

**STATEMENT AS PREPARED
OHIO ATTORNEY GENERAL MIKE DEWINE
YELLOW SPRINGS OFFICER-INVOLVED SHOOTING
YELLOW SPRINGS, OH
NOVEMBER 12, 2013**

INTRODUCTION

Good Morning.

At approximately 5:00 a.m., on July 31, 2013, Yellow Springs Police Officer Patrick Roegner requested the assistance of the Ohio Attorney General's Office and our Bureau of Criminal Investigation (BCI) in processing the scene of what began as a domestic disturbance and ended in an officer-involved shooting at 280 North High Street in Yellow Springs. That shooting, as we know, resulted in the death of 42 year-old Yellow Springs resident, Mr. Paul E. Schenck.

BCI Crime Scene Special Agent Laetitia Schuler arrived on-scene at approximately 7:15 a.m. Four additional BCI Crime Scene Unit personnel were summoned to assist.

At approximately 9:00 a.m., Greene County Sheriff Gene Fischer and Yellow Springs Police Chief Tony Pettiford verbally requested BCI to conduct the full criminal investigation. BCI Special Agent Investigator Karen Rebori from BCI's Special Investigations Unit was assigned as the lead case agent. Later that day, Chief Pettiford confirmed in writing the request for BCI to handle the investigation, and on August 6, 2013, Sheriff Fischer did the same.

We have completed our investigation, and I have turned over a complete report to Greene County Prosecuting Attorney Steve Haller, and we also have verbally briefed Sheriff Fischer and Chief Pettiford. This tragedy has, obviously, had a profound impact on the Schenck family. But, it has also impacted the Yellow Springs community. Because of that, I believe it is appropriate for me to share publically what we found in our investigation.

Let me first summarize what our BCI agents did in the investigation.

PROCESS

The Attorney General's investigative team was comprised of five Crime Scene Special Agents and one Crime Scene Special Agent Supervisor; three Special Agent Investigators and one Special Agent Investigator Supervisor; one analyst from the Criminal Intelligence Unit; three BCI lab personnel (including forensic and firearms experts); and two BCI office support staff. In all, at least 16 BCI personnel assisted with the investigation.

The BCI Crime Scene Unit documented and processed the scene at 280 North High Street for potential evidence, as well as the scene at four nearby homes -- including one at least a block away -- that received visible gunshot fire. The overall scene was divided into 11 areas, where BCI Crime Scene Agents searched for, collected, photographed, measured, and documented

potential evidence. In all, agents studied nearly 1500 photographs from the scene and employed a “total station,” which is a crime scene mapping device that maps distances, elevations, slopes, and angles to create scaled diagrams and illustrations of the scene.

The investigative team submitted 12 items of potential evidence to the BCI laboratory for firearms and DNA testing. Investigators also conducted ballistics calculations and controlled experiments related to telephone landline issues.

Over the course of our investigation, investigators conducted at least 50 interviews, including several follow-up interviews, with officers from the Yellow Springs Police Department, the Dayton Police Department, the Fairborn Police Department, the Grandview Memorial Hospital Police Department, the Huber Heights Police Department, the Vandalia Police Department, the Wright State University Police Department, the Xenia Police Department, the Greene County Sheriff’s Office, and personnel from Miami Township Fire-Rescue.¹ Additionally, investigators conducted interviews with at least 30 civilians, including neighbors and members of the Schenck family.

In total, investigators conducted at least 80 interviews.

The investigation included a review of the audio recording of the 9-1-1 call placed the night of July 30, 2013, from a landline phone located at 280 North High Street, as well as audio recordings and/or transcripts of radio transmissions from and between the Yellow Springs Police Department, Greene County Central Dispatch, and the Ohio Highway Patrol.

In addition, investigators reviewed an anonymously-provided DVD recording made during a portion of the incident. The Ohio Organized Crime Investigations Commission assisted in enhancing this DVD recording, as well as the audio of the July 30th 9-1-1 call.

Investigators requested, procured, and reviewed a variety of written reports and documents, including 17 statements that Yellow Springs residents submitted to the Greene County Sheriff’s Office; the Greene Memorial hospital report regarding Max Schenck; the Dayton SWAT team “After Action Report;” the Greene County Regional SWAT team “After Action Report;” and the Montgomery County Coroner’s autopsy report for Mr. Schenck. Investigators also reviewed the Greene County Regional SWAT team timeline of attempted negotiation calls made to 280 North High Street on July 30 and 31, 2013, and the Regional Emergency Response SWAT team timeline of their actions on July 30 and 31, 2013.

Additionally, investigators reviewed the policies and procedures for use of force for the Greene County Sheriff’s office, the Greene County Regional SWAT team, the Regional Emergency Response SWAT team, and the Dayton SWAT team.

Investigators requested that motions be filed by the Greene County Prosecutor to unseal Municipal Court and Common Pleas Court records regarding Mr. Schenck and a 2009 arrest.

¹ Some of the officers interviewed from these departments also serve as members of the SWAT teams that responded to the incident, which include the Greene County Regional SWAT team, the Regional Emergency Response SWAT team, and the Dayton SWAT team.

The records revealed that the incident resulted in charges of carrying concealed weapons (a handgun)² and having weapons while under disability by virtue of being a chronic alcoholic.³ In addition to these court records, investigators reviewed Yellow Springs Police Department in-house records for Mr. Schenck and an Alcohol, Tobacco, and Firearms (ATF) “Firearms Trace Summary” for nine weapons seized on July 31, 2013, from 280 North High Street.

To date, the investigation includes in excess of 135 individual reports, documenting the various aspects of the investigation. The following narrative is a summary of the events of July 30 and 31, 2013, based on the information that investigators gathered and witness accounts included in those investigative reports. For purposes of clarity, I will now refer to Mr. Paul E. Schenck as “Paulie.” I will refer to his father as either Mr. Schenck or “Paulie’s father” and his mother as Mrs. Schenck or “Paulie’s mother.”

NARRATIVE

At 10:48 p.m., on Tuesday July 30, 2013, a 9-1-1 call was placed to Greene County Central Dispatch from the residence at 280 North High Street in Yellow Springs. Dispatcher Heather Barlow answered the call and asked, “What is your emergency?” A distressed male caller responded, “I need help.”

Dispatcher Barlow then asked the caller where he was located. The caller stated that he was at 310 North High Street. Dispatcher Barlow told the caller that the 9-1-1 screen indicated that the call was placed from 280 North High Street. The caller informed her that the two addresses were the same. Dispatcher Barlow then asked the caller if he was Mr. Schenck. There was a noise in the background, but he did not respond to the question.

Dispatcher Barlow attempted repeatedly to get the caller to respond. He would not. Though the caller stopped responding, the line remained open, creating what is called an “open 9-1-1 call.” Because it was an open 9-1-1 call, Dispatcher Barlow alerted Miami Township Fire-Rescue to respond to 280 North High Street and contacted Dispatcher Kris Collins at the Yellow Springs Police Department to send police officers to the residence.

Dispatcher Barlow advised Dispatcher Collins that a 9-1-1 call had been placed from 280 North High Street, but that the caller said he was located at 310 North High Street. Dispatcher Barlow further advised Dispatcher Collins that the caller may have fallen or dropped the phone. While the two dispatchers were discussing which address police should use, the male caller began making noises in the background and stated, in an almost inaudible voice, that his son had tried to assault him.

Dispatcher Barlow continued to attempt to communicate with the caller, asking him if he could hear her or if he needed an ambulance. He did not respond to her questions, but did state once again that his son had assaulted him. Dispatcher Barlow then told the caller, “If you can hear me, I’m sending you help, ok? Help will be there soon.”

² ORC 2923.12 (A)(2)

³ ORC 2923.13 (A)(4)

Hearing no further response and knowing that police were on their way, Dispatcher Barlow hung up the phone and ended the call.

Yellow Springs Police Officer Pat Roegner was the first to arrive on-scene at 310 North High Street. He arrived alone in a marked cruiser. He was immediately followed in a marked cruiser by Yellow Springs Police Officer Joshua Knapp and Officer-in-Training Luciana Lieff. Miami Township Fire-Rescue Lieutenant Lee Gillespie also arrived around the same time. Lieutenant Gillespie parked a first responder truck (Squad 81) on the street and waited for the officers to provide direction.

Officers Roegner, Knapp, and Lieff approached the home at 310 North High Street from the back. Officer Roegner was familiar with the home's residents, Paul D. Schenck and his wife Uta, and knew that they typically answered the back door. Mr. Schenck and his grandson Max Schenck met the officers at the door. Mr. Schenck told the officers that his son, Paulie, had just had a domestic dispute with Max, Paulie's son. The officers observed that Max had a visible shoulder injury. They asked where Paulie was at that time and were told that Paulie was next door in his residence located at 280 North High Street.

While Officers Roegner and Lieff were gathering information from Paulie's father and son, Officer Knapp went to Paulie's front door. Before going to the door, Officer Knapp heard Officer Roegner ask Paulie's father if Paulie had gotten his firearms back from an incident in 2009, when authorities removed numerous firearms and ammunition from Paulie's home. Paulie's father indicated that the weapons had, in fact, been returned and that they were in Paulie's residence.

Officer Knapp knocked on Paulie's door. Paulie came to the door, moved the curtain aside so that he could see Officer Knapp, but did not open the door. Paulie talked through the screen door. Officer Knapp described Paulie as being obviously distraught and highly emotional. He said that Paulie was upset and crying. Officer Knapp noticed that Paulie's face was injured -- that there was blood around his mouth and lower nose area. Paulie's right hand also appeared to be injured, as it was swollen and bleeding heavily.

Officer Knapp identified himself as a Yellow Springs Police Officer and asked Paulie to open the door. Paulie told him that he wouldn't open the door because he didn't want to get hurt. Officer Knapp said that Paulie appeared to be intoxicated -- that some of his statements were not coherent and that his speech was slurred. Officer Knapp told Paulie that he wouldn't get hurt and that the officers just wanted to help him. Paulie said that he didn't want to get in trouble. Officer Knapp told Paulie that he wasn't in trouble and again asked him to open the door. Paulie also said that he didn't want his son to get hurt or to get in trouble. Officer Knapp again told Paulie that no one was in trouble and that officers just wanted to help, but they needed him to open the door.

According to Officer Knapp, Paulie said that his son had stabbed him in the hand. Officer Knapp said that he saw an injury and told Paulie that they needed him to open the door so the paramedics could look at his hand. Paulie again stated that he wasn't going to open the door. He said that he did not want to hurt anybody and did not mean to hurt anybody. Once more, Officer

Knapp asked Paulie to open the door so the officers could help him. At that point, Officer Knapp said that Paulie became belligerent and said that he was not going to open “the fucking door.”

Officer Roegner noticed that the exchange between Officer Knapp and Paulie had escalated and moved to assist Officer Knapp. Before doing so, he instructed Officer Lieff to leave the doorway of Paulie’s parents’ house where they had been talking and take the family into the 310 North High Street residence. Once inside the residence, Officer Lieff interviewed Paulie’s father, his son Max, and his mother about the events prompting the 9-1-1 call, which presumably Paulie had placed.

Paulie’s mother informed Officer Lieff that Paulie had been diagnosed at age 16 as having bi-polar disorder and that he was taking Prozac.⁴ She also told Officer Lieff that Paulie’s favorite cat, “Mouser, had been struck by a car and killed earlier that day. She said that Paulie was particularly sensitive and was upset about the cat -- a cat they had found several years earlier as an injured kitten and had nursed back to health.

According to Officer Lieff, Paulie’s son, Max, provided few details at that time as to what had occurred. However, he did tell Officer Lieff that he and Paulie had been watching television that evening and had gotten into an argument. Max told her that his father started “acting crazy” and started hitting him.

In a later interview with investigators, Max said that when he arrived at Paulie’s house that night, his dad had been drinking liquor and was sad because of the cat. While they were on the couch watching television, Max said that he looked over at one point and saw that Paulie had a handgun to his head. Max stood up, and with a pop can in his hand, told Paulie: “I’m gonna fuckin’ throw this at you if you don’t stop this!” Paulie dropped the magazine from the gun and then emptied the gun of any bullets.

As Max sat back down on the couch, he said that Paulie jumped on him, punched him, and beat him in the head with the gun. He said that Paulie shoved his thumbs into his eye sockets and pushed on them and that Paulie broke his own cane over him and beat his arms with it. Max told investigators that once he was able, he ran out of the house to the back door of his grandparents’ adjacent home and told them that his dad was beating him. He said that Paulie came after him and tried to enter his grandparents’ house. Max said that his grandfather pushed Paulie out of the doorway and kept him from entering the house.

As Officer Lieff was gathering information from Max and his grandparents, Officer Roegner joined Officer Knapp, who continued to ask Paulie to open the door. Paulie replied, “Fuck you!” and said that he was going to kill himself. According to Officer Knapp, Paulie then dropped the curtain so that the officers could no longer see into the residence.

At that point, Officers Knapp and Roegner attempted to enter the residence to keep Paulie from harming himself. The locking mechanism on the screen door, however, prevented them from opening it. Officer Knapp said that he struggled with the latch and pushed in the screen. He continued to struggle with the latch, so both Officers Knapp and Roegner then attempted to break

⁴ It is unclear if he was prescribed the Prozac to treat his bi-polar disorder.

the door open. Sometime between 10:50 p.m. and 10:55 p.m.,⁵ the officers heard approximately two to five shots fired from inside the residence.⁶ Neither officer saw muzzle flash, nor could they tell the trajectory of the bullets. Both officers quickly retreated from the 280 North High Street residence to take cover behind vehicles parked in the driveway.

According to Officer Roegner, he felt that his life was being threatened and heard Paulie yell to the officers something along the lines of “I am going to kill you!” Officer Roegner said he heard additional shots fired and then yelled out, “Shots fired, shots fired!” Officer Knapp radioed the “Signal 99” -- which was the call for additional law enforcement assistance. He said that based on the rapid fire of the second volley of shots, he believed that Paulie had switched from using a handgun to using a rifle.

Lieutenant Gillespie, from Miami Township Fire-Rescue who had been parked in a first responder truck nearby, also heard the gunshots. She moved the responder vehicle away from the scene to Pleasant and High Streets and contacted Greene County Dispatch to alert officers and emergency responders that gunshots had been fired. Lieutenant Gillespie advised the ambulance that was en route to stage at least a block away from the scene.

Officers Knapp and Roegner stayed in position behind the vehicles. According to Officer Knapp, after an additional barrage of 10 to 15 shots, Paulie briefly stopped shooting. He also said that at some point, Paulie opened his front door and said, “I am going to let my cat out. Don’t shoot my cat, mother fuckers.” Officer Knapp said he saw the door open several inches, but he never saw Paulie or the cat.

The officers instructed Officer Loeff to take the family members out of the front door of the 310 North High Street residence to the street. Officers Roegner and Knapp provided cover for their movements. Officer Roegner then instructed Officer Loeff and Yellow Springs Police Officer Jon Matheny -- who responded to the scene as a result of the Signal 99 call -- to take the family to the medics’ location. Officer Matheny asked Lieutenant Gillespie to examine Max. During that examination, Max told Lieutenant Gillespie and Officer Matheny that his father “beat the shit out of me.”

Meanwhile, Paulie resumed shooting. While officers from various departments began to arrive at the scene, Officer Roegner said that he and Officer Knapp continued to take rounds of gunfire, as they covered each other to obtain positions farther from Paulie’s residence. When Officer Roegner reached his vehicle, he secured his patrol rifle.

Paulie continued to shoot.

Officer Roegner, the initial commanding officer on-scene, was trying to coordinate the responding officers from all of the surrounding jurisdictions in an effort to contain Paulie. When

⁵ Officer Roegner arrived on scene at 10:50:27 p.m. Officers Knapp and Loeff arrived at 10:50:30 p.m. The first shots were reported to Greene County Central Dispatch at 10:54:06 p.m. While an exact time of the shots cannot be determined, they likely occurred after 10:50 p.m. and before 10:55 p.m.

⁶ While Officer Roegner stated in his interview that he heard between two and five shots, Officer Knapp, in his interview, indicated that he heard between two and three shots.

Major Eric Spicer from the Greene County Sheriff's Office arrived on-scene, he assumed command as the ranking officer. Major Spicer requested, or approved the request for, the assistance of the Greene County Regional SWAT team, as well as the deployment of the Dayton SWAT armored vehicle,⁷ the Fairborn Police armored vehicle,⁸ and the Ohio State Highway Patrol aviation unit.

Major Spicer instructed officers to move one of the Sheriff's cruisers toward Paulie's residence, so they could use the spotlight on the vehicle to light up the residence. Once the cruiser's spotlight was aimed toward his residence, Paulie began to shoot directly at the vehicle. Officer Roegner, Greene County Sheriff Deputy Daniel Wical, and Major Spicer were all positioned around the cruiser when Paulie fired at it. Officer Roegner said that he heard the bullets go by him. Deputy Wical was aware that the rounds were coming in his direction. And, Major Spicer said that if the vehicle had not been between him and Paulie, he probably would have been shot in the stomach.

At that point, Major Spicer fired one round toward the residence at what he believed was muzzle flash. According to Major Spicer, after he fired the round, Paulie stopped shooting for about 10 minutes. No other officer fired rounds at that time.

A command post was established at High and Union Streets. Officer Roegner and Major Spicer went to that location to meet Greene County Regional SWAT Commander, Sergeant Steve Lane;⁹ Greene County Regional SWAT Commander, Deputy Jamie Coe;¹⁰ Greene County Regional SWAT team member Major Kirk Keller;¹¹ and Greene County Regional SWAT Crisis Negotiation Team member Detective Fred Meadows.¹² When Major Keller arrived at the scene, he became the Special Operations commander and took control of the overall operation.¹³ When Greene County Sheriff Gene Fischer arrived at the command post, Major Keller remained the on-scene commander under Sheriff Fischer's oversight.

At this time, Officer Roegner turned command of the Yellow Springs Police Officers over to Officer Knapp and changed into his SWAT gear and reported in as a member of the Greene County Regional SWAT team. As the rest of the Greene County Regional SWAT team arrived on-scene, they met at the command post. The team members viewed satellite images of the area on an iPad. Officer Roegner provided the officers at the command post with information about Paulie, including his current condition, his history of mental illness as provided by his family, and details about a 2009 arrest involving weapons. According to both Paulie's father and to Officer Roegner, who was familiar with Paulie's 2009 arrest, Paulie owned a cache of military supplies, including multiple weapons and thousands of rounds of ammunition. Paulie's father, according to Sergeant Lane, referred to him as a "survivalist."

⁷ This vehicle is known as the "Bear."

⁸ This vehicle is known as the "Peacekeeper."

⁹ Sergeant Lane is also a member of the Xenia Police Department.

¹⁰ Deputy Coe is also a member of the Greene County Sheriff's Office.

¹¹ Major Keller is also a member of the Greene County Sheriff's Office.

¹² Detective Meadows is also a member of the Xenia Police Department.

¹³ Major Keller is the Special Operations Commander for Sheriff Fischer, meaning Major Keller is in charge of events involving the Greene County Regional SWAT team.

Sergeant Lane instructed the two precision riflemen of the Greene County Regional SWAT team -- Deputy James (“Jimmie”) Hughes from the Greene County Sheriff’s Office and Officer Harold Matheson from the Xenia Police Department -- to position themselves on the backside of Paulie’s residence, which was designated as the “3 side” of the residence. They were advised to use extreme caution in getting to their location, as Paulie continued to fire his weapons.

Sergeant Lane also established an Emergency Action Team on-site, consisting of Xenia Police Officer Lon Etchison,¹⁴ Xenia Police Officer Fred Barker,¹⁵ Xenia Police Officer Dean Margioras,¹⁶ and Xenia Police Officer Doug Sparks.¹⁷ Sergeant Lane sent this team to the front right side of Paulie’s residence, which was designated as the “1-4 corner.” Other officers were assigned to traffic and civilian control and to establish a perimeter around the residence to contain Paulie if he became mobile and started moving about the neighborhood.

The Emergency Action Team met Major Spicer as they were approaching the “2 side” of the house. Major Spicer informed them that he believed he knew where Paulie was located. He then directed the team to an incorrect location at 234 North High Street, which was a house three houses south of Paulie’s residence.

Unaware that they were at the incorrect location, the Emergency Action Team remained there for approximately two hours. Eventually, Major Spicer decided it was necessary to enter that residence and tried to open the door. He could not get in. A resident inside that house then called 9-1-1, because she thought someone was breaking into her home. That call, coupled with communication difficulties among officers because they were unable to all be on the same radio frequency and channel, created a false concern that Paulie was possibly mobile and shooting randomly in the neighborhood from various locations.

Meanwhile, Officer Matheson and Deputy Hughes left the command post, as instructed, and started cutting through yards and thickets to reach the “3 side” of Paulie’s residence. Once there, Deputy Hughes said he could hear Paulie yelling and screaming and that he could hear gunshots. Officer Matheson and Deputy Hughes positioned themselves, lying prostrate on their stomachs approximately 45 yards from Paulie’s residence. In this location, the officers lacked any type of cover or protection from the rounds being fired, but they were concealed by high grass and the cover of darkness.

When Sergeant Matthew Walters, a Greene County Sheriff Deputy and the leader of the Crisis Negotiation Team of the Greene County Regional SWAT team, arrived on-scene sometime between 11:00 p.m. and midnight, he assumed command of negotiations with Paulie. Sergeant Walters assigned Greene County Sheriff Deputy and Crisis Negotiation Team member Donna Dempsey to be the first seat negotiator; Xenia Police Officer and Crisis Negotiation Team member Steve Shaw to be the second seat or coach; and Detective Meadows to gather intelligence. Sergeant Walters assumed the negotiation command role at the command post.

¹⁴ Officer Etchison is also a member of the Greene County Regional SWAT team.

¹⁵ Officer Barker is also a member of the Greene County Regional SWAT team.

¹⁶ Officer Margioras is also a member of the Greene County Regional SWAT team.

¹⁷ Officer Sparks is also a member of the Greene County Regional SWAT team.

Detective Meadows spoke to Paulie's father, who indicated that Paulie was bi-polar and an alcoholic. He told Detective Meadows that Paulie's cat died and that he had been drinking heavily that day and was highly intoxicated.¹⁸ Detective Meadows asked about guns, and Paulie's father told him about the 2009 arrest involving weapons. He indicated that Paulie had in his possession at least a .45 caliber handgun, two semi-automatic rifles, two other military-style long rifles, and at least 10,000 rounds of ammunition.

Detective Meadows asked Paulie's father to draw a diagram of both the 280 & 310 North High Street residences. He also provided the numbers for the landline to Paulie's residence and the landline to his own residence. Paulie reportedly did not have a cellular telephone.

Detective Meadows and other Crisis Negotiation Team members relocated to the back of a pick-up truck away from Paulie's residence. At around 12:15 a.m., Deputy Dempsey made the first attempt to contact Paulie via telephone. The telephone rang busy.¹⁹ Deputy Dempsey attempted to reach Paulie's parents' residence, and the voicemail picked up the call. Deputy Dempsey left a message on the voicemail in case Paulie could hear her. She tried repeatedly to reach Paulie on his landline phone number, calling a total of 56 times.

Paulie never answered.

Between approximately 12:45 a.m. and 1:00 a.m., the Regional Emergency Response SWAT team, under the direction of Vandalia Police Lieutenant Harry Busse, arrived on-scene in their armored vehicle, known as the "Peacekeeper." As Deputy Dempsey's attempts to reach Paulie via telephone were unsuccessful, Sergeant Walters decided to attempt communication with Paulie via the Peacekeeper's PA system. He instructed Detective Meadows to get into the armored vehicle, to move forward, and to try communicating with Paulie over the PA.

The Peacekeeper moved forward without lights to the edge of the driveway about 40 yards from Paulie's residence. Detective Meadows tried to make contact with Paulie by asking him to call him or to answer their phone calls. Detective Meadows broadcast his personal cell phone number over the PA system, and told Paulie to call him. Because Detective Meadows could not hear if Paulie was responding, he told him to do something like wave a flag or throw a pillow or chair or something out of the house so that he would know that Paulie had heard him and was okay. Detective Meadows said that he told Paulie that he didn't need to leave the house, but that they needed to talk to him.

Detective Meadows also kept trying to call Paulie on the telephone about every 60 to 90 seconds. The phone would either ring busy or just continue to ring, sometimes as many as 50 times. Detective Meadows believed that the busy signal was caused when he and Deputy Dempsey were both attempting to call Paulie at the same time.²⁰

¹⁸ Investigators later determined that around 7:00 p.m., on July 30, 2013, Paulie purchased a liter of vodka at the Emporium in Yellow Springs.

¹⁹ Though it is possible that Paulie was on the phone or trying to make a phone call when Deputy Dempsey got the initial busy signal, investigators believe that it is more likely that others were also trying to reach Paulie at the same time that Deputy Dempsey was calling. See also Footnote #21.

²⁰ To determine if it is possible for a caller to receive either a busy signal or constant ringing after a telephone line is severed, BCI agents conducted a controlled experiment. A series of four calls were made. In the first call, the cord

Again, Paulie never answered.

Deputy Hughes and Officer Matheson said they could hear Detective Meadows on the PA system, trying to talk to Paulie, trying to calm him down. Officer Matheson said he heard Detective Meadows say, "Come out. I can help you. Pick up the phone. We can solve this." Officer Matheson also said he heard Paulie respond, "I don't have a phone." "F off!" "You guys wanna kill me!"

Deputy Hughes said that he heard Detective Meadows saying, "Paul, talk to me. Answer the phone. I am trying to talk to you on the phone." Like Officer Matheson, Deputy Hughes also heard Paulie indicate that he did not have a phone. Additionally, Deputy Hughes said that he never heard a phone ring inside the house.

Deputy Hughes went on to say that he thought he heard the suspect yell, "I am going to fucking kill you guys!" That statement was confirmed to Hughes when he heard Officer Barker or Officer Etchison put out on the radio that they heard the suspect say he was "going to fucking kill you guys." Deputy Hughes said that Paulie was very loud and sounded extremely angry and very upset

Officer Matheson said could see the smoke from Paulie's gun over the roof as Paulie was firing from the front of his residence at the Peacekeeper. Detective Meadows was also aware that Paulie was firing directly at the Peacekeeper, as he said he could feel the rounds hit the armored vehicle and could see sparks flying off of it after each shot. He said that it seemed like Paulie fired each time after he tried to communicate with him and assumed that his negotiating was angering Paulie and that he was trying to shoot at him because he had told Paulie that he was in the armored vehicle.

Detective Meadows said that he heard at least 10 rounds hit the Peacekeeper and that he began to fear for his life. He was concerned whether the Peacekeeper was sufficient cover. He didn't know what weapons the vehicle was rated for and what weapons Paulie was firing, though he believed Paulie had at least a semi-automatic weapon because of the speed at which he was firing each round.

From their position, Officer Etchison and the other members of the Emergency Action Team saw Paulie shooting at the Peacekeeper and saw the sparks fly off of the vehicle as it was struck. Officer Etchison said that he heard Paulie yelling, "I will kill" [something] and that he did not have a phone and that the officers needed to bring him one. Although Officer Etchison did have

of the landline was intact and only one caller attempted to call. In this instance, the caller heard a ringing sound, and the receiving telephone emitted a ringing sound. In the second call, the cord of the landline was unplugged, simulating a cut phone line, and only one caller attempted to call. In this instance, the caller heard a ringing sound, but the receiving telephone did not ring. In the third call, the handset of the landline telephone was taken off the hook, and only one caller attempted to call. In this case, the caller heard a busy signal, and the receiving telephone did not ring. In the final call, the cord of the landline was unplugged, simulating a cut phone line, and two callers attempted to call at the same time. In this instance, Caller 1 heard a ringing sound, Caller 2 heard a busy signal, and the receiving telephone did not ring.

a “throw phone,” he said that commanders at the command post decided to not attempt to get that phone to Paulie because he was actively shooting at the officers, and they believed his request for a phone was a ploy to get the officers closer to his location so he could ambush them.

At approximately 1:00 a.m., the Dayton SWAT team, under the supervision of Sergeant Chris Malson,²¹ arrived on-scene in their armored vehicle, which is known as the “Bear.” The team was briefed on the status of the on-going incident and told that they should expect their armored vehicle would take fire. Command initially determined that the Bear should be positioned on the “3 side” of Paulie’s residence, but due to difficult terrain and vehicles located in the pathway, the Bear ultimately returned to North High Street, two houses south of Paulie’s residence. Sergeant Malson activated the Bear’s overhead spotlight by remote control and aimed it toward Paulie’s residence. As soon as he activated the spotlight, two rounds hit the side of the Bear.

At the same time, Sergeant Lane, Major Keller, Deputy Coe, and Sheriff Fischer discussed options to get Paulie to cease his fire. They considered the option of deploying gas into Paulie’s residence, but that was quickly rejected because Paulie was known to possess numerous military supplies and likely had a gas mask. Additionally, the commanders felt that the deployment of gas in this situation might be dangerous, since Paulie reportedly had thousands of rounds of ammunition in his residence and a spark from the gas canister could create a fire or an explosion.

The commanders also considered the option of driving the Bear into and over Paulie’s residence. Since daylight was approaching, the commanders felt that they could not wait much longer for Paulie to cease fire on his own. Once it was light, they feared that Paulie would be able to see the police officers on-scene, particularly Deputy Hughes and Officer Matheson on the “3 side” of the residence, who essentially had no cover, but for the darkness.

While the commanders were discussing options, Deputy Hughes saw a silhouette inside Paulie’s residence walk to the other side of the house, and he heard Officer Etchison on the radio indicate that the Bear, which was on that side of the house, was being shot. Deputy Hughes then saw the silhouette come back to the window on the “3 side” of the residence. The silhouette began shooting out of the window on that side. Deputy Hughes said that he saw muzzle flash out the “3 side” and that it appeared to him to be similar to that of his AR-15 rifle.

The muzzle flash was to Deputy Hughes’ left. He said that he felt the residual debris (glass, dirt, or tree bark) from the rounds hit him in the face, hands, and arms. He could not tell how close the rounds were to hitting him, but he knew they were coming in his direction.

At that point, Deputy Hughes removed the safety on his rifle.

Officer Matheson was about eight feet from Deputy Hughes to his left. Deputy Hughes said that he saw a second muzzle flash from the window. He aimed his rifle at the window, specifically at what he believed was the silhouette’s chin. Fearing for his and Officer Matheson’s lives, Deputy

²¹ Sergeant Malson is also a member of the Dayton Police Department.

Hughes returned fire. He took -- he believed at the time -- three shots in a very controlled, but quick fashion.²²

Deputy Hughes believed that he saw the silhouette fall to the ground, but he was not certain because of the muzzle flash from his weapon. He radioed that he had returned fire, that he believed Paulie had fallen, but that he was uncertain if Paulie was down. After Deputy Hughes fired the shots, he did not see any more muzzle flash and did not hear any more gunshots.

Command decided that it would be prudent to deploy a robot into Paulie's residence to determine Paulie's status and/or to attempt communication with him. Xenia Police Officer David Wilson²³ told Fairborn Police Officer James Hardman²⁴ that they were going to move both the Bear and the Peacekeeper up the driveway and that the Bear was going to breach the front of Paulie's house so they could deploy a robot from the Peacekeeper. Officer Wilson advised that they needed to wait for a search warrant.

A search warrant was obtained, and the Bear moved up the driveway to the house. After the Bear went to the north door of the residence, the ram finally opened the structure sufficiently to deploy the robot. Once the robot was inside the house, the officers could see that Paulie was lying on the ground. He was not moving. They parked the robot beside Paulie to watch him and to attempt communication with him through the robot's speaker system.

Officers Etchison and Barker went to rear of the Bear and knocked on it. They informed Sergeant Malson that they had a visual of Paulie through the robot and asked if they had an armored shield they could utilize to go into the residence to confirm Paulie's condition. Once the shield was obtained, Officers Hardman, Etchison, Barker, Sparks, and Fairborn Police Sergeant Paul Hicks²⁵ stacked behind the shield and moved out of the Bear, through the yard, and up to the door of Paulie's residence. They entered the residence. When they got to the robot, they found a white male lying on his back, feet toward the doorway, wearing earplugs and a military-style, bullet-proof "Kevlar" vest, with numerous pouches to carry ammunition.

A medic was called.

Paulie was pronounced dead at the scene.

LESSONS LEARNED

On July 31, 2013, the Schenck family lost their beloved son, father, brother, and friend.

To the family of Mr. Paul E. Schenck, I extend my deepest condolences.

²² Based on casings (spent rounds of ammunition) found at the scene, BCI investigators determined that Deputy Hughes actually shot his gun five times.

²³ Officer Wilson is also a member of the Greene County Regional SWAT team and is the robot operator for the Greene County Regional Task Force.

²⁴ Officer Hardman is also the leader of the Fairborn Unit of the Regional Emergency Response SWAT team.

²⁵ Sergeant Hicks is also a member of the Regional Emergency Response Team.

Each time, our investigators conduct a review of a major incident, we learn something. I would like now to focus on a few key aspects of our investigation and what we discovered.

Communications

When Officer Knapp dropped the “Signal 99” and radioed for additional law enforcement assistance and when Officer Roegner called out, “Shots fired, shots fired!” the Yellow Springs Police Dispatch heard this and contacted Greene County Dispatch. Yellow Springs Police Officer Matheny heard the call and immediately responded to the scene. Simultaneously, Miami Township Fire-Rescue Lieutenant Gillespie heard the first gunshots and also radioed the information to Greene County Central Dispatch.

Central Dispatch then put out the call for assistance to all the agencies to which they dispatch officers. While not everyone heard the call, several departments did hear it, responded to it, and called yet others to respond to it. Greene County Central Dispatch also telephoned Clark County Communications a request for additional personnel. In all, approximately 71 officers and nine troopers from 17 different law enforcement agencies responded.

The reality is that when an officer says shots have been fired and you’re in law enforcement and you hear that -- you go! You respond. There is no real protocol regarding how information goes out after a Signal 99 is dropped and no real control over who hears that information or who responds. The more important issue, in this particular case, wasn’t the number of officers who responded, but the difficulty they had communicating with each other.

Twelve years after the 9-11 terrorist attacks, we found that there are still counties in Ohio where law enforcement from different jurisdictions within the same county don’t have the ability to talk to each other in an emergency. That must change. In the Yellow Springs case, because there were no radio channels available to link all of the responding departments together during the incident, communications were difficult. To the best of their abilities, officers attempted to “pair-up” with officers from other agencies with different radios to increase radio communications. However, much of the time, officers were required to communicate via their personal cellular telephones.

Because of the rapidly changing and dangerous conditions at the scene, there was simply no time to explore an all-encompassing solution to the communications issue and officers made due. However, our investigators determined that despite the complicated-nature by which communications took place, these difficulties were not outcome determinative.

It is worth noting that after the incident, BCI investigators learned that Montgomery County and the Beavercreek Police Department have vehicles that contain equipment that can be used to patch into the different Greene County radio frequencies so that officers from varying jurisdictions can communicate with one another. Our agents also learned that multi-jurisdictional communications could have occurred if all the officers had access to statewide MARCS radios. Very few of the law enforcement agencies involved in this incident own MARCS radios and the jurisdictions that do have them generally only have one radio, which may or may not be assigned for police use. It is our understanding that police agencies in Greene

County and the Sheriff's Office will be acquiring MARCS radios very soon. I believe that is an important step and will help officers better conduct emergency operations in the future.

Negotiations

Some of Paulie's neighbors reported that Paulie was calling out for his family, suggesting that he wanted to talk to them and that he was willing to negotiate and perhaps be de-escalated. Our investigators talked to at least 20 of Paulie's neighbors. Many heard Detective Meadows calling to Paulie on the PA system from the armored vehicle, asking if he was okay, telling him that he needed to keep his hands up, and saying, "We want you to come out." Several of these neighbors also heard Paulie respond with statements like:

"I don't have a phone."

"You want to kill me."

"I have a grenade."

"Get me a phone. I don't have a phone."

"You aren't coming in here."

One neighbor said that she heard Paulie make several statements in between shots -- things like, "Going to shoot my cat! Going to shoot my cat! No way. I'm not going to allow you to do it." This same neighbor heard him also say, "I love you. I've always loved you all my life."

Another neighbor said that she heard Paulie say, "I love you [something], Mom [something], and I always will."

And still another neighbor told investigators that she was outside and heard Paulie say, "I will only talk to my mother and my son." Then she heard him say, "You assholes, you don't understand." She went into her house and later heard Paulie say, "Got no fuckin' phone, you shot the phone." She also heard him say, "I love you... and I always will," and "I'm sorry."

Despite statements like these, officers told our investigators that they felt there was never an opportunity to truly negotiate with Paulie. Once he started to shoot, he kept shooting. In fact, investigators found that Paulie shot at least 191 rounds from his house. Investigators also found that the telephone line to the residence had been shot from the inside, and whether this was accidental or purposeful, disabling the phone also severed an important means for communication.

Further, officers indicated that they never felt it was safe to bring a family member close to Paulie's residence. Our investigators determined that Paulie was firing in a nearly 360 degree range, sparing only the area near his parents' home. His bullets hit four nearby houses, a neighbor's fence, and nearby police cruisers.

[REFER TO CHART# 1]

Our investigators determined that some of the bullets that Paulie shot had the potential of traveling within a one mile radius of his house -- while still remaining lethal.²⁶

[REFER TO CHART #2]

Upon entering his residence, investigators found a blood-clot kit and a gas mask with an extra canister by his side. Paulie was wearing a bullet-proof "Kevlar" vest. He was wearing earplugs. Investigators also discovered one shotgun, two rifles, two assault rifles, three semi-automatic pistols, one black powder rifle, and 2000-plus rounds of ammunition.

Weapons

To fully evaluate issues related to the July 2013 incident, investigators contacted the Greene County Prosecutor's Office and requested that they file a motion to unseal the court records related to Paulie's 2009 arrest and the seizure and return of numerous firearms and ammunition. These records indicate that Paulie was a chronic alcoholic, who had suicidal tendencies and a vast array of military supplies.

On February 2, 2009, a Yellow Springs Police Officer arrested Paulie for pulling a concealed firearm on him while he was intoxicated. According to records, at the time of his arrest, Paulie was extremely belligerent and combative and had a handcuff key sewn into his clothing. He was charged with Carrying a Concealed Weapon, Having a Weapon While Intoxicated, Obstructing Official Business, and Disorderly Conduct. After his arrest, officers attempted to interview Paulie, but he was non-compliant and physically threatening. He was taken to the Greene County Jail.

The next day, two Yellow Springs Police Officers interviewed Paulie, who disclosed that he had an alcohol addiction, that he was depressed about his financial situation, and that he contemplated suicide. He also informed officers that he had five handguns, six rifles, two shotguns, and an inert grenade launcher.

Later that day, Paulie's mother went to the Yellow Springs Police Chief, informed him that her son was depressed, that he possessed large amounts of firearms and ammunition, and that she was concerned that her son would hurt himself or others if the weapons were not removed. A search warrant was obtained, and officers seized 25 metal ammunition boxes, five cardboard ammunition boxes, four plastic ammunition packages containing assorted ammunition, bullet-proof vests, five handguns, two shotguns, and 10 rifles.

²⁶ To appropriately evaluate the risks posed to residents in the area of North High Street, BCI made ballistic calculations based on Paulie's height, the type of ammunition he used, the type of weapon he fired, the temperature, the barometric pressure, and the humidity on the day(s) in question. Based on these calculations, BCI determined that while utilizing his AK-47 (gun caliber 7.62x39), with Wolf 124 Grain, Full Metal Jacket Boat Tail ammunition, if Paulie held the firearm level at a height of six feet, while standing on his bed firing out the window, the bullet could strike an individual in the torso from 300 yards. If Paulie fired the firearm with a five degree upward line of departure, the bullet could travel as far as one mile from his house and have enough remaining velocity to be lethal.

On February 17, 2009, the Greene County Grand Jury returned a two-count indictment against Paulie, charging him with “Carrying a Concealed Weapon” -- a felony of the fourth degree.²⁷ They also charged him with “Having Weapons While Under Disability” -- a felony of the third degree.²⁸

On April 2, 2009, counsel for Paulie filed a motion for Intervention in Lieu of Conviction.²⁹

On July 6, 2009, an Intervention in Lieu of Conviction hearing was held. The judge found Paulie to be eligible for Intervention in Lieu of Conviction. He accepted Paulie’s guilty pleas to Count I of the Indictment (Carrying a Concealed Weapon) and dismissed County II (Having Weapons While Under Disability). Paulie was placed on a period of rehabilitation not to exceed three years and was placed under the supervision of the Greene County Adult Probation Department.

As a condition of his Intervention in Lieu of Conviction, he was required to adhere to the following:

- Not own, control, purchase, or possess any firearms; ammunition; dangerous ordinance or weapons, including chemical agents, electronic devices used to immobilize, edged weapons, pyrotechnics, and/or explosive devices or reside in a home where the aforementioned are present.
- Obtain an Alcoholics Anonymous/Narcotics Anonymous sponsor.
- Attend AA/NA meetings specified by his Probation Officer.
- Obtain a chemical dependency evaluation and to follow any and all treatment recommendations.
- Not possess, consume, or imbibe alcohol in any way.
- Not be present at any location, residence, or business where alcohol is present.
- Enroll in the electronic Secure Continuous Remote Alcohol Monitoring Program and to comply with all of the conditions of that program.
- Obtain a mental health evaluation and to follow any and all treatment recommendations.

Also on July 6, 2009, the judge ordered that the Yellow Springs Police Department maintain custody of all of the firearms and ammunition seized from Paulie’s residence, pending the outcome of Paulie’s Intervention in Lieu of Conviction.

²⁷ This is in violation of R.C. 2923.12(A)(2).

²⁸ This is in violation of R.C. 2923.13(A)(4).

²⁹ This is pursuant to R.C. 2951.041.

On October 1, 2010, the judge terminated Paulie's Intervention in Lieu of Conviction, finding that Paulie had successfully completed the program, had received the maximum benefit from the program as administered by TCN Behavioral Health Services, and that his treatment had served its intended purpose. Pursuant to R.C. 2945.041(E), the judge ordered that the case be dismissed and that all records related to the case and the offense be sealed in the manner provided by R.C. 2953.52.

On October 13, 2010, the judge issued an order releasing all of the firearms, ammunition, and other items seized from Paulie's residence to Paulie's father.

Mental Health

According to the Montgomery County Coroner's autopsy report, Paulie's blood alcohol level at the time of his death was 0.18 gm%, well in excess of the legal limit. The drug Zoloft was also found in his system.

Paulie's mother told investigators that Paulie tried to commit suicide when he was a teenager and the family was living in Belgium. After the incident, the family moved to Yellow Springs. Paulie was evaluated at Dartmouth Hospital in Dayton and stayed in the hospital for 30 days after his suicide attempt. It was here that Paulie was first diagnosed as being bi-polar. The doctor there prescribed him Lithium.

According to his mother, Paulie was doing well for a while, but stopped taking his medication. He began acting out and abusing alcohol. Paulie's parents filed "Unruly" charges against Paulie, and he was sent to Greene Hall for a 30-day residential detox program.

Paulie did not remain sober. His alcohol addiction plagued him for the rest of his life.

As Mrs. Schenck described it to investigators, there was civil war inside of Paulie that he could not win. She said that Paulie often told her that the reason why he drank so much was because he wasn't able to stop thinking all the time, and things were always rushing through his mind. He just wanted those things to stop. She said that Paulie did not want to take the Lithium and that he thought he had to self-medicate to make the things and the images in his mind stop.

Approximately 2.3 million Ohioans have a diagnosable mental health disorder, with 522,000 having a serious mental illness, such as schizophrenia, major depression, or bi-polar disorder.³⁰

Persons with serious mental illness served in the public mental health system die on average of 25 years earlier than the general population.³¹

Fifty-eight percent of children with severe emotional or behavioral disorders do not graduate from high school.³²

³⁰ Source: The Ohio Coalition for Healthy Families.

³¹ Source: The Ohio Coalition for Healthy Families.

³² Source: The Ohio Coalition for Healthy Families.

Nine of the ten people who complete suicide had a diagnosable mental illness or substance abuse disorder.³³

And, with treatment and support, 70 to 90 percent of people with severe mental illness have significantly reduced symptoms and improved quality of life.³⁴

I first saw how devastating mental health problems are and how they impact families when I was Greene County Prosecuting Attorney in the 1970s. Later, when I was in the U.S. Senate, I worked with then U.S. Congressman Ted Strickland to write legislation and pass it into law to create mental health courts. And now as Attorney General, my office has undertaken a number of initiatives.

Long-time mental health advocate and former Supreme Court Justice Eve Stratton and I created the Attorney General's Task Force on Criminal Justice and Mental Illness. Through this Task Force, we have allocated nearly \$500,000 from a court case settlement my office received to assist law enforcement and other treatment providers in helping persons with mental health concerns. Additionally, my office has given the Ohio Chapter of the National Alliance on Mental Illness (NAMI) \$120,000 to increase efforts to provide law enforcement with Crisis Intervention Training, known as CIT.

CIT is a specialized, 40-hour training course for officers to identify the signs of mental illness and to learn appropriate techniques for de-escalating agitated individuals in crisis. It is vitally important that more law enforcement officers receive this training. The reality is that every officer, at some point, will respond to a person experiencing a mental health crisis. I was very pleased to learn that each of the law enforcement officers who had contact with, or who attempted contact with Paulie the night of the shooting, were CIT-certified.³⁵ I applaud the Greene County Sheriff's Office, the Yellow Springs Police Department, and the Xenia Police Department for getting those officers this very important, specialized training.

Additionally, my office, through our Ohio Peace Officers Training Academy (OPOTA), has expanded the basic Peace Officer training -- the training that every officer has to take -- from three to 16 hours in the area of mental health. We've focused on enabling officers to recognize observable characteristics of people in crisis and providing officers with practical de-escalation skills to assist them.

This tragic shooting makes it vividly clear, however, that this is about so much more than just law enforcement training. Paulie's death raises so many questions about mental health treatment and the mental health system in Ohio. Paulie was not getting the treatment he desperately needed. His parents tried, but Paulie was an adult, and there was little they could do to compel his treatment.

³³ Source: The Ohio Coalition for Healthy Families.

³⁴ Source: The Ohio Coalition for Healthy Families.

³⁵ Investigators confirmed that Officers Roegner and Knapp, Deputy Dempsey, and Detective Meadows were all CIT-certified. Officer Loeff, who was an Officer-in-Training at the time of the incident, has since received the training.

What are the things we can do to lessen the likelihood of tragedies like this from happening? We understand that the mental health system will never be able to recognize every case. But the hope would be that this tragedy can result in recognizing the needs. Until we do, there will be other cases.

I talked to Terry Russell, who, for over 40 years, has been one of Ohio's strongest advocates for persons with mental illness. He's the head of NAMI Ohio, which represents over 300,000 Ohioans. He says that "the mental health system is broken for the sickest of the sick." He said that we have to identify individuals early, get them treatment, and keep them in treatment