a
12 gut-wrenching, emotional case, and the pain that many
13 people are feeling is understandable. I deeply care
14 about the value and sanctity of human life. It
15 deserves protection. And in this case a human life
16 was lost. We cannot forget that.

17 My job as the special prosecutor in this
18 case was to put emotions aside and investigate the
19 facts to determine if criminal violations of state
20 law resulted in the loss of Ms. Taylor's life. This
21 included examining the actions of Sergeant Jonathan
22 Mattingly, Detective Brett Hankison, and Detective
23 Myles Cosgrove, the three officers who fired their
24 weapons in the early morning hours of March 13th.

25 In working with our federal partners on

1 this case, it was determined that while we would
2 share information to advance our respective
3 investigations, we must also maintain some level of
4 separation to ensure the integrity of each
5 investigation. When examining issues regarding
6 potential civil rights violations, we determined that
7 any such violations are better addressed through a
8 federal-led investigation. And issues involving
9 potential criminal acts concerning the shooting are
10 better addressed by a state-led investigation.

11 With this in mind, our investigation
12 focused on the events that took place in Ms. Taylor's
13 apartment on March 13th. In the months since taking
14 this case our dedicated team of prosecutors and
15 investigators, more than 200 years of combined career
16 experience, conducted a thorough investigation to
17 better understand the events that led to Ms. Taylor's
18 death. The team is here with me today. I want to
19 personally and publicly thank them for their tireless
20 work. These men and women are true public servants
21 who for months have shown up every day with a desire
22 for one thing, and that is to seek the truth.

23 We decided while we would examine
24 materials gathered by LMPD's Public Integrity Unit,
25 we would need to conduct our own independent

1 investigation and start from scratch in the interest
2 of thoroughness, fairness and finding the truth.

3 There was no video or body camera footage
4 of the officers' attempted execution of a search
5 warrant at Ms. Taylor's residence. Video footage
6 begins at the point that area patrol officers arrive
7 at the location. Therefore, the sequence of events
8 from March 13th had to be pieced together through
9 ballistics evidence, 911 calls, police radio traffic
10 and interviews. We utilized information from the
11 Kentucky State Police, local medical examiners, as
12 well as working with the FBI crime lab in Quantico to
13 secure a trajectory analysis and ballistics report.

14 Our team conducted interviews in this case
15 and spent thousands of hours examining all of the
16 available evidence. We concluded our last interview
17 in this case this past Friday and began our grand
18 jury presentation on Monday.

19 As long as the case is making its way
20 through our legal system, I can only speak in general
21 terms about our independent investigation and
22 findings. As the prosecutor I am prohibited by the
23 Kentucky Rules of Professional Conduct from making
24 public comments that could in any way prejudice this
25 case as it moves forward. Each state has different

1 rules about what prosecutors can and cannot say. The
2 Kentucky rules are clear that I'm prohibited from
3 making comments that could sway public opinion or
4 heighten public condemnation of those involved in the
5 case.

6 These are crucial rules to ensure due
7 process under the constitution. When prosecutors
8 prematurely release information about the case to the
9 public, it can risk justice by poisoning the jury
10 pool, violating the accuseds' rights to a fair trial
11 and even jeopardizing the final verdict. The success
12 of our legal system is predicated on the principle
13 that the accused is innocent until proven guilty.
14 Despite passions, opinions and desire for every
15 detail to be known, the rule of law must apply.
16 Justice must be done.

17 In the early morning hours of March 13th
18 officers from LMPD executed a search warrant at 3003
19 Springfield Drive, apartment 4. This was Ms. Breonna
20 Taylor's residence. The officers were advised by
21 superiors to knock and announce their presence in
22 serving this specific search warrant.

23 The scope of our investigation did not
24 include the obtainment of that warrant by LMPD's
25 Criminal Interdiction Division. Federal law

1 enforcement partners are conducting that
2 investigation.

3 Sergeant Mattingly and Detectives Cosgrove
4 and Hankison had no known involvement in the
5 preceding investigation or obtainment of the search
6 warrant. They were called into duty as extra
7 personnel to effectuate the service of the search
8 warrant. They only had information conveyed to them
9 during their prior briefing.

10 Evidence shows that officers both knocked
11 and announced their presence at the apartment. The
12 officers' statements about their announcement are
13 corroborated by an independent witness who was near
14 in a proximity to apartment 4. In other words, the
15 warrant was not served as a no knock warrant.

16 When officers were unable to get anyone to
17 answer or open the door to apartment 4, the decision
18 was made to breach the door. After breaching the
19 door, Sergeant Mattingly was the first and only
20 officer to enter the residence. Sergeant Mattingly
21 identified two individuals standing beside one
22 another at the end of the hall, a male and a female.
23 In his statement he says that the male was holding a
24 gun, arms extended in a shooting stance. Sergeant
25 Mattingly saw the man's gun fire, heard a boom and

1 immediately knew he was shot as a result of feeling
2 heat in his upper thigh.

3 Kenneth Walker fired the shot that hit
4 Sergeant Mattingly. And there's no evidence to
5 support that Sergeant Mattingly was hit by friendly
6 fire from other officers. Mr. Walker admitted that
7 he fired one shot and was the first to shoot. In
8 addition to all the testimony, the ballistics report
9 shows that the round that struck Sergeant Mattingly
10 was fired from a 9-millimeter handgun. The LMPD
11 officers fired 40-caliber handguns.

12 Sergeant Mattingly returned fire down the
13 hallway. Mattingly fired six shots. Almost
14 simultaneously Detective Cosgrove, also in the
15 doorway, shot 16 times. This all took place in a
16 matter of seconds.

17 In total, six bullets struck Ms. Taylor.
18 Medical evidence obtained by our team indicates that
19 only one shot was fatal. Further medical evidence
20 shows that Ms. Taylor would have died from the fatal
21 shot within a few seconds to two minutes after being
22 struck.

23 Detective Hankison fired his weapon ten
24 times, including from an outside sliding glass door
25 and through a bedroom window. Some bullets traveled

1 through apartment 4 and into apartment 3 before some
2 exited that apartment. At the time three residents
3 of apartment 3 were at home, including a male, a
4 pregnant female and a child. There's no conclusive
5 evidence that any bullets fired from Detective
6 Hankison's weapon struck Ms. Taylor.

7 The KSP ballistics analysis did not
8 identify which of the three officers fired the fatal
9 shot. After receiving that information, I asked the
10 FBI crime lab to conduct its own analysis to see if
11 they reach the same results. The FBI ballistics
12 analysis concluded the fatal shot was fired by
13 Detective Cosgrove.

14 Our office looked at both reports to
15 determine if there were major differences in the
16 procedures used by either lab that would have led the
17 FBI to identify who fired the fatal shot. Both law
18 enforcement agencies use similar equipment and
19 analysis, and each lab is highly respected for their
20 work. There was nothing our investigators could
21 point to, nor anything provided by the respective
22 agencies that directly explains why one lab made the
23 call while another did not.

24 I think it is worth repeating again that
25 our investigation found that Mattingly and Cosgrove

1 were justified in their use of force after having
2 been fired upon by Kenneth Walker.

3 Secondary to this justification, the KSP
4 and FBI ballistics analysis reach different
5 conclusions, creating a reasonable doubt in the
6 evidence about who fired the fatal shot. I certainly
7 understand the public's desire for answers, and many
8 have questioned the length of the investigation.
9 Simply put, we had to try every means necessary to
10 determine who fired the fatal shot before the
11 investigation could be completed.

12 With a thorough and complete knowledge of
13 all evidence collected in this case, lawyers with our
14 office of special prosecutions presented the findings
15 of our independent investigation before a grand jury
16 comprised of Jefferson County residents beginning on
17 Monday and concluding today.

18 In Fletcher V Graham the Kentucky Supreme
19 Court said that the grand jury has competing but
20 balanced functions. On the one hand its purpose is
21 to investigate allegations of criminal conduct and
22 determine if there is probable cause to believe that
23 a crime has been committed. On the other, the grand
24 jury serves to protect the public against unfounded
25 criminal prosecutions where probable cause is

1 lacking.

2 The grand jury is unique in our criminal
3 justice system because it operates independent of the
4 court and the prosecutor. The hallmark of the grand
5 jury is its independence from outside influence.
6 This independence is necessary to ensure that justice
7 is done both for the victims and for the accused.

8 After hearing the evidence from our team
9 of prosecutors, the grand jury voted to return an
10 indictment against Detective Hankison for three
11 counts of wanton endangerment for wantonly placing
12 the three individuals in apartment 3 in danger of
13 serious physical injury or death.

14 The charge of wanton endangerment in the
15 first degree is a class D felony, and if found
16 guilty, the accused can serve up to five years for
17 each count. Kentucky law states that a person is
18 guilty of wanton endangerment in the first degree
19 when under circumstances manifesting extreme
20 indifference to the value of human life, he wantonly
21 engages in conduct which creates a substantial danger
22 of death or serious physical injury to another
23 person. My office is prepared to prove these charges
24 at trial. However, it's important to note that he is
25 presumed innocent until proven guilty.

1 During the last six months we've all heard
2 mention of possible charges that could be brought in
3 this case. It's important to understand that all the
4 charges that have been mentioned have specific
5 meanings and ramifications. Criminal homicide
6 encompasses the taking of a life by another. While
7 there are six possible homicide charges under
8 Kentucky law, these charges are not applicable to the
9 facts before us because our investigation showed and
10 the grand jury agreed that Mattingly and Cosgrove
11 were justified in the return of deadly fire after
12 having been fired upon by Kenneth Walker. Let me
13 state that again: According to Kentucky law the use
14 of force by Mattingly and Cosgrove was justified to
15 protect themselves. This justification bars us from
16 pursuing criminal charges in Ms. Breonna Taylor's
17 death.

18 The truth is now before us. The facts
19 have been examined and a grand jury comprised of our
20 peers and fellow citizens has made a decision.
21 Justice is not often easy. It does not fit the mold
22 of public opinion and it does not conform to shifting
23 standards. It answers only to the facts and to the
24 law.

25 With this in mind we must now ask

1 ourselves, where do we go from here? Will we
2 continue to prosecute the charges brought in this
3 case as it now proceeds through the justice system
4 and moves to trial. That is our responsibility. And
5 this will be done while the FBI continues its
6 investigation into violations, potential violations
7 of federal law.

8 I know that not everyone will be satisfied
9 with the charges we've reported today. My team set
10 out to investigate the circumstances surrounding
11 Ms. Taylor's death. We did it with a singular goal
12 in mind: Pursuing the truth. Kentuckians deserve no
13 less. The City of Louisville deserves no less.

14 Every person has an idea of what they
15 think justice is. My role as special prosecutor in
16 this case is to set aside everything in pursuit of
17 the truth. My job is to present the facts to the
18 grand jury, and the grand jury then applies those
19 facts to the law. If we simply act on emotion or
20 outrage, there is no justice. Mob justice is not
21 justice. Justice sought by violence is not justice.
22 It just becomes revenge. And in our system, criminal
23 justice isn't the quest for revenge. It's the quest
24 for truth, evidence and facts and the use of that
25 truth as we fairly apply our laws.

1 Our reaction to the truth today says what
2 kind of society we want to be. Do we really want the
3 truth or do we want a truth that fits our narrative?
4 Do we want the facts or are we content to blindly
5 accept our own version of events? We as a community
6 must make this decision.

7 I understand that Ms. Breonna Taylor's
8 death has become a part of a national story and
9 conversation. We must also remember, the facts and
10 the collection of evidence in this case are different
11 than cases elsewhere in the country. Each is unique
12 and cannot be compared.

13 There will be celebrities, influencers and
14 activists who having never lived in Kentucky will try
15 to tell us how to feel, suggesting they understand
16 the facts of this case, that they know our community
17 and the commonwealth better than we do. But they
18 don't. Let's not give in to their attempts to
19 influence our thinking or capture our emotions. At
20 the end of the day it is up to us. We live here
21 together. We work here and raise our families here
22 together.

23 I urge those protesting on the streets to
24 remember this: Peaceful protests are your right as
25 an American citizen. Instigating violence and

1 destruction are not. I've spoken with both Mayor
2 Fischer and Governor Beshear in the days leading up
3 to this announcement, and I urged them to do what is
4 necessary to maintain law and order and to protect
5 our cities and our people.

6 We have a long road ahead both as we
7 pursue this case through the criminal system and as
8 we address the pain in the Louisville community. I'm
9 committed to being part of the healing process. When
10 tragedy occurs, we must mourn. We must also do
11 everything we can to prevent it from happening again.

12 Today, consistent with that view, I'm
13 announcing that I will create a task force to review
14 the process for securing, reviewing and executing
15 search warrants in Kentucky. The task force will
16 consist of a variety of stakeholders, including
17 citizens, members from the law enforcement community,
18 representatives from the judiciary, defense attorneys
19 and elected leaders.

20 I'll be issuing an executive order in the
21 coming days to create this task force. I believe
22 conducting a top to bottom review of the search
23 warrant process is necessary to determine if changes
24 are required and establish best practices.

25 You have my word that I will also

1 vigorously prosecute the criminal charges announced
2 today. I can assure you that my team of prosecutors
3 will continue to give this case their attention and
4 time.

5 We'll also continue to support the good
6 men and women of our law enforcement community who
7 put their lives on the line every day to protect and
8 to serve.

9 And I will fight for those across our
10 state who feel like their voice isn't heard, who feel
11 marginalized, judged and powerless to bring about
12 change.

13 In a world that is forcing many of us to
14 pick a side, I choose the side of justice. I choose
15 the side of truth. I choose a path that moves the
16 commonwealth forward and toward healing. You have
17 that choice as well. Let's make it together. Thank
18 you and God bless.

19 I'll now take some questions.

20 REPORTER: General Cameron, can you tell
21 us the racial and gender makeup of the grand jury?

22 MR. CAMERON: I won't get into the
23 specifics of the makeup of the grand jury.

24 REPORTER: General Cameron, you mentioned
25 that Breonna Taylor was hit by six bullets. You

1 identified the one that killed her. What -- who shot
2 the other five bullets (Inaudible) bullets in
3 Ms. Taylor?

4 MR. CAMERON: Based on the evidence
5 there's nothing conclusive to say that Detective
6 Hankison, any of his bullets hit Ms. Taylor.

7 REPORTER: I'm just curious what your
8 message would be for the family and those who support
9 her in the community because based on what you're
10 saying today the grand jury basically found that none
11 of the officers involved are directly responsible for
12 Breonna Taylor's death?

13 MR. CAMERON: Well, as I said from the
14 beginning, and I appreciate that question, this is a
15 tragedy. And sometimes the law, the criminal law is
16 not adequate to respond to a tragedy. And I fully
17 acknowledge that, and I know many that are watching
18 today and those that are listening recognize that as
19 well. But the response is that the grand jury was
20 given all of the evidence, presented all of the
21 information and ultimately made the determination
22 that Detective Hankison was the one to be indicted.

23 REPORTER: To be clear, did your special
24 prosecutors make a recommendation to the grand jury?

25 MR. CAMERON: Grand jury proceedings are

1 secret, and so I'm not going to get into the
2 specifics of details about that proceeding.

3 What I will say is that we presented all
4 of the information, and they ultimately made a
5 determination about whether to charge in this
6 instance. They decided to indict Detective Hankison.

7 REPORTER: General Cameron, one
8 question --

9 REPORTER: When it comes to an officer
10 firing in self-defense, do you think state law needs
11 to be changed?

12 MR. CAMERON: I'm sorry. Say that again.

13 REPORTER: When it comes to officers
14 firing back in self-defense, do you think the current
15 state law needs to be changed to fit cases like this?

16 MR. CAMERON: Well, what my role as a
17 special prosecutor in this case was to provide the
18 information and facts to the grand jury. Detective
19 Cosgrove and Sergeant Mattingly were justified in
20 returning fire because they were fired upon. I'll
21 leave it to others to make determinations. We have
22 vigorous self-defense laws in this state, and that is
23 something that existed prior to this case. I'll let
24 others make judgments about that.

25 Yes, sir.

1 REPORTER: One big question surrounding
2 this case is whether or not the officers knocked and
3 announced their presence. Talk about the evidence
4 that you came to that they did announce their
5 presence.

6 MR. CAMERON: Yes. The statements that
7 were made by officers there the night or the morning
8 of March 13th show that they did knock and announce.
9 The important point here is that information was
10 corroborated by another witness who was in close
11 proximity to apartment 4 who corroborated that
12 information and said that there was a knocking and
13 announcing by the officers.

14 REPORTER: Was the witness a civilian or a
15 law enforcement officer?

16 MR. CAMERON: The witness was a civilian.

17 REPORTER: If a wanton endangerment takes
18 place while there is a death involved, would that not
19 be a manslaughter charge if there was a death that
20 occurred during a wanton endangerment.

21 MR. CAMERON: Well, Chris, to your
22 question, I think it, again, is important to step
23 back and recognize that what we did was uncover all
24 the information and facts related to the morning of
25 March 13th and then provided that information to the

1 grand jury. The grand jury had every piece of detail
2 needed to make their assessment and their judgments.
3 And ultimately their conclusion was that the decision
4 needed to be made to indict Mr. Hankison.

5 REPORTER: Mr. Cameron, Mr. Cameron,
6 Rukmini Callimachi with the New York Times. Right
7 here. Right here.

8 MR. CAMERON: I'm sorry. Yes, ma'am.

9 REPORTER: Hi. Two questions for you:
10 Number one, you said that she was shot six times, yet
11 her death certificate says five. Can you please
12 explain the discrepancy?

13 And the second thing is, journalists in
14 this room, myself included, have taken apart that
15 apartment complex looking for witnesses to the point
16 that you made about the knocking and announcing. Of
17 a dozen witnesses that I spoke to, only one, a man
18 who was directly upstairs, heard them announce.

19 Do you think that's enough in the middle
20 of the night when somebody is asleep for -- for just
21 one person in a tight-knit apartment block to have
22 heard that? Is that a sufficient way of announcing?

23 MR. CAMERON: Well, let me try to answer
24 your second question first. Your question was, is it
25 enough for me. I think the more pertinent question

1 is what was the evidence provided to the grand jury,
2 what was sufficient for their purposes. They got to
3 hear and listen to all the testimony and made the
4 determination that Detective Hankison was the one
5 that needed to be indicted, knowing all of the
6 relative points that you made.

7 As to your first question, can you repeat
8 it one more time?

9 REPORTER: Her death certificate says
10 five, and yet you are saying six. Today is the first
11 time I'm hearing six.

12 MR. CAMERON: Yes. So there is a -- a
13 bullet that was lodged -- and bullet might be too
14 generous a term. There was an object that was lodged
15 into the -- into one of her feet. And so that is
16 what is being referred to as the sixth, I guess,
17 projectile.

18 REPORTER: Are you going to release the
19 full --

20 MR. CAMERON: Joe.

21 REPORTER: -- are you going to release the
22 full grand jury report?

23 MR. CAMERON: Can you say that one more
24 time? I --

25 REPORTER: Are you going to release the

1 full grand jury report?

2 MR. CAMERON: Well, I am -- right now,
3 because there is a pending indictment, I think it is
4 our practice, and because there is an ongoing FBI
5 investigation, to revisit that question. But at this
6 point I don't think it's appropriate for us to
7 release any information.

8 REPORTER: And just for clarification, you
9 said that Hankison fired ten times on the other side
10 into apartment 4 and into apartment 3 with no
11 conclusive evidence that any of those shots hit
12 Taylor. Can you expand on that?

13 MR. CAMERON: Well, that is what the
14 evidence shows, is that there was nothing conclusive
15 to demonstrate that any of his bullets hit --

16 REPORTER: Does that leave the door open
17 for the fact that maybe one of his shots did hit her?

18 MR. CAMERON: Well, again, all the
19 evidence was given to the grand jury, and they made
20 the decision that wanton endangerment was the charge
21 to file or to indict against Mr. Hankison.

22 REPORTER: Okay. And thank you.

23 MR. CAMERON: Yes.

24 REPORTER: (Inaudible) how long this
25 investigation took. Talk about the length of it, why

1 it took so long and why you (Inaudible).

2 MR. CAMERON: Well, your last question
3 about providing information, in any investigation,
4 criminal investigation, the best practice -- and this
5 is whether on the state or federal level -- is to not
6 make too many specific comments about the
7 investigation because you do not want to compromise
8 that investigation. There are also ethical
9 considerations as -- as investigators and prosecutors
10 that we're responsible to abide by as well. Some of
11 those obligations continue now because we have a
12 responsibility to pursue the prosecution against
13 Detective Hankison.

14 It is -- it's my judgment very early on
15 that we needed to take this case in the attorney
16 general's office. As you know, the commonwealth's
17 attorney was conflicted out of this case because of
18 another matter that he was pursuing. I could have
19 farmed the case out to another commonwealth's
20 attorney in one of our 120 counties. Instead, I did
21 not do that because the resources that we have to
22 bring to bear and the relationships that we have with
23 our federal partners, in my judgment, were needed to
24 uncover the truth in this case.

25 And part of the reason the investigation

1 took so long is because we needed to make sure that
2 we were doing a thorough job of looking at all the
3 facts and gathering all the materials, interviewing
4 witnesses, making sure that all of our people felt
5 confident in their presentation to the grand jury. I
6 will remind you, as late as Friday we were still
7 interviewing people in this case.

8 And so the length of it is because this
9 case deserved thorough and fair analysis. That was
10 needed and deserved by Breonna and by her family, for
11 the officers involved, for the community of
12 Louisville and for the commonwealth. We needed to
13 have a thorough investigation. We also got the FBI
14 involved in terms of the ballistics report. We
15 needed additional -- their ability to scrutinize and
16 make an independent assessment as well.

17 And so the length of the investigation was
18 a reflection, I hope people understand, of how
19 important it was that we got this right. We didn't
20 want to rush it, and we did not. And I'm grateful to
21 the team that is behind me for the work that they
22 did. Look, over 200 years of combined experience.
23 These are prosecutors and investigators who don't
24 care about political distinctions, don't care about
25 influence in any particular regard. What they care

1 about is the truth. And we presented that to the
2 grand jury.

3 REPORTER: Sir, I'm sorry.

4 REPORTER: I'm sorry.

5 REPORTER: (Inaudible).

6 MR. CAMERON: I won't get into what our
7 private conversation was. Yes, ma'am.

8 REPORTER: Yes. What do you say to people
9 who say this is just another example of the black
10 community not getting full justice? And what
11 specifically do you plan to do to calm a community
12 that's long been hurting? And do you understand that
13 anger that people might feel?

14 MR. CAMERON: I certainly understand the
15 pain that has been brought about by the tragic loss
16 of Ms. Taylor. I understand that. As an attorney
17 general who is responsible for all 120 counties in
18 terms of being the chief legal officer, the chief law
19 enforcement officer, I understand that. I understand
20 that as a black man, how painful this is. And which
21 is why it was so incredibly important to make sure
22 that we did everything we possibly could to uncover
23 every fact.

24 And I know -- look, this team, myself, the
25 members of the -- representatives of the attorney

1 general's office have taken a lot of criticism and
2 scrutiny. But that scrutiny in many ways was
3 misplaced because there was not a day that people in
4 this office didn't go to sleep thinking about this
5 case and wasn't a day where the first thing on our
6 minds is getting to the truth in this case.

7 And obviously, again, the criminal law is
8 not meant to respond to every sorrow and grief. And
9 that is -- that is true here. But my heart breaks
10 for the loss of Ms. Taylor. And I've said that
11 repeatedly. My mother, if something was to happen to
12 me, would find it very hard. And I've seen that pain
13 on Ms. Palmer's face. I've seen that pain in the
14 community.

15 And what our responsibility in the AG's
16 office was to make sure that we uncovered every fact,
17 that we utilized every resource that we could bring
18 to bear to uncover the facts and the truth, and
19 that's ultimately what we presented to the grand
20 jury.

21 On the question of what I'm going to do,
22 I've talked to partners in the community about
23 helping to be a constructive member of any
24 conversations moving forward. I recognize in my
25 remarks I mentioned the fact that we'll be

1 establishing a task force in the coming days ahead to
2 look at best practices for warrants. So there is a
3 lot that I can do in this platform to help.

4 REPORTER: Sir, this is Maria Sacchetti
5 with the Washington Post, just have a couple of quick
6 questions.

7 MR. CAMERON: I hear your voice. Okay.
8 Yes, ma'am.

9 REPORTER: Hi. Sorry. Over here in the
10 back.

11 MR. CAMERON: No. That's okay.

12 REPORTER: Just wanted to double-check,
13 the -- were man -- did the grand jury ever consider
14 the charges of manslaughter, reckless homicide, and
15 if not, could you please explain why, and do you
16 anticipate any other charges in this case?

17 MR. CAMERON: I apologize. Could you say
18 that a little louder?

19 REPORTER: Sure.

20 MR. CAMERON: I think I got --

21 REPORTER: Sure. Did the grand jury ever
22 consider manslaughter or reckless homicide or those
23 kinds of charges, and if not, please explain why, and
24 do you anticipate any other charges or are we -- is
25 this it?

1 MR. CAMERON: I won't get into the
2 specifics, again, of the proceedings themselves are
3 secret. But what I will say is that our team walked
4 them through every homicide offense and also
5 presented all of the information that was available
6 to the grand jury. And then the grand jury was
7 ultimately the one that made the decision about
8 indicting Detective Hankison for wanton endangerment.

9 I think that in terms of what happened the
10 wee hours of March 13th in terms of that particular
11 or specific date and what happened that night in the
12 apartment, I think it's -- it is unlikely that there
13 will be any additional prosecutions that come from
14 that event itself.

15 REPORTER: Attorney General, so can you --
16 can you go into the confusion over the fatal shot
17 that was fired and kind of what the issue was there
18 in terms of determining that? And then, also, did
19 you present the grand jury with any charges against
20 Mattingly and Cosgrove?

21 MR. CAMERON: Well, so as to your first
22 question, what I think you asked about was --

23 REPORTER: Confusion over the fatal shot.

24 MR. CAMERON: Yes. The reports that were
25 provided to us by the Kentucky State Police and then

1 the FBI as it relates to ballistics.

2 So initially we got the report from
3 Kentucky State Police, and it was inconclusive about
4 making a determination into that fatal shot. And so,
5 again, with the relationships that we have with our
6 federal law enforcement community and namely the FBI,
7 I thought it imperative that we utilize that
8 resource. And so they undertook an independent
9 analysis and review of -- and conducted or provided a
10 ballistics report.

11 There is nothing that this team was able
12 to glean suggesting that there was an objective
13 reason for why FBI was able to conclusively or
14 definitively state that Mr. Cosgrove fired the fatal
15 shot. Both, again, KSP, their lab, well regarded,
16 well respected. FBI, equally regarded and respected.

17 That said, it certainly creates some issue
18 in terms of providing that information to the grand
19 jury and providing that at any subsequent
20 prosecution. And so it was, from our judgment,
21 important to provide both of those to the grand jury.
22 Then ultimately make -- let them make a determination
23 about what to do with that information.

24 REPORTER: And were they presented with
25 charges for Mattingly or Cosgrove?

1 MR. CAMERON: I'm sorry.

2 REPORTER: Mattingly and Cosgrove? Were
3 they presented with any charges for Mattingly or
4 Cosgrove?

5 MR. CAMERON: Well, what I will say is
6 that they were walked through all the homicide
7 offenses. And with that information and the
8 information and facts that were provided to them that
9 we uncovered in our investigation, they made a
10 determination that Detective Hankison was the one
11 that needed to be indicted here.

12 Yes, ma'am.

13 REPORTER: General Cameron, a couple
14 questions. First of all, does (Inaudible) apply at
15 all in the Kenneth Walker (Inaudible).

16 Second question is, could you give me an
17 idea of the percentage of the people of color on the
18 team of investigators presenting it to the grand
19 jury.

20 MR. CAMERON: So what I will is I --
21 there's a -- obviously I don't want to get into the
22 proceedings related to Mr. Walker. That's a
23 separate. So I'm not going to have any comment on
24 that. This team behind me presented to the grand
25 jury.

1 And your other question was about the
2 racial make up of?

3 REPORTER: Percentage of color of folks
4 who were on the investigative team.

5 MR. CAMERON: Well, I'm black, and I speak
6 for the entire department. And I hope that will
7 satisfy that question.

8 Yes, ma'am. Yes, ma'am. I'm sorry.

9 REPORTER: (Inaudible) America. I know
10 that you've said the investigation has obviously
11 taken months, and it was presented to the grand jury
12 Monday. Can you tell us, when did the grand jury
13 actually -- how long did they deliberate? Did they
14 begin on Monday or did they begin Tuesday? And that
15 was of this week, correct?

16 MR. CAMERON: The grand jury was presented
17 with the information today. I won't get into the
18 specifics of when they began their deliberations.
19 But I will say that they started early Monday and
20 concluded sometime before noon. And so they heard
21 everything they needed to hear. We didn't withhold
22 anything from them. And I hope that satisfies your
23 question.

24 REPORTER: General, can you tell me a
25 little bit more about this task force? You know,

1 Senate President Stivers and Representative Scott are
2 introducing warrant bills for the next legislative
3 session. Are they going to be on this task force,
4 per chance, and will you be taking some of the
5 information from the bills they prefile to work with
6 on this?

7 MR. CAMERON: Well, I don't want to put,
8 obviously, the cart before the horse, but I did
9 mention in the remarks that we are certainly going to
10 have elected leaders on this task force. And I
11 imagine that some of the policy questions and some of
12 the policy proposals that have already been put
13 forward and have entered into the public conversation
14 will be a part of this task force.

15 But I want to make sure that people
16 recognize that this task force is being established
17 not to demonize any one side or any one department or
18 agency. I think it's a healthy thing for the
19 attorney general from time to time to be a part of a
20 conversation with all 120 counties. I'm not talking
21 or singling out any county specifically. But with
22 all 120 counties about best practices that can be
23 utilized.

24 I had a recent conversation with somebody
25 that said there is always room for improvement. I

1 think that's important in any industry, important in
2 any job. And so as part of my role as the attorney
3 general I certainly recognize the part I have to play
4 in making sure that all of our systems in government
5 are improved upon, whether it be because of a
6 particular matter that occurred or because from time
7 to time it's just the responsible thing to do.

8 REPORTER: Did any of the officers --

9 MR. CAMERON: I'm sorry, Joe.

10 REPORTER: Yeah. Did any of the officers
11 ask to testify or present evidence to the grand jury,
12 and were any allowed to?

13 MR. CAMERON: Well, what I'll say on that
14 is, again, I don't want to get into the specifics,
15 but testimony was heard by the grand jury of all
16 sorts of witnesses and folks. And so, again, all
17 relevant information was provided to the grand jury
18 for them to make their assessment.

19 Yes, sir.

20 REPORTER: When you look at the analysis
21 of the path of the bullets, how was it that Kenneth
22 Walker, who fired the shot at the officers, was not
23 hit and Breonna Taylor was hit so many times?

24 MR. CAMERON: Well, that's part of the
25 tragedy here. And, again, I don't want to get into

1 the specifics, but the fact that she was hit breaks
2 my heart, and it breaks the collective heart of all
3 the country. But I don't want to get -- because we
4 have a -- now an open prosecution, I don't want to
5 get too into the details of the trajectories
6 themselves.

7 REPORTER: Two follow-up questions: One,
8 I understand that the names of grand jurors aren't
9 released. But what rule or standard prevents you
10 from releasing the racial and gender makeup of the
11 grand jury?

12 And number two, you've mentioned that
13 Cosgrove fired the fatal shot. But could you clarify
14 how many shots in all that hit Ms. Taylor were fired
15 by Mattingly and how many shots that hit Ms. Taylor
16 were fired by Cosgrove?

17 MR. CAMERON: Well, as to the last
18 question, inconclusive in terms of how many shots
19 from each officer. We weren't able to identify with
20 that level of specificity.

21 As to the question about the makeup of the
22 grand jury, we might be able to -- I need to confirm
23 on that front about. Yeah, you know, the -- the fact
24 that this has received so much scrutiny, I think it
25 would be inappropriate for me to share the

1 information about the makeup of the grand jury just
2 to the extent I can protect them.

3 REPORTER: Will you release the
4 investigative file or recommend that LMPD release it?

5 MR. CAMERON: Well, look, the role that we
6 now have is to pursue the ongoing prosecution against
7 Detective Hankison. And so I think it would be
8 irresponsible at this juncture for this office to
9 release any sort of file, again, because we have this
10 ongoing prosecution. And I'm not going to comment on
11 -- and I think it -- I certainly shouldn't be
12 recommending, again, because of the ongoing
13 prosecution, any sort of recommendation as relates to
14 a release of a file.

15 INDIVIDUAL: We're going to have time for
16 two more questions.

17 MR. CAMERON: Daniel. Okay.

18 REPORTER: You advised that you will not
19 be influenced by outside by people from other states.
20 Has that diminished the actual (Inaudible)?

21 MR. CAMERON: Well, I certainly don't
22 think that, whether it's the grand jury or our
23 responsibility as the investigators or prosecutors,
24 it's to find the truth. And so when -- when folks
25 from outside of the commonwealth suggest or make

1 their preferences or their opinions known, it should
2 have no bearing on our role as prosecutor and as
3 investigator and fact finder.

4 REPORTER: (Inaudible).

5 MR. CAMERON: Even with folks within the
6 commonwealth. Again, this is a tragedy. I don't
7 want to lose sight of that. But we do have a
8 responsibility to look at the facts as they are, and
9 we can't be in the business -- I don't think we want
10 a justice system that is in the business of
11 fashioning facts or laws to a particular narrative.
12 We have to be in the business of presenting the
13 information to the grand jury and ultimately allowing
14 them to make a decision about what to do
15 subsequently.

16 INDIVIDUAL: Last question.

17 MR. CAMERON: Yes, ma'am. Far in the
18 back. I apologize. Actually, we'll take these last
19 two here. Okay. So either one can start. Sorry.

20 REPORTER: Apologize. Thank you very
21 much, sir. I wanted to ask if you, you know, if you
22 believe personally that someone should have been
23 charged with homicide or one of the similar charges
24 in this case.

25 And if you could please walk us through

1 what happened after the door -- the officers knocked
2 on the door. Did they hear any answer? How long did
3 they wait before everything erupted?

4 So, both of those questions, please. And
5 thank you very much.

6 MR. CAMERON: As to your first question,
7 again, this is about what the grand jury decided. I
8 -- one of the misconceptions out there is that the
9 attorney general's office was in the business of
10 making charges, and that's just simply not the case
11 under Kentucky law. Our role is to present the
12 information to the grand jury. We dispensed with
13 that responsibility. We did it after a protracted
14 investigation that uncovered all of the facts. That
15 was our role. That was our responsibility. And we
16 presented everything to the grand jury for them to
17 ultimately make a judgment about what to do next.
18 And in this case, in this instance, they decided to
19 indict Detective Hankison.

20 As to your other question about what was
21 provided to the grand jury, I can't get into the
22 details of the specifics on that particular issue.

23 Yes, ma'am.

24 REPORTER: Yes, sir. In the beginning you
25 said that you spoke with Breonna Taylor's family

1 today. I know you can't tell us word for word what
2 they said to you, but how was the news received?

3 MR. CAMERON: Well, it was a -- it was a
4 hard meeting. And I won't go any further. I won't
5 elaborate. But it was a difficult meeting.

6 And, look, when I ran for this office, and
7 I ran because I had some singular ideas in mind, and
8 you never know exactly what issues you'll be
9 presented with and what challenges you'll be
10 presented with. And today was one of those
11 challenges, to have to sit in that room and provide
12 the information to Ms. Palmer and to other members of
13 the Taylor family. It's been a difficult day.

14 This is a difficult day for everyone
15 standing up here. This is a difficult day for those
16 here that have to report this. And it is a very
17 difficult day for Louisville, all of the
18 commonwealth, all of the country. I recognize that.
19 And I certainly recognize the responsibility that I
20 have to help in the healing process.

21 As I noted in my remarks, I hope that
22 those that are home watching, those that perhaps have
23 ideas about being angry or pained by this decision, I
24 hope we will respond in a manner that respects our
25 First Amendment rights but also respects our

1 responsibility as the -- as the Bible talks about,
2 loving our neighbors, and that we can do so keeping
3 Breonna Taylor's legacy in mind, but also in a way
4 that respects our -- Louisville, our city, the city I
5 live in, that respects all of our communities.

6 So, again, this is a hard day. I am no --
7 am under no illusion that it is not. And all I can
8 offer is that our office uncovered every fact that
9 was relevant to the wee hours, the morning hours of
10 March 13th. We provided that information to the
11 grand jury, and you-all now, whether you're sitting
12 here or whether you're at home, know the results of
13 that process. And now we have the responsibility to
14 prosecute that indictment, move forward in that
15 matter.

16 But all of us have a responsibility to
17 work together to find common ground, to find ways to
18 love one another and just be good neighbors. So
19 that's what I implore as you-all report on this in a
20 responsible manner. That's what I implore those that
21 are watching on television, is that we all have the
22 responsibility of coming together now. I hope that
23 you will take that charge seriously.

24 Our governor likes to talk about Team
25 Kentucky, and I believe him earnestly in that -- that

1 charge. And I hope that that extends to the results
2 that were issued here today. And I hope that extends
3 to all of our neighbors in all of our communities.

4 Thank you and God bless.

5
6 ***

EXHIBIT 2:

STATEMENT FROM ANONYMOUS GRAND
JUROR NUMBER ONE

Statement of Anonymous Grand Juror #1

Being one of the jurors on the Breonna Taylor case was a learning experience. The three weeks of service leading up to that presentation showed how the grand jury normally operates. The Breonna Taylor case was quite different. After hearing the Attorney General Daniel Cameron's press conference, and with my duty as a grand juror being over, my duty as a citizen compelled action. The grand jury was not presented any charges other than the three Wanton Endangerment charges against Detective Hankison. The grand jury did not have homicide offenses explained to them. The grand jury never heard anything about those laws. Self defense or justification was never explained either. Questions were asked about additional charges and the grand jury was told there would be none because the prosecutors didn't feel they could make them stick. The grand jury didn't agree that certain actions were justified, nor did it decide the indictment should be the only charges in the Breonna Taylor case. The grand jury was not given the opportunity to deliberate on those charges and deliberated only on what was presented to them. I cannot speak for other jurors but I can help the truth be told.

Anonymous Grand Juror #1

EXHIBIT 3:

STATEMENT FROM ANONYMOUS GRAND
JUROR NUMBER TWO



GLOGOWER LAW OFFICE

October 22, 2020

For Immediate Release

Re: Update in Anonymous Grand Juror #1 vs. Commonwealth of Kentucky

The Grand Jury was only allowed to consider the three Wanton Endangerment charges against Detective Hankison. No opportunity to consider anything else was permitted. Anonymous Grand Juror #2 agrees wholeheartedly with the statement released on behalf of Anonymous Grand Juror #1 on 10/20/2020 and is looking forward to continuing to help set the record straight.

Anonymous Grand Juror #2

EXHIBIT 4:

CASE BACKGROUND

(CITED MATERIAL AVAILABLE UPON REQUEST)

CASE BACKGROUND

At the time of her death, Breonna was 26 years old. She worked for two local hospitals. She had no criminal record. Breonna's passion was helping others. She was a good neighbor and mentor to young children. Breonna's patients and colleagues from the hospitals describe how she brightened their days and always had a positive attitude. Breonna did not cause problems. She kept a tight circle of friends and family who all looked up to her as a positive light who kept everyone together.

The following reflects information obtained from the LMPD case file, the grand jury transcripts or otherwise. If supporting documentation would assist, please do not hesitate to let us know.

Pre-March 12 – Cell Phone Search Warrants

In December of 2019, LMPD formed a squad called Place Based Investigations (PBI).¹ An initial primary focus of PBI was Jamaricus Glover, who was Breonna Taylor's ex-boyfriend.² On February 17, 2020 LMPD officers obtained a search warrant authorizing GPS tracking, a pen register, text messaging records, call history cell tower locations and detailed subscriber information from Sprint.³ The warrant was in relation to cell phone number 502-457-4235. As

¹ PBI detectives included Mike Campbell, Wes Barton, Josh Jaynes and Kelly Hanna Goodlett. PBI's sergeant was Kyle Meany, its lieutenant was Gerald Huckleberry and its major was Kim Burbrink. PBI was also monitored by the deputy police chief, the police chief, and the mayor of Louisville. Sergeant William Young and Assistant Commonwealth Attorney Stacy Grieve also assisted PBI, obtaining documents through grand jury subpoenas for the squad.

² LMPD documents reflect that officers obtained at least 19 search warrants and grand jury subpoenas related to Jamaricus Glover from December 30 through Breonna's death. They were for no knock search warrants (8), impounded and seized vehicles (3), bank records (3), cell phone pen registers and gps trackers (3) and vehicle trackers (2).

³ Sprint search warrant reflecting Breonna's number, available upon request.

probable cause for the warrant, detectives falsely asserted that this was Jamarcus Glover's number.

This was actually Breonna's number.⁴

Detectives also made the following knowingly false statement in the February 17 search warrant affidavit:

"Affiant verified through a US Postal inspector that Jamarcus Glover has been receiving packages at 3003 Springfield Drive #4."

As the circumstances surrounding Breonna's death would later reveal, detectives never verified through a postal inspector that Jamarcus Glover was receiving packages at Breonna's home. In fact, detectives were advised at least three times that no packages addressed to Jamarcus Glover were being sent to Breonna's home.

On February 21, 2020 the PBI detectives obtained another search warrant in relation to Jamarcus Glover's phone.⁵ They went to a new judge, obtaining a warrant to track a different phone number. In the affidavit for this warrant, unlike the one for Breonna's phone, the detectives stated that they had a confidential informant call the number and confirm it belonged to Jamarcus Glover. The fact that these detectives sought a new warrant for a new number of Jamarcus Glover merely four days after obtaining a warrant for Breonna's phone (stating that it was Jamarcus's) calls the integrity of the February 17 warrant into question.

There are no records indicating that, at any time prior to Breonna was killed by police officers, LMPD stopped tracking Breonna's phone. In tracking the phone, it should have been obvious that Breonna was located at work full-time and that she was neither present with Jamarcus nor speaking with him. Breonna's location should have also confirmed that she and Jamarcus

⁴ Breonna's personal phone records, available upon request.

⁵ February 21 warrant, available upon request.

were not together at all from the time of the February warrant until the time she was killed. None of this information was presented to the grand jury.

Pre-March 12 – SWAT presented with search warrant plans

Leading up to March 12, PBI detectives drafted at least six no-knock search warrants (which initially intended to execute simultaneously) as part of their investigation into Jamarcus Glover.⁶ Three of the five warrants were for neighboring properties on Elliott Ave. in west Louisville. These properties were identified as a suspected trap house and two vacant adjacent properties where narcotics, firearms and/or money could be stored. The fourth warrant was for another suspected trap house, which was a property around the corner on Muhammad Ali. Blvd. The fifth warrant was for a residence on Cathe Dykstra Way, which is approximately 5 miles from Elliott Ave.⁷ This residence belonged to Kiera Bradley, who is the mother of Jamarcus Glover's daughter. LMPD detectives identified Bradley as an additional target of the investigation in early February, citing her as a "drug trafficker" who was being investigated for both trafficking and money laundering.⁸ Within the draft of the warrant for Bradley's residence, the detectives stated:

*"3414 Cathe Dykstra is the main residence for Jamarcus Glover and (he) does not claim this as his residence in order to avoid detection from law enforcement. Affiant believes that Mr. Glover might keep narcotics and/or proceeds from narcotics for safe keeping at this location."*⁹

The sixth warrant was for Breonna's home on Springfield Dr., which was ten miles away in the southern end of Louisville.

⁶ Email to SWAT with search warrant drafts, available upon request.

⁷ Draft warrant for Cathe Dykstra, available upon request.

⁸ Grand jury subpoena for Bradley's bank records, available upon request.

⁹ Notably, the same detectives swearing to the truth of the information in this draft warrant also advised that they believed Jamarcus resided at Breonna's home and kept narcotics and cash at Breonna's home.

When SWAT members reviewed PBI's plans and draft search warrants, they rejected them. SWAT members recognized that simultaneous search warrants are unsafe and that the risks associated with the numerous warrants outweighed any benefits. SWAT members left the meeting with an understanding that the individual warrants would be executed on a series of different nights, beginning with the Elliott Ave. addresses. On March 12, SWAT was never advised that a no-knock search warrant had been requested and obtained for Breonna's home.¹⁰

March 12 - Search Warrants

On March 12, CID detectives proceeded with obtaining the search warrants for Elliott Ave., W. Muhammad Ali Blvd. and Springfield (Breonna's home). It is unclear why detectives did not proceed with obtaining a search warrant for Cathe Dykstra, yet continued to obtain one for Breonna's. Jamarcus was living on Cathe Dykstra and was physically present at Cathe Dykstra on March 12. Meanwhile, Breonna had not seen or spoken with Jamarcus within the month leading up to her death.

Like the warrant for Breonna's cell phone, the affidavit presented to obtain the search warrant for Breonna's home was knowingly falsified. Like the cell phone warrant, it alleged as the basis for probable cause that a US Postal Inspector verified Jamarcus Glover was receiving packages at the address.¹¹ Following Breonna's death, the postal inspector steadfastly denied the sworn assertion in the search warrant affidavit. Furthermore, Shively Police detectives have since confirmed that at least two of the officers who participated in raiding Breonna's home, John Mattingly and Mike Nobles, were specifically advised in January and February that no packages

¹⁰ Interviews of SWAT members Massey, Casse and Burns, available upon request.

¹¹ Springfield search warrant, available upon request.

addressed to the target were going to Breonna's home.¹² None of this information was presented to the grand jury.

March 12 – Briefings

On the evening of March 12, LMPD officers allege that they were briefed on the search warrants. Their accounts of the briefing, however, suggest that it either did not happen or that it was abrupt and deficient. Depending upon which account should be believed, the warrant for Breonna's home could have been briefed by Josh Jaynes, Wes Barton, Kelly Goodlett or John Mattingly.¹³ None of the interviewed officers were presented with either a search warrant operations plan to review and sign.¹⁴ None of the officers were presented with a risk assessment matrix. Both are required prior to proceeding to execute a search warrant.¹⁵ All officers do agree, however, that the Springfield warrant was converted to require a knock and announce entry, thus allowing detectives to avoid a mandate requiring execution by the SWAT team.¹⁶

The only documents produced by LMPD in relation to search warrant instructions were two conflicting pictures of a whiteboard.¹⁷ In the first version of the whiteboard, eight names are assigned to the Springfield search warrant: John Mattingly, Mike Campbell, Myles Cosgrove, Tony James, Mike Knobles (later corrected to "Nobles" on the second version), Josh Doerr, Mike King and Brett Hankison. The second version changes the spelling of "Knobles" to "Nobles" and adds Shawn Hoover's name.¹⁸ It also adds the name Vidourek to a different location. No efforts

¹² Excerpts of interviews from Mike Kuzma and Tony Salyers, available upon request.

¹³ Interviews of SWAT members and Officers Hoover, Phan and Jaynes available upon request.

¹⁴ LMPD policies require that officers review and sign a search warrant operations plan.

¹⁵ Excerpts from LMPD Standard Operating Procedures and the Narcotics policies, available upon request.

¹⁶ SWAT Matrix, available upon request.

¹⁷ Whiteboard photos, available upon request.

¹⁸ The metadata from the whiteboard pictures confirm that they were not taken until a period of four minutes apart on March 20, 7 days after Breonna was killed.

were ever made by LMPD or prosecutors determine why two of the assigned officers, Doerr and King, were allegedly never on scene at Breonna's.

The officers' accounts of the events leading up to the warrant execution are conflicting at best. Officer Cosgrove indicates that the warrant plans were briefed at the division around 10 pm. Cosgrove's cell phone location data confirms that he was located in Breonna's neighborhood, which is approximately a twenty-minute drive from the division, prior to 11:30 pm.¹⁹ Thus, he he could not have been at the division after 11:10 pm. At 11:50 pm, Officer Cosgrove's cell phone location data indicates that he had departed from Breonna's neighborhood and was traveling in the Dixie Highway area. No explanation for this was provided. Location data places Cosgrove back by Breonna's at 12:37 am. No body camera footage was presented for Cosgrove, despite his plain clothes uniform containing two separate mounts for the cameras and his history of wearing body cameras during search warrant executions.²⁰

Officer Shawn Hoover claims that the briefing occurred at 11 pm. and that it was done by detective Wes Barton. Hoover claims that Breonna was suspected to be alone and that she was allegedly holding Jamaricus Glover's money.²¹

Officer James gave his initial interview to LMPD less than six hours after Breonna was killed. This interview was not presented to the grand jury. James does not provide a time for the search warrant briefing, but indicates that it was quick. Officer James states that he was assigned with Officers Hoover, Mattingly, Nobles, Cosgrove and Campbell; he does not identify Hankison as part of the initial assignment.²² James understood from the briefing that Breonna and her boyfriend were at her house. Despite hearing that the warrant would be executed as a knock and

¹⁹ Cosgrove cell phone listing and report of Dan Jackman, available upon request.

²⁰ Photo of Cosgrove's body camera mounts, available upon request.

²¹ Hoover interview excerpts, available upon request.

²² Excerpts from Tony James' interview, available upon request.

announce, Officer James proceeded to take a ballistic shield with him to Breonna's.²³ He states that the officers staged and listened to the SWAT radio to discern when the Elliott Avenue warrants were being executed. The SWAT radio was not produced to the grand jury. Prior to the raid, during the raid and following the raid, Officer James was wearing a shoulder-mounted body camera. He claims that it was not recording. Neither LMPD nor Daniel Cameron's office prosecutors made any efforts to examine the camera, identify the existence of footage or reach out to Axon/Evidence.com, which is the custodian of uploaded footage, to determine whether it had ever been uploaded to the company's cloud server.

Officer Nobles' work schedule indicates that his overtime detail on March 12 began at 7:30 pm, but Nobles also states that he didn't arrive at the division until around 11 pm for the briefing.²⁴ He states that the intelligence given at the briefing was that a woman and her young child were at Breonna's home.²⁵ Nobles understood from the briefing that Jamarcus Glover was "possibly sourcing dope or money in that place, because he sent some packages there." However, per the testimony of Shively police detectives, Officer Nobles was specifically advised in February that there were no packages addressed to Jamarcus Glover going to Breonna's home. Nobles indicates that he never turned on his radio to monitor any activities prior to the raid.

Officer Hankison states that Sergeant Kyle Meany circulated an email earlier in the week seeking officers to assist with search warrants.²⁶ Hankison claims that the briefing was done around 10 or 11 pm.²⁷ He states that the briefing went into detail about the other warrants taking place that night, but that little information was given about Springfield. Officer Hankison states

²³ Rather than present the shield to the grand jury for inspection, Daniel Cameron's office instead presented a different size and model shield to the jury.

²⁴ Officer timecards, available upon request.

²⁵ Officer Nobles interview, available upon request.

²⁶ This email chain was not obtained or produced by LMPD and Daniel Cameron's office.

²⁷ Hankison's cell phone location data confirms that Hankison, at 10 pm, was 10 miles away from the division, traveling near I-264 and Poplar Level.

that the assignment board for the search warrant at Springfield identified the warrant as a no-knock entry, which conflicts with the whiteboard produced by LMPD labeling the warrant as a knock and announce. Hankison states he was briefed that a female was located at Breonna's and that she had little or no criminal record and no history of firearms.²⁸

Officer Mattingly's March 12 timecard reports that he began the overtime detail at 7:30 pm. However, at 8 pm, Mattingly's cell phone location data places him in the Highlands, where he is pinging off the same cell phone tower as Officer Hankison.²⁹ Officer Mattingly didn't have much information about the briefing, other than recalling that Jamarcus Glover had packages sent to Breonna. But like Officer Nobles, records confirm that Officer Mattingly was previously advised that packages addressed to Jamarcus Glover were not being sent to Breonna's home.

The officers each state that Officer Mike Campbell was not present for the briefing. Campbell was one of the officers on the PBI squad handling the large-scale investigation. The officers claim that Campbell was the verification officer for Springfield, which entailed surveilling Breonna's home for the hours leading up to the warrant. Campbell specifically states in his interview that he believed Breonna Taylor and Jamarcus Glover were at her home together. Thus, it is questionable whether Campbell actually performed the functions of the verification officer.³⁰

Luke Phan was Officer Hankison's sergeant. His interview was not played for the grand jury. Sergeant Phan stated that he and two detectives on his squad, Cole Gibson and Vince Dougherty, responded to Springfield following the shooting. Phan stated that the briefings for each warrant location were separate and that "Mattingly and his crew kind of dealt with their own

²⁸ Hankison interview, available upon request.

²⁹ One of Officer Hankison's three homes is in this radius.

³⁰ Campbell interview, available upon request.

operation there of sort.” Phan states the officers believed Springfield was “where the money was.”³¹

Shortly after 11 pm on March 12, LMPD Sergeant Kyle Meany called dispatchers and requested for an ambulance to be staged for the Springfield warrant.³² Meany indicated that the Springfield warrant was set to be hit at midnight. LMPD dispatch records reflect that the ambulance unit was dispatched towards Springfield before 11:15 pm. These records also reflect that this same EMS unit was cleared from the staging scene just before 11:40 pm.³³ No investigation was ever presented by LMPD or the Attorney General’s office regarding the apparent cancellation of the EMS staging. The timing, however, appears consistent with reports from the Attorney General’s own investigator that LMPD located Jamarcus Glover around this time.³⁴ Other witnesses confirm that Jamarcus was specifically located, observed departing the Cathe Dykstra residence and heading towards the primary target location on Elliott Ave. None of the interviewed witnesses were ever questioned on this matter. Furthermore, none of the body camera recordings from the detectives involved in this process were produced, despite arrest citations from Elliott Ave. confirming that cameras were activated.

Evidence suggests that Officers Hankison and Mattingly may have diverted to Springfield after the warrant had been called off. Hankison was not with other officers at the time of initial staging. At 11:29 pm, his phone records reflect a call with Officer James.³⁵ At the same time, location data indicates that Hankison was traveling in the west end of Louisville in the direction of the warrants scheduled for Elliott Ave. and W. Muhammad Ali Blvd. Following the call with

³¹ Luke Phan interview, available upon request.

³² Kyle Meany phone call recording and CAD log, available upon request.

³³ EMS CAD report, available upon request.

³⁴ Grand jury transcript, available upon request.

³⁵ Hankison call log, available upon request.

Officer James, Hankison's records confirm that he changes direction and proceeds towards the area of Breonna's. Location records confirm that Officer Hankison did not arrive for staging near Breonna's neighborhood until shortly after 11:50 pm. This is less than 10 minutes in advance of the originally time scheduled for the warrant as indicated by Sergeant Meany. Officer Hankison's arrival time was also after the EMS unit had been cleared from the scene. No body camera footage was presented for Officer Hankison, despite his assignment of a camera and requirement to wear and activate one as a K9 officer.

Like Officer Hankison, Officer Mattingly does not arrive in the area of the staging for Breonna's home until close to 11:50 pm. By this time, EMS had already cleared and it was less than 15 minutes before the originally scheduled time of the search warrant. No body camera footage was presented for Mattingly, despite his prior issuance of a camera and his requirement to wear and activate the camera during search warrant executions. In later body camera footage of Officer Grant Combs, Mattingly can be observed on the ground with a wired device underneath him. It is difficult to discern whether the device is a body camera or perhaps a microphone.³⁶

Officer Arrival

At around 12:40 am, officers proceeded to Breonna's home. To date, seven officers have been identified.³⁷ Breonna was asleep when the officers arrived at her door. Her boyfriend, Kenneth Walker, was dozing off while a movie was playing in the bedroom.³⁸ The officers formed an entry stack, knocked on the front door and ultimately broke the door down with a battering

³⁶ Screenshots from Officer Combs' body camera, available upon request.

³⁷ Body camera footage of Officer Joshua Rucker, which was not presented to the grand jury, appears to record evidence of additional officers departing the scene who were never identified.

³⁸ Excerpt from Walker interview, available upon request.

ram.³⁹ The officers insist that they announced themselves prior to ramming the door; Kenneth Walker and more than 20 adjacent neighbors claim otherwise.⁴⁰

Kenneth Walker's Gunshot

In response to the loud banging and the front door starting to come off the hinges, Kenneth Walker grabbed his lawfully owned firearm to defend Breonna and himself. By the time the door was breached, Breonna and Kenneth were in the hallway heading in the direction of the door. They were both in fear; it was after midnight on a weeknight, the door was coming off the hinges and the intruders were refusing to identify themselves.⁴¹ When the door busted open, Walker fired a shot aimed at a downwards angle. His intention was to fire a warning shot and induce the intruders to retreat. Ballistics experts confirm that the final rest of the shell casing from Walker's shot was consistent with him firing downwards at a 45-degree angle.⁴² Officers Mattingly and Hankison both confirm that they observed Kenneth fire the shot.⁴³

Officer Mattingly's Gunfire

Officer Mattingly states that it took three strikes with the battering ram for Breonna's door to open. He was then the first to make entry. Officer Mattingly claims that he barely crossed the threshold and visually cleared the living room. Mattingly states that he then looked down Breonna's hallway and observed a male and female standing next to each other. Mattingly observed that Breonna, who was unarmed and not posing a threat, was to his left. Kenneth Walker, who was to the right of Breonna in the hallway, had a firearm in a shooting stance. Officer

³⁹ The officers' interviews are highly contradictory as to which officers were situated in certain positions in the stack.

⁴⁰ One of these witnesses, who speaks poor English and recalls things which are not possible, later indicates in a second interview that the officers stated "this is the cops." The officers themselves do not indicate ever saying this phrase.

⁴¹ Walker interview excerpts.

⁴² Ballistic expert opinions, available upon request.

⁴³ Mattingly and Hankison interview excerpts, available upon request; body camera footage also reflects Officer Hankison pointing to Kenneth Walker on scene and identifying him as the shooter.

Mattingly states that he fired four rounds in response to the shot from Kenneth. After firing his shot, Kenneth took cover in the bedroom of Breonna's sister, Juniyah. Mattingly's gunshot pattern confirms that he observed Kenneth retreat into Juniyah's bedroom; there are multiple shots ballistically matched to Mattingly's firearm which went blindly through the living room wall into that room. Thankfully, Juniyah was out of town at the time. Otherwise, Tamika Palmer could have lost both of her daughters that morning. Officer Mattingly also shot Breonna, despite identifying her as unarmed and not a threat, with at least one round.⁴⁴ The evidence appears to indicate that this shot was disabling, as it was either the shot which broke several bones in her foot or the shot that left a large hole through her thigh.⁴⁵ Overall, Officer Mattingly fired six shots. Those unaccounted for ballistically either appear to have been the two in the ceiling (which were also blind and reckless shots for which no criminal charges were presented) or self-inflicted.

Officer Mattingly identified being shot in the thigh by Kenneth Walker. The prosecutors advised the grand jury that the shot which struck Officer Mattingly was fired by Kenneth. There is ample evidence to the contrary. Along with Mattingly, several additional officers identify blood pooling and accumulating at the front of the doorway. There is absolutely no blood anywhere near this location.⁴⁶ Walker fired one shot, aimed downward from twenty feet away. The final resting place of his shell casing is consistent with his shot being fired at a 45-degree angle. According to LMPD's own forensic doctor, Mattingly was struck by a bullet traveling at an upward trajectory.⁴⁷ The bullet that LMPD claims struck Mattingly is not photographed on the scene until seven hours after the shooting.⁴⁸ Earlier photographs do not reveal this bullet. Regardless, the bullet is a full

⁴⁴ Grand jury transcript excerpts re: DNA, available upon request.

⁴⁵ FBI ballistics matched one of the three perforating bullets to Mattingly's firearm; it is much more likely that Mattingly's shot was to the foot than it was to the thigh, given the trajectories of each.

⁴⁶ Photos of entryway, available upon request.

⁴⁷ Trajectory diagram of shot to Mattingly's leg, available upon request.

⁴⁸ CSU photos, available upon request.

metal jacket.⁴⁹ Kenneth's firearm had hollow point bullets.⁵⁰ The Kentucky State Police performed testing on the bullet and could not match it to Kenneth's firearm.⁵¹ The evidence also suggests that Mattingly may have been shot twice. One shot appears to have pierced Mattingly's wallet. While it was stated to the grand jury and the public that this shot passed through the wallet, the evidence suggests otherwise. Photographs only indicate an entrance; there are no photographs of an exit.⁵² The grand jury was not presented with the wallet for examination. Mattingly claims that upon being shot and returning fire, he scoots out of the doorway and immediately announced to the other officers that he'd been shot in his "femoral."⁵³ But more than a minute passes between the first round of gunshots and the first radio communication to LMPD announcing that an officer was shot.⁵⁴ In fact, the first radio communications did not occur until three neighbors had already called 911 to report gunshots. The first two neighbors called 911 at 12:42:25 and 12:42:26, respectively.⁵⁵ It is difficult to fathom that officers would take more than a minute (which is an eternity in a situation such as this) to get on the radio and seek assistance for Officer Mattingly, especially when Mattingly allegedly announced to them that he had been shot in a life-threatening location.

Finally, photos and interviews confirm that several of the officers fell over each other while retreating.⁵⁶ Mattingly himself admits to falling over. Mattingly also admits to losing his gun to the ground twice during the process of retreating from Breonna's and falling to the ground. The scene photos reflect that the officers knocked over a bin containing a three-piece fake Christmas tree, lights, a stand and porcelain ornaments. Officer Cosgrove references this scene as a "large

⁴⁹ CSU photos and ballistics opinion, available upon request.

⁵⁰ CSU photos, available upon request.

⁵¹ KSP lab reports, available upon request.

⁵² Wallet photos, available upon request.

⁵³ Mattingly interview excerpts, available upon request.

⁵⁴ CAD log confirmation of lapse between 911 calls and officer radio transmissions, available upon request.

⁵⁵ 911 audio files, available upon request.

⁵⁶ CSU and PIU photos of the breezeway, available upon request.

pile of men.” Notably, the area of these falls is where the blood trail from Mattingly’s wound first begins.⁵⁷

Officer Hankison’s Gunfire (from the front entry)

The evidence also confirms that Officer Hankison returned fire from the entrance of Breonna’s home, prior to retreating and subsequently firing shots through the patio door. When prosecutors advised the grand jury that all of Officer Hankison’s rounds came from outside the patio and bedroom windows, the assessment was flawed, lazy and unvalidated. Officer Hankison’s own interview confirms that he initially made entry into the apartment and observed Kenneth Walker fire a shot. When Officer James gave his initial interview less than 5 hours after the shooting, he identified Officers Hankison and Mattingly as the initial shooters from the front entry.⁵⁸ James repeats this observation two more times during the interview. This interview was not presented to the grand jury. Officer Hankison, when providing his own interview 13 days after the shooting, did not deny firing shots from the hallway. Per an LMPD report: “He did not recall if he fired his gun at the doorway.”⁵⁹ Additionally, the first PIU investigator who reported to Springfield after the shooting was Sergeant Omar Lee. His report, which was never presented to the grand jury, stated that:

“At 0043 hours officers breached the door and made entry into the apartment and were met by gunfire. Sergeant Jon Mattingly and **Detective Brett Hankison** returned fire.”⁶⁰ (emphasis added)

Ballistics also appear to validate Hankison’s initial shots from the front entry. The FBI confirmed that at least two bullets recovered from Breonna’s room matched Hankison’s firearm.

⁵⁷ Photos and interview excerpts, available upon request.

⁵⁸ James transcript excerpts, available upon request.

⁵⁹ LMPD investigative report, available upon request.

⁶⁰ Lee investigative report, available upon request.

It does not appear that these shots into Breonna's room could have been fired from outside the windows, and that they could only have been made following entry and penetration into the residence.⁶¹

Finally, body camera recorded minutes later from the parking lot shows Officer Hankison identifying Kenneth Walker as the one who fired from inside. Given that Kenneth only fired once and then took cover in a room, Officer Hankison's observation reveals that he made initial entry into Breonna's prior to eventually shooting through her patio door from the outside.

Officer Cosgrove's Gunfire

Prosecutors presented as fact to the grand jury that Officer Cosgrove fired almost simultaneously with Officer Mattingly, that he never made entry into the home and that the whole sequence between the breach of the door through Officer Cosgrove's last gunshot was 10-15 seconds.⁶² This was a misrepresentation of the evidence. Officer Cosgrove's own colleagues insist that he did not make initial entry. Officer Mattingly claims making initial entry alone and firing four rounds prior to any subsequent gunfire. Per the interviews of Officers James and Hankison, the initial entry to the apartment was made by Officers Mattingly and Hankison.⁶³ Hankison states after he made initial entry to Breonna's, he then went to the parking lot. He states that it was at this point where he heard that Officer Mattingly had gone down. It was after that when Officer Hankison states he heard rapid gunfire coming from the area of the doorway and saw Officer Mattingly being pulled to the parking lot.⁶⁴ The only rapid gunfire he could have heard would have been that of Officer Cosgrove. This sequence suggests that Officer Cosgrove did not make entry until a point where the initial gunfire had stopped. Kenneth Walker had not returned any

⁶¹ Grand jury transcript excerpts identifying two of Hankison's rounds in Breonna's room, available upon request.

⁶² Grand jury excerpt, available upon request.

⁶³ Interview transcript excerpts, available upon request.

⁶⁴ Hankison interview, available upon request.

shots. The officers were not inside Breonna's home and had retreated to a safe perimeter. And perhaps most importantly, Breonna had been shot by Officer Mattingly prior to this point. She was clearly not a threat and most likely on the ground, terror-stricken and screaming in pain and terror.

Officer Cosgrove's story lacks credibility. For starters, he stated that he was originally assigned to cover the patio door, but then came up to the stack prior to the door being breached to provide cover for Officer Nobles. The other officers all confirm that Officer Nobles already had cover at the time he breached the door.⁶⁵ Officer Cosgrove claims that after the door was breached, he moved towards the entrance. But none of the officers observed him do so. Officer Cosgrove's own statement implies that he already knew that Breonna was shot prior to when he began shooting, as he distinguished the shooting victim from Officer Mattingly: "I know that someone has been shot, that John has been injured."⁶⁶ Officer Cosgrove is unable to identify any threat assessment. But in describing his perceptions, Officer Cosgrove states that he observed blackness, vivid white lights and a "distorted shadowy mass" during the process of making entry and shooting. Cosgrove states he could not hear anything and could not feel his hands. He takes no accountability for his sixteen shots. Even when interviewed six months after the shooting, Officer Cosgrove claimed that he only shot four times. Cosgrove states that he shot in response to flashing lights which he claimed were muzzle flashes. The only lights flashing in Breonna's home were those being emitted from her bedroom television, where she had fallen asleep earlier in the evening to the movie *Freedom Writers*.⁶⁷ At the time Cosgrove opened fire, Breonna was either going to the

⁶⁵ Officer interview excerpts, available upon request.

⁶⁶ Cosgrove interview, available upon request.

⁶⁷ SWAT body camera footage upon arrival confirms that Breonna's bedroom light was on and the movie *Freedom Writers* was still playing.

ground or already on the ground. She remained on the ground as Officer Cosgrove continued to shoot her.⁶⁸

A 911 call appears to validate that Officer Cosgrove entered the apartment and killed Breonna well after the initial volley of gunfire. At 12:42:50, the pertinent 911 call was made by a neighbor who lived down the road from Breonna. She reported the earlier gunfire to the dispatcher, identifying an initial 8-9 shots which was followed by another 1-2 shots coming from a different gun. This is also consistent with Mattingly being shot while the officers were retreating and falling over each other.⁶⁹ More than a minute into the 911 call, the caller identifies that the shooting had resumed and that it was occurring with more frequency than before (“they’re shooting like crazy.”)⁷⁰ Officer Cosgrove fired 16 shots. Of the officers who shot, only Cosgrove’s shooting would appear consistent with this reported rate of fire.

Officer Hankison’s Gunfire (from outside the patio door)

KSP and FBI ballistics confirmed that the blind shots which penetrated through Breonna’s glass patio door were fired from Officer Hankison’s firearm. Five of these rounds passed through Breonna’s home and towards the neighboring apartment, with two of the rounds lodging into Breonna’s wall and three of the rounds traveling into that apartment.

⁶⁸ Ballistics expert opinions, available upon request.

⁶⁹ Photos and interviews confirm that several of the officers fell over each other while retreating, knocking over a bin containing a three-piece fake Christmas tree, lights, a stand and porcelain ornaments in the process. This is where the blood trail from Officer Mattingly’s wound begins.

⁷⁰ 911 call log, recording and transcript, available upon request.

Unidentified Gunfire

Officers fired rounds blindly from outside the window of Juniyah's room. Several rounds recovered from inside Juniyah's room, as well as other locations, could not be matched to the firearms of Officers Mattingly, Cosgrove or Hankison. It is unclear which other officers shot into Breonna's home.

Each of the seven officers who reported to the PIU office turned in their firearms for round counts. Officers Campbell, Hoover and James each turned in .40 caliber Glock 22 pistols which held fifteen round magazines. LMPD officers each carry a live round in their firearm in addition to a fully loaded magazine, thus beginning with 16 live rounds. None of these three officers turned in 16 rounds from their firearms.⁷¹ LMPD officers are also required to carry at least one spare fully loaded magazine. No spare magazines are turned in by Hoover, Nobles and Mattingly.

Body camera footage from responding officers contains a statement from someone on scene that, "Those are my rounds in those windows."⁷² LMPD and the prosecutors claim as fact that Hankison makes this statement. A review of the audio and footage, however, appears to reflect that the statement was made by Officer Hoover.

Post-shooting

Over the hours following the shooting, deliberate efforts to hinder the investigation were made by many officers. A proper crime scene log was not maintained. Records reflect more than 120 LMPD members arriving at the crime scene.⁷³ Less than 30 of them are reflected on the logs. No efforts were made to identify and procure body camera footage from those on scene at the time

⁷¹ Round counts reflecting none of the officers turned in a full magazine, plus one live round in the chamber.

⁷² Audio and footage available upon request.

⁷³ CAD logs and investigative reports, available upon request.

of the shooting. Involved officers were not separated or removed from the scene. They were not provided peer escorts. No reference was made to the two additional officers who were assigned to execute the warrant; to this date, neither have been interviewed.

Officers Hankison and Hoover entered the crime scene repeatedly, canvassing the scene with their flashlights and observing the evidence. In the body camera footage of SWAT team members, officers are observed identifying and counting out multiple shell casings and a bullet inside Breonna's home.⁷⁴ Subsequent footage from SWAT members shows a member pointing out the shell casings to Officer Hankison.⁷⁵ SWAT then released the apartment to Hankison's sergeant, Luke Phan.⁷⁶ By the time the interior of the apartment was photographed by PIU officers, there were no longer shell casings inside the front of the home.

Members of Hankison's squad entered Apartment 3, where several of Hankison's rounds were eventually identified. Officers Phan and Campbell interviewed neighbors following the shooting. Following the shooting, the LMPD Deputy Major, as well as a narcotics lieutenant, each advised the police chief that Breonna fired an assault rifle at the officers from a prone position in the hallway.⁷⁷ Interviewed officers stated that Breonna and Kenny fired continuously, estimating as many as 15 shots with bullets flying out nonstop into the breezeway.

At least three of the involved officers left the scene on their own without escorts.⁷⁸ Three hours passed between the shooting and any of the officers arriving at the PIU office. No gunshot residue testing was done. Interviewed officers were not asked about body cameras. Officer cell

⁷⁴ Footage of officers counting casings and slugs inside the home, available upon request.

⁷⁵ Footage of casings in the apartment, available upon request.

⁷⁶ Footage of scene being released to Hankison's supervisor, available upon request.

⁷⁷ Interview of Chief Conrad, available upon request.

⁷⁸ Officer James rode in the ambulance, Officer Nobles drove himself to the hospital and Officer Hankison either drove from the scene or was taken from the scene by an unidentified individual.

phones, many of which were LMPD property, were not confiscated or forensically imaged. Key witnesses were not interviewed. The LMPD Crime Scene Unit, for one reason or another, did not photograph the crime scene until more than six hours after Breonna was killed. Ultimately, the Crime Scene Unit only processed 15 bullets recovered from the scene. There were 33 or more shots fired.⁷⁹

PIU investigators took photographs of the crime scene early in the morning. By the time the Crime Scene Unit took photos of the scene after sunrise, shell casings were moved and replaced.⁸⁰ The Crime Scene Unit photos after sunrise are the first depictions of the bullet alleged to have struck Officer Mattingly. Prior photos and body camera footage do not show a bullet in this location.

When patrol officers arrived on scene at Breonna's, Officer Cosgrove had an assault rifle in his possession.⁸¹ LMPD did not confiscate this firearm, did not unload it for a round count and did not question Officer Cosgrove at all about whether he used it. One of the witnesses in the neighborhood confirmed in an interview that he recovered an assault rifle casing adjacent to his vehicle later in the day of the shooting.

Officer Nobles was the last of the officers to arrive at the PIU office. He turned in his backup firearm and did not turn in any reloads.⁸² Officer Nobles' primary firearm was never confiscated. Officer Nobles was the only one of the alleged non-shooting officers to wait 48 hours to provide an interview. He was not wearing the outer shirt at the PIU office that he was wearing on scene, despite the requirement for him to do so.⁸³ Officer Nobles stated that he observed Officer

⁷⁹ CSU log, available upon request.

⁸⁰ PIU and CSU comparison photos, available upon request.

⁸¹ Body cam footage reflecting the same is available upon request.

⁸² Officer transcript reflecting primary and backup firearms, available upon request.

⁸³ Photos available upon request.

Mattingly get shot, with blood accumulating everywhere by the doorway (there is no blood there).⁸⁴ But he stated that, rather than assisting Officer Mattingly, who was his boss and close friend, he instead turned around and began to flee. Officer Nobles stated that, in the process of fleeing, he ran into a satellite dish below the stairwell. This satellite dish is actually outside of the breezeway and in front of Juniyah's bedroom window, which is 25 feet away from the stairwell.⁸⁵ Body camera footage from other officers arriving on scene reveal that Officer Nobles was fearful, standing alone and not assisting Officer Mattingly while all other officers were either tending to Mattingly or securing the residence.⁸⁶ Minutes later, Officer Nobles advised those arriving at the scene that a heavysset female was shot in the hallway.⁸⁷ This was not a known fact to several other officers on scene and it is unclear as to how Nobles would be aware of this information while also claiming later that he did observe any gunfire. None of this was explored by the PIU or Daniel Cameron's office.

Cell Phone Evidence was neither properly investigated nor presented

Daniel Cameron and LMPD ignored the importance of cell phone evidence. LMPD's policies indicate that cell phones issued to officers are LMPD property which are subject to examination.⁸⁸ LMPD has kiosks which allow for prompt extractions of the phones, providing invaluable evidence as to communications and locations. Dan Jackman, a former mobile forensics specialist with LMPD, confirmed that, following an officer involved shooting, protocol entails promptly gathering officer phones and extracting them before critical evidence is lost.⁸⁹ This did

⁸⁴ Nobles interview transcript, available upon request.

⁸⁵ Satellite dish photo, available upon request.

⁸⁶ Officers Combs and Rucker footage, available upon request.

⁸⁷ Officer Gida footage, available upon request.

⁸⁸ LMPD SOP's, available upon request.

⁸⁹ Jackman opinions, available upon request.

not take place. Two weeks following the shooting, counsel for Tamika Palmer sent a formal request for the phones of all officers on scene at Breonna's to be extracted.⁹⁰ This also did not take place. LMPD did, however, recover the phones of Breonna and Kenneth Walker from the shooting scene and promptly perform full extractions of all the data on both those phones.⁹¹ In fact, the local Commonwealth Attorney recently announced that he is investigating information obtained from Kenneth's phone for potential criminal charges which are wholly unrelated to the shooting.⁹²

Records confirm that in June, investigators from Daniel Cameron's office and LMPD finally collected some of the officers' phones and transported them to Cameron's office for forensic extraction.⁹³ None of the evidence extracted from these phones was presented to the grand jury. In fact, no cell phone evidence at all was presented to the grand jury. Cell phone forensic experts agree that this failure to obtain or present evidence of this nature is shocking.⁹⁴

Within the LMPD investigative file, there are general phone call and location coordinates for the phones of Officer Hankison.⁹⁵ The records encompass the 48 hours surrounding Breonna's death. In just the six hours following the shooting, Officer Hankison had more than 120 calls and text messages.⁹⁶ None of the messages were presented and no efforts were made to interview those who were messaged and called. Records from Myles Cosgrove's phone also reflect several communications with individuals who were not interviewed.⁹⁷

⁹⁰ Spoliation correspondence, available upon request.

⁹¹ LMPD PIU file.

⁹² <https://www.wave3.com/2020/10/08/commonwealths-attorneys-office-reviewing-messages-phone-identified-report-kenneth-walkers/>

⁹³ CSU transport logs, available upon request.

⁹⁴ Jackman opinions, available upon request.

⁹⁵ Hankison call log sheet, available upon request.

⁹⁶ Cell phone call logs, available upon request.

⁹⁷ Cosgrove call log, available upon request.

Important witnesses were not interviewed

Based upon cell phone activity, it appears that the following individuals, each of whom are law enforcement members, should have been deemed witnesses and subjected to interviews by investigators.

- a. **Justin Harrod** - 12 calls/messages with Hankison and Cosgrove. Cosgrove speaks with Harrod twice within the 30 minutes following the shooting. Cosgrove then speaks with him again, on a 23 minute phone call, at 6:57 am.
- b. **Brad Beckham** - five calls with Cosgrove; 21 calls and texts with Hankison.
- c. **Wes Troutman** - 24 messages with Hankison. Troutman is also observed on body camera at the scene of the hospital when Mattingly arrives.
- d. **Matt Bower** - 13 messages with Hankison.
- e. **Jason Winstead** - 11 messages with Hankison. Winstead is also observed on body camera at the scene of the hospital when Mattingly arrives.
- f. **Derek Brooks** - 11 calls and texts with Hankison.
- g. **Mike Kuzma** - Several calls and texts with Hankison.⁹⁸
- h. **Mark Oerther** – 11 calls and texts with Cosgrove, including a 41 minute phone call beginning at 4:37 am.
- i. **Jeff McCauley** – calls with Hankison.
- j. **Joe Tapp** – calls with Cosgrove.
- k. **Brian Bailey** – calls with Cosgrove.
- l. **Kyle Meany** –Meany was also the sergeant responsible for the search warrant operations. Meany and Cosgrove speak for nearly 15 minutes beginning at 6:42 am.
- m. **Mike Pawul** – several texts with Hankison. Pawul is also observed on body camera at the scene of the hospital when Mattingly arrives.
- n. **Richard Weido** – several calls and texts with Hankison leading up to the shooting. Worked on same squad as Hankison. Lives right down the road from him.

⁹⁸ Det. Kuzma was interviewed by PIU investigators after this case garnered significant attention; the interviewers never once asked Kuzma about his communications with Hankison which took place hours after the shooting.

- o. **Jonah Kiper** – several texts with Hankison.
- p. **Jarod Hummer** – several texts with Hankison.
- q. **Daryl Neese** – multiple calls and texts with Hankison.
- r. **Matt Chaudoin** - multiple calls and texts with Hankison.

Officers Hankison and James, both of whom were involved in the shooting, messaged each other six times within the hour following the shooting. These messages were also not presented. The fact that none of the more than 160 LMPD officer text messages sent to and from Officer Hankison within the 12 hours surrounding Breonna's killing were presented to a grand jury raises a serious red flag as to the integrity of the investigation.

Officer's Hankison's cell phone activity reveals non-officer witnesses as well. He had a lengthy phone call with a 23-year-old female once he arrived in Breonna's neighborhood. Officer Hankison communicated with this young woman multiple times before and after the shooting. Officer Hankison also communicated with his girlfriend repeatedly before and after the shooting. None of the messages were produced and neither the 23-year-old nor Hankison's girlfriend were interviewed by LMPD or Daniel Cameron's office.

In addition to the officers identified by cell phone records, there were several additional important witnesses who were not interviewed by either LMPD or Daniel Cameron's office.

- a. **Josh Doerr and Mike King** – Doerr and King were assigned to the warrant for Breonna's home. They are listed on the whiteboard. But they were never interviewed. Obvious questions exist about this assignment, their whereabouts and their potential body camera footage.

- b. **Kim Burbrink** – Burbrink was the Major of the division responsible for the operation. Mike Nobles and Shawn Hoover both state they spoke with her shortly after the shooting.⁹⁹ The police chief notes that Brett Hankison was with Burbrink at the hospital. Burbrink is also Hankison's neighbor and former beat partner.¹⁰⁰ The records in the file, which were not presented to the grand jury, reflect that Major Burbrink came Hankison's defense on multiple occasions during the investigation and insisted on being present for internal discussions regarding the investigation.¹⁰¹ Major Burbrink has since been reassigned from her position and an internal investigation has been opened on her, yet neither agency ever interviewed her.
- c. **Kyle Meany** – Meany was sergeant responsible for overseeing the operation. Meany called for the ambulance staging at Springfield; this call was never played for the grand jury, despite its relevance in refuting the contention that John Mattingly called for the ambulance staging. Meany allegedly sent an email earlier in the week seeking officers to work the overtime detail for the warrants.¹⁰² This was never presented to the grand jury. Meany speaks with Cosgrove by phone following the shooting. He also presumably has knowledge about the ambulance staging at Springfield being called off prior to 11:40 pm, as reflected on a CAD log.
- d. **Wes Barton** – Barton allegedly briefed the officers, according to Hoover and James. Barton was part of the unit overseeing the operation. Barton also had body cam for footage which was never produced.¹⁰³ Witnesses confirm that Barton

⁹⁹ Officer interviews, available upon request.

¹⁰⁰ Hankison personnel file, available upon request.

¹⁰¹ PIU investigator Jason Vance report, available upon request.

¹⁰² Hankison interview, available upon request.

¹⁰³ 2424 Elliott arrest citation, available upon request.

identified the main target of the investigation prior to midnight at a time which coincided with the ambulance being cleared from the Springfield warrant staging.

- e. **Kelly Hanna Goodlett** – Goodlett drafted the whiteboard which officers now claim was the search warrant operations plan. Per LMPD detective Josh Jaynes, Goodlett briefed the officers on the warrants.¹⁰⁴ Hanna wears a body camera, but the majority of her footage was withheld by LMPD.¹⁰⁵ The only footage produced was for a brief period which occurred several hours after the shooting. Hanna was one of the individuals advised before the warrant that no packages were going to Breonna's home.
- f. **Cole Gibson** – Gibson was identified by Cosgrove as present with John Mattingly earlier in the evening.¹⁰⁶ Gibson was also on scene at Springfield early, perhaps even at the time of the shooting. Gibson is on body camera escorting Kenneth Walker to a patrol car and then injuring Walker when they reach the car.¹⁰⁷ Gibson is on Hankison's squad and had several communications with Hankison leading up to the shooting and following the shooting.¹⁰⁸
- g. **Vince Dougherty** – Dougherty was on scene after the shooting with Gibson, and was perhaps there at time of the shooting; Dougherty is on Hankison's squad.¹⁰⁹
- h. **Kevin McKinney and Steve Healy** – McKinney and Healy are both identified as being at the hospital with John Mattingly in his room.¹¹⁰ Healy was observed at the

¹⁰⁴ Josh Jaynes interview, available upon request.

¹⁰⁵ LMPD PIU file, containing only a short clip of Goodlett body cam, available upon request.

¹⁰⁶ Cosgrove interview, available upon request.

¹⁰⁷ Video available upon request.

¹⁰⁸ Hankison call log, available upon request.

¹⁰⁹ Luke Phan interview, available upon request.

¹¹⁰ Hankison interview, available upon request.

hospital talking in a circle with Officer Mike Nobles, Major Kim Burbrink and Tony James.¹¹¹

- i. **Dr. Bill Smock** – Dr. Smock is LMPD’s surgeon and forensic medical examiner. He examined Officer Mattingly and photographed his wound and clothing. Dr. Smock was never interviewed about the injury or asked to explain why he only photographed one side of the wallet, yet did not photograph the side of the wallet which appears in PIU photographs to lack an exit hole indicative of a pass-through shot.¹¹² He was also never asked to explain why he allowed an involved officer to take the wallet and other evidence with him, rather than leave it to be secured by the crime scene unit.
- j. **Josh Judah and Les Skaggs** – Judah and Skaggs are both part of LMPD’s command staff. They each reported to the LMPD Chief that Breonna was prone on the floor, firing at officers with an assault rifle.¹¹³ Neither was interviewed or asked about the basis for these wild and unfounded assertions. Skaggs was observed at the hospital by Chief Conrad. Judah was identified on the crime scene log as arriving at Springfield around 2 am.
- k. **Lavita Chavous** – Chavous is one of the highest-ranking members of LMPD. She was also on scene at Elliott Ave. and was overseeing the operations surrounding the search warrants and underlying investigation.¹¹⁴
- l. **Gerald Huckleberry** – Huckleberry was a lieutenant in CID. He has since left LMPD. Huckleberry allegedly approved the search warrants. However, he also may

¹¹¹ Doug Brooks report, available upon request.

¹¹² PIU photos from interior of Officer Nobles truck, available upon request.

¹¹³ Conrad interview, available upon request.

¹¹⁴ Josh Jaynes interview, available upon request.

have been out on paternity leave the week leading up to the search warrants being obtained.¹¹⁵

- m. **Micah Sheu** – Sheu is the third division Major. The shooting occurred in his division. Sheu was the initial incident commander on scene. He was responsible for assuring the crime scene was properly secured and logged.¹¹⁶ Neither of this happened.
- n. **Peer escorts assigned to the officers** – LMPD requires that officers involved in a shooting be assigned escorts.¹¹⁷ The escorts assure that the officers are timely separated, removed from the scene, and transported to PIU. This did not happen, yet the peer support members were never asked to explain why the involved officers were allowed to roam freely at the crime scene and at the hospital.
- o. **Responding crime scene unit members** - the crime scene unit was instructed to go to the PIU office prior to working the crime scene itself. By the time the crime scene unit processed evidence, there had been significant tampering.¹¹⁸ None of the members were interviewed to discuss the reason they didn't arrive and process the scene for hours.
- p. **The LMPD Evidence.com administrator and video custodians responsible for securing and preserving body camera footage and audit trails** – the LMPD video records system creates a trail of body camera footage which is uploaded and changed. Evidence in this case exists which suggests that footage may have been

¹¹⁵ Josh Jaynes interview, available upon request.

¹¹⁶ Crime scene logs, available upon request.

¹¹⁷ LMPD Standard Operating Procedures, available upon request.

¹¹⁸ PIU photo comparisons with CSU photos, available upon request.

uploaded by several involved officers following the shooting. No interviews were taken to discern whether footage was recorded, uploaded and/or edited.

- q. **Metro safe operators** – Metrosafe operators were never asked to identify why the ambulance was called off at 11:40 pm on March 12. They were also never asked to confirm whether their dispatchers were advised that there was a search warrant being served at Springfield.
- r. **EMS worker Travon Fletcher** – Fletcher was the driver of the ambulance which staged for the warrant, cleared the scene and then returned to transport Officer Mattingly to the hospital. He is physically observed within officer body camera footage at the hospital and is identified by name on radio communications, but LMPD and EMS have failed to include him within the roster of those present.¹¹⁹
- s. **PIU investigators** – Upon notification of an officer involved shooting, the PIU is responsible for handling the investigation. Rather than doing so in accordance with policy, they immediately became complicit in the cover up. The PIU investigators did not secure the crime scene.¹²⁰ They did not separate the officers. They did not accurately maintain a crime scene log.¹²¹ They did not provide escorts to the officers. They permitted two of the officers to remain at the hospital with Mattingly. They did not monitor Officer Hankison prior to or after he disappeared from the scene.¹²² They immediately took the officers at their word on who discharged firearms. They did not perform gunshot residue testing.¹²³ They did not image cell

¹¹⁹ Body cam of Officer Percy Minor and dispatch audio, available upon request.

¹²⁰ Footage confirming involved officers remained on scene conversing with each other while walking in and out of the inner perimeter, available upon request.

¹²¹ The crime scene log reflects approximately 30 officers signing versus the more than 125 who came to the scene.

¹²² Hankison's call records reflect no efforts by PIU to contact him, available upon request.

¹²³ The LMPD PIU file makes no note of GSR testing conducted at the unit's office.

phones. They did not have the crime scene unit perform their functions until several hours after the shooting.¹²⁴ They did not ask officers about body cameras or attempt to obtain footage.¹²⁵ They did not report the evidence tampering in their investigative reports. They did not obtain officer text messages, call records or location data. They did not search or photograph the vehicles of the officers, other than that of Officer Nobles. They did not procure emails and make them part of the PIU file.¹²⁶ They did not ask the alleged non-shooting officers about their lack of reloads or full round counts. They did not interview critical witnesses or obtain important body camera footage. They did not obtain anything from the MDT's of officers.¹²⁷ They did not scrutinize information confirming that Mattingly alleged his overtime detail began at 7:30, despite his records not reflecting him at the division until after 11. They did not do an arbitrator back end search for cruiser video, nor did they do a search for audit trails and other actions reflecting body camera footage.¹²⁸ They hid the fact that the officers on scene were in fact issued body cameras. They did not produce the full EMS run reports. They created an incident report reflecting that there were no injuries and no forced entry.¹²⁹ They permitted the narrative to be published that there could have been drugs and money in Breonna's home and that no search was done which would have identified it. They failed to include in their file that a K9 officer was sent to the home well after

¹²⁴ Investigative reports confirm work was not done for several hours after the shooting and only after a trip was first made to the PIU office.

¹²⁵ Officer interviews and PIU investigative reports, available upon request.

¹²⁶ Other PIU case files of LMPD Officer Involved Shootings confirm that emails should be a part of the file.

¹²⁷ MDT's are laptops/mobile data terminals which retain a tremendous amount of communications and data.

¹²⁸ LMPD has several mechanisms available to identify the existence of footage from cruisers and body cameras; none were employed in this case.

¹²⁹ LMPD incident report, available upon request.

the shooting and that nothing was identified.¹³⁰ They failed to test the trigger pull on the officers' firearms. They failed to account for the 19 bullets that were left unrecovered on the scene. They failed to produce their notes. They failed to produce a scene diagram. They failed to maintain an investigative record timeline. They failed to obtain and produce SWAT and CID radio. They failed to even ask anyone why officers assigned on the whiteboard were allegedly not present, or who was on scene and left prior to being identified. They failed to acknowledge or interview several people on the CAD logs who were reported as being on scene. They failed to interview the officers identified on body camera as on scene by the time of Mattingly's arrival at the hospital.¹³¹ They failed to interview the officers identified as being in Mattingly's hospital room. They failed to interview the officers who had dozens of calls and texts with Hankison around the time of the shooting. They did not secure the firearms of all the officers on scene.¹³² They did secure the rifle being handled by Cosgrove. They did not inquire with Mike Nobles when he only turned in a backup weapon or confiscate his primary firearm. They did not ask any officers whether they were carrying backup weapons.¹³³ They did not question officers about their inconsistencies in statements. They did not drug and alcohol test officers. They did not question Cosgrove about his location data reflecting a departure from the scene prior to 11:50. They did not question Hankison and Mattingly about arriving to the scene after 11:50, despite the original plan for the

¹³⁰ CAD log reflecting K9 officer John Kirk's response to Springfield, available upon request

¹³¹ Body camera footage depicts several CID members present at the hospital by the time of Officer Mattingly's arrival.

¹³² In typical PIU investigations, firearms are all confiscated and loaners are issued.

¹³³ Records reflect that all the officers had backup firearms. Officers Hankison and Campbell had 9 mm pistols. The 9 mm pistol of Officer Campbell was a Glock 43, which is the model of Kenneth Walker's pistol.

warrants to be hit at midnight. They did not inquire into the ambulance being cleared prior to 11:40. They did not photograph the internal examination of the autopsy. They did not provide the KSP pistol examination reports or ascertain the trigger pull weights of the officers' firearms.

No investigation was made into the existence of important body camera footage

Following the shooting, LMPD announced that none of the officers on scene were issued body camera equipment. Since that time, evidence has come out confirming that at least six of the officers were in fact issued body cameras prior to the shooting. LMPD then modified its statement, claiming that none of them were activated at the time of the raid. On August 27, 2020 LMPD provided the following body camera information:

- Shawn Hoover: Camera Assigned at some point prior to 3/13/2020;
- Michael Campbell: Camera assigned prior to and on 03/13/2020;
- Anthony (Tony) James: Camera assigned prior to and on 03/13/2020;
- Brett Hankison: Camera assigned prior to and on 03/13/2020;
- Myles Cosgrove: Camera assigned prior to and on 03/13/2020;
- Mike King: Camera assigned prior to and on 03/13/2020;
- Josh Doerr: Camera assigned prior to and on 03/13/2020;
- Kyle Meany: Camera assigned prior to and on 03/13/2020
- Michael Nobles: No videos in system ever on or prior to 03/13/2020: unable to determine if camera assigned on 03/13/2020;

- Jonathan Mattingly: Camera Assigned at some point prior to 3/13/2020; unable to determine if camera assigned on 03/13/2020;
- Kim Burbrink: Camera Assigned at some point prior to 3/13/2020; unable to determine if camera assigned on 03/13/2020.¹³⁴

Rather than investigate the existence of footage amongst these officers, prosecutors simply accepted it as true that none existed. In early June, counsel for Tamika Palmer expressed concerns to Daniel Cameron's office regarding the claim that body camera footage did not exist.¹³⁵ LMPD policies required their usage. Prior search warrants involving some of the involved officers confirmed that body cameras were worn on those occasions. Counsel for Tamika Palmer sent Daniel Cameron's office step by step instructions detailing how to identify body camera footage through the Evidence.com software and the manufacturer of the cameras.¹³⁶ Information could have been discerned relatively easily as part of a law enforcement investigation. It appears this was not done.

Daniel Cameron's office did not obtain or present footage from detectives and SWAT members on scene at the warrant briefings. Cameron's office also did not obtain or present body camera footage for the SWAT members and detectives assigned at Elliott Ave. The Elliott Ave. arrest citations confirm that footage existed. Presumably, the footage contains important evidence from the officers. In particular, the responses and reactions of the officers at Elliott to notice of the shooting would be pertinent. Did they even know a warrant was being executed at Elliott? Were the officers listed as assigned to Elliott actually on scene at Elliott? Did any of the officers on scene

¹³⁴ Correspondence in response to Open Records Request seeking WVS information, available upon request.

¹³⁵ Correspondence from counsel to the Attorney General's office, available upon request.

¹³⁶ Correspondence from counsel to the Attorney General's office, available upon request.

at Elliott speak with those on scene at Springfield and discern what took place? Was Officer Doerr, who was assigned to Springfield yet appeared later in the morning on documentation related to Elliott, at Elliott at the time of the shooting? The footage of LMPD K9 officer Jeremiah Nimmo was not presented to the grand jury and the complete footage was never obtained as part of the police file. LMPD body camera systems, when activated, record 30 seconds in advance of the recording button being pressed. The first 30 seconds, however, do not record audio. Officer Nimmo's body camera footage begins with audio.¹³⁷

Important radio communications were not obtained or otherwise presented

Several interviewed officers identify that communications leading up to the shooting were made on the CID Channel and SWAT Channel. LMPD did not produce these communications. Daniel Cameron's office made no efforts to obtain and present these recordings. This is critical evidence. The communications would potentially identify whether surveillance was indeed conducted, what was observed, whether the Springfield warrant was cancelled, the communications between the officers in relation to the warrant and which officers were on scene.

*When the grand jury requested to view additional body camera footage,
Daniel Cameron's office denied the request*

Daniel Cameron's office had dozens of body camera files. The prosecutors only played three of them for the grand jury. When grand jurors inquired about more footage, prosecutors advise that other videos weren't being played in the interest of time. Prosecutors then ignored a

¹³⁷ Nimmo body camera footage, available upon request.

follow up statement from a grand juror who noted that they had the time to observe more footage.¹³⁸

While plenty of the footage was redundant (several of the recordings of certain officers capture actions which could simply be observed on footage of other officers), other unrepresented footage could have assisted the grand jury in evaluating the case. For example, the footage of LMPD officer Josh Rucker was not presented. Rucker is the second uniformed officer on scene. As he arrived at the scene, a white car pulled up behind cars parked on the street near Breonna's home. From the car, an individual shouted, "Brett (Hankison), hold on." Officer Hankison is heard responding, "Get out of here." When the voice from the white car attempts to speak again, Hankison cuts him off, stating "I don't give a fuck. Get out of here." The car then proceeds to turn around and exit.¹³⁹ Daniel Cameron's office never made any efforts to identify these officers who left the scene. Prosecutors deprived the grand jury of the ability to observe this footage and consider questioning witnesses regarding the actions or deliberating on criminal charges associated with obstructing an investigation.

In other footage, SWAT officers identify shell casings and "slugs" inside Breonna's home. There is footage showing Shawn Hoover and Brett Hankison walking around the crime scene, identifying evidence and communicating with other uninvolved officers near the entry of the home. Footage exists showing Mike Campbell going to upstairs apartments, where he is getting statements from neighbors after the shooting. Footage exists showing Hankison leaving the front of Breonna's and engaging in an act which appears to be removing a metal object, such as a shell casing, from his pocket and dropping it in the breezeway. Footage also shows members of

¹³⁸ Grand jury transcript excerpts, available upon request.

¹³⁹ Rucker body camera footage, available upon request.

Hankison's unit, including his sergeant, entering a neighbor's apartment. Footage appears to reflect the voice of the lead PIU investigator, Amanda Seelye, asking Hankison's sergeant for the whereabouts of Hankison and then permitting the sergeant to remain present by the entrance of the apartment (rather than having it secured by PIU).

*Important interviews were not presented –
Tony James, Luke Phan, Josh Jaynes and Mike Kuzma*

The interviews of these individuals should have been played to the grand jury. Tony James was one of the officers on scene for the shooting. His interview was obtained less than six hours after the shooting. Within the statement, James states three times that he personally observed Officer Hankison shooting into the front of Breonna's home through the entry doorway.¹⁴⁰ James also made knowingly false statements which could have and should have been scrutinized for criminal conduct associated with a law enforcement investigation. James attempted to implicate Kenneth for firing up to fifteen shots into the breezeway, with his bullets flying through at officers non-stop.¹⁴¹ Instead of hearing this, the grand jury was presented with a watered-down statement obtained from James six months later by Daniel Cameron's office. In this second statement, James was asked to retract his prior observation of Officer Hankison shooting.¹⁴² James was never asked in the second statement about the basis for his earlier assertion that Kenneth shot continuously for a lengthy period.

The grand jury was also not presented with the interview of Officer Hankison's sergeant, Luke Phan. Phan's statement, while brief, is pertinent. He identifies conflicting information about

¹⁴⁰ James interview excerpts, available upon request.

¹⁴¹ James PIU interview, available upon request.

¹⁴² Grand jury transcript excerpts, available upon request.

the warrant briefing. According to Phan, the Springfield crew “did their own thing.” Phan also blatantly lies about his actions on the scene, stating that they were minimal and that he quickly departed, despite body camera footage clearly recording him interviewing neighbors, entering a neighbor’s apartment and then taking over custody of Breonna’s home to himself.¹⁴³

The interview of Officer Josh Jaynes should also have been played for the grand jury. Jaynes was the officer who obtained the search warrant for Breonna’s home. He was interviewed in May, only after media attention into the case placed scrutiny upon the veracity of his search warrant affidavit. Despite Jaynes’ entire squad being responsible for the investigation that led to Breonna’s home being raided, he is the only member whose interview was taken by LMPD in this case. Jaynes states that his partner, Officer Kelly Goodlett, did the search warrant briefing to the officers assigned to Springfield. Jaynes states he called Mike Campbell prior to the warrant execution, and that he specifically advised Campbell that Jamarus Glover had been identified as heading towards Elliott Ave.¹⁴⁴ Jaynes also details the knowledge of Officers Mattingly and Nobles in relation to the search warrant, confirming that both Officers Mattingly and Nobles had been specifically advised that there were no packages going to Breonna’s ex-boyfriend at her home. This was the only probable cause for the search warrant. If two of the officers on scene were aware of this and elected to proceed with the warrant, it raises serious questions about their actions and their decision to proceed with forcibly entering Breonna’s home.

On May 18, PIU investigators interviewed Shively Detective Mike Kuzma.¹⁴⁵ Detective Kuzma was contacted by Officer Mattingly on January 17, 2020 in reference to Jamarus Glover possibly receiving packages and parcels at Breonna’s home. Detective Kuzma completed a search

¹⁴³ Luke Phan interview, available upon request.

¹⁴⁴ Officer Campbell states in his interview that he believed Glover was at Breonna’s home at the time.

¹⁴⁵ Kuzma interview, available upon request.

of the address and advised Officer Mattingly that there was no parcel history at the location. Several weeks later, LMPD Officer Kelly Hanna Goodlett contacted Detective Kuzma about the same address. He advised her as well that there was no parcel history at the address. Several days later, Officer Mike Nobles contacted Detective Kuzma about the same address. He advised Officer Nobles of the same information of no parcel history at the address. After the shooting, Detective Kuzma contacted Officer Nobles and asked about the information on the affidavit. Officer Nobles stated he didn't want to get involved. This information was not presented to the grand jury.

Important ballistics and forensic pathology evidence were not obtained or otherwise presented

Ballistics evidence, as confirmed by experts, confirms that Breonna was on the ground when shots were fired at her.¹⁴⁶ The prosecutors, however, never once advised the grand jury that the shots fired at Breonna were while she was going to the ground and was on the ground. The shot that killed Breonna, which struck her above the left breast, was fired at a downward trajectory. Despite this, the grand jury was advised that “we can only speculate what happened down the hall.”¹⁴⁷

Grand jurors were advised by prosecutors that Breonna may have only lived for a matter of a few seconds after being shot. Daniel Cameron later indicated that officers could not be held criminally accountable for blind shots into Breonna’s home because it was likely she was already deceased when those shots were fired. This is simply not true, both factually and legally. From a legal standpoint, there is no authority supporting the statement that Breonna would have had to be alive to withstand wanton endangerment charges for shots into her home. The shots were blind. The officers did not know who was in the home. Kenneth Walker was still alive. The shots created

¹⁴⁶ Ballistics expert opinions, available upon request.

¹⁴⁷ Grand jury transcript excerpts, available upon request.

a substantial risk of serious injury or death. Factually, the evidence supports that Breonna was alive. Breonna's autopsy confirms that there was bleeding present upon all wound paths caused by gunshots.¹⁴⁸ If she was deceased at the time of any of these shots, her heart would have stopped and bleeding would not be present.

Officer Hankison's disappearance was not investigated

At some point following the shooting, Officer Hankison disappeared. At 1:38 am, he and Officer Cosgrove communicated by phone.¹⁴⁹ Cosgrove was at Springfield at this time, so clearly Hankison was not within an in-person speaking distance of him. Hankison's cell phone location data confirms, however, that he was still within the general area at the time.¹⁵⁰ Adjacent to the apartment complex is a run-down cemetery. A private investigator, concerned that perhaps that Hankison migrated to this area to destroy evidence, canvassed it and identified a pair of 9 mm shell casings. These were collected and preserved. When the information was presented to prosecutors, they did not find it pertinent and did not request to take custody of the casings or run ballistics on them. Instead, despite records of several officers carrying 9 mm backup weapons, Cameron falsely advised the grand jury and the public that the officers only carry .40 caliber firearms.¹⁵¹ Hankison's records also confirm other areas in town where he proceeded post-shooting. No efforts were made to investigate these circumstances and the grand jury was never advised of this conduct.¹⁵²

¹⁴⁸ Autopsy report, available upon request.

¹⁴⁹ Call logs, available upon request.

¹⁵⁰ Hankison location data and Jackman report, available upon request.

¹⁵¹ Cameron interviews, available upon request.

¹⁵² Hankison location mapping, available upon request.

Daniel Cameron's and LMPD's biased and deficient investigation continued for months

On June 10, the incident report from the night Breonna died was made public. The report states there were no injuries and no forced entry into her home. The following week the FBI visited Breonna's home. Their agents recovered several bullets not previously obtained by LMPD.

On June 22, the Kentucky State Police examined Breonna's clothing for gunshot residue. None was identified.¹⁵³ The Attorney General's office did not, however, request for KSP to perform gunshot residue testing on Officer Mattingly's clothing. This testing would be critical for a ballistics expert to analyze whether Officer Mattingly's gunshot wound was caused by Kenneth Walker.¹⁵⁴

On June 25, Daniel Cameron's office was provided with requested evidence. The items included the cell phones of Officers Cosgrove and Hankison (no explanation has been provided as to why the cell phones of Officer Mattingly and others were not requested); Officer Mattingly's wallet; Officer Mattingly's clothing; the pistols of officers Mattingly, Cosgrove, Hankison and Kenneth Walker; 35 spent casings and 15 bullets.¹⁵⁵ The grand jurors were not presented with any evidence derived from the phones and clothing. The clothes and wallet were not even presented for viewing. There were no photographs presented of the back side of the wallet. The issue of whether the wallet actually incurred a pass-through shot is of vital importance. If it did not, then questions exist over the location of the bullet and the source of the gunshot which struck Mattingly's thigh. Kenneth Walker only fired one shot; if Officer Mattingly was shot twice, in similar locations, then it further supports the argument that Kenneth Walker did not shoot him. It

¹⁵³ KSP lab reports, available upon request.

¹⁵⁴ Ballistics expert contention, available upon request.

¹⁵⁵ Evidence transfer log, available upon request.

would also implicate the officers, as well as the forensic medical examiner, EMS responders and the police investigators themselves, for knowingly lying about pertinent facts surrounding a law enforcement investigation.

LMPD's PIU, as part of the officer involved shooting, never indicated whether it conducted gunshot residue testing on the officers. None was presented to the grand jury. The grand jurors were not provided with the trigger pull weights of the officers' pistols, despite specifically requesting the same. In an odd sequence within the grand jury presentation, an investigator for Daniel Cameron presented testimony from the firearms department lieutenant of LMPD. Questioning detailed the standard trigger pull for officer firearms and identified that officers are not permitted to modify the trigger pull weight. When a grand juror then asked the investigator whether the officers modified their own trigger pulls in violation of policy, the investigator stated that it was never tested and that he did not know. No offer was made to perform that testing for the grand jury. Additionally, records from prior KSP firearms testing in other cases appears to confirm that trigger pull testing is standard and routine.¹⁵⁶

In July, LMPD provided firearms qualifications to Daniel Cameron's office. For LMPD officers to carry a firearm, they must successfully qualify twice a year. According to the records produced to Daniel Cameron's office, Officers Hankison, Mattingly, Nobles and James did not have a 2020 firearms qualification.¹⁵⁷ None of the officers were asked about this and this information was not presented to the grand jury.

In August, counsel for Tamika Palmer obtained information suggesting that multiple officers involved in the search warrants may have been consuming alcohol at a bar on Dixie

¹⁵⁶ KSP reports from other cases, available upon request; opinions of former LMPD detective Denver Butler, identifying common practices and rendering criticism of the deficient investigation in this case, available upon request.

¹⁵⁷ Firearms qualifications, available upon request.

Highway earlier in the evening. The owner of the bar confirmed that LMPD investigators visited the establishment after the shooting to determine whether surveillance footage existed. By that point, the footage had looped. LMPD investigators did nothing to follow up on the issue. Daniel Cameron's office also did nothing to further investigate this matter, even though a simple review of credit card receipts could have potentially identified LMPD members.

Daniel Cameron's actions continue to raise eyebrows. Recently, his office took out an arrest warrant against one of the private investigators who had worked on the civil case.¹⁵⁸ The basis for the arrest warrant was allegedly the failure to maintain a current private investigator's license. This private investigator is licensed and has been for four decades.¹⁵⁹ The private investigator's primary tasks involved obtaining information regarding officers which the Attorney General's office was unwilling to gather. In issuing a knowingly false arrest warrant of this nature, Daniel Cameron appears to be protecting the officers once again.

A review of the grand jury transcripts further confirms that an appointment of a special prosecutor is necessary due to Daniel Cameron's refusal to prosecute the case

The background of this case further demonstrates Daniel Cameron's refusal to properly present evidence to a grand jury and permit the jurors to perform their functions. His rendition of the facts is biased, deficient and wrong. Daniel Cameron had four months and substantial resources to investigate the case and obtain the truth. Instead, he internally cleared the officers and presented a version of the case which was intended to exonerate the officers in the eyes of the public and the grand jury. As the application for relief states, these efforts of Daniel Cameron were unlawful, deceptive, and unsuccessful.

¹⁵⁸ Attorney General's arrest warrant, available upon request.

¹⁵⁹ License information, available upon request.

The grand jury presentation further confirms the bias surrounding the case. Prosecutors repeatedly advise witnesses not to answer certain questions. Factual issues are presented as undisputed, despite evidence reflecting otherwise. Officers' renditions of events are adopted as true when they support the narrative favoring the officers, but are ignored when they implicate the officers. When 23 out of 23 neighbors stated that the officers did not announce themselves, but one of them who speaks poor English changed his story two months later to state that the officers may have announced themselves, the prosecutors adopted this version and rejected the credibility of the remaining 22 neighbors. When a neighbor's 911 call clearly establishes that officer gunfire resumes over a minute into the call, Daniel Cameron's office sent an investigator to the neighbor to convince her that this second round of gunfire could have been SWAT ramming down a gate. The neighbor's 911 call was just before 12:43 am; SWAT arrived at Springfield at approximately 12:58 am. Despite this, Cameron's office rejected the 911 call as credible evidence and concluded that the caller's report of gunfire to dispatchers at 12:44 am must have actually been her hearing the sounds of SWAT ramming the gate 15 minutes after the 911 call had already ended.

The prosecutors advised the grand jury that the "warrant was valid" and that the officers were acting in "good faith." The reality is that thirty more pages could be devoted here to the conduct of Daniel Cameron's office in their representations to grand jurors. But perhaps what sums it up best is on Day One of the proceedings, when a juror raises questions and concerns related to Officer Cosgrove's version of the shooting, the prosecutor responds with:

"That would be a great question for deliberation"

The Attorney General's investigator follows the prosecutor's response with:

***"Some of these questions that you have for us, we just can't answer.
You have to listen to the statements by the officers and kind of put it together in your mind."***

In a nutshell, this 30 second sequence exposes the fallacies in the way this case was handled. The grand jurors were told that the prosecutor and witnesses could not answer questions for them or get them certain information, rather than be offered the assistance that the system, the law and the ethical responsibilities require. And these grand jurors were encouraged to focus on details for deliberations regarding the conduct of Officer Cosgrove, only to then later be denied the opportunity to deliberate at all.

A highly accomplished former LMPD detective, a nationally recognized ballistics expert, a forensic pathologist who has frequently testified nationwide and who has performed thousands of autopsies, a cell phone forensics expert with 17 years of LMPD experience, a former Kentucky Attorney General and several other experts, prosecutors and scholars have identified red flags with the handling of this case by law enforcement and the Attorney General. Issues begin with the actual conduct of the officers and extend through the failure to obtain, accurately interpret and transparently present the grand jury with both the evidence and the law.

Prepared By:

Lonita Baker and Sam Aguiar, on behalf of Tamika Palmer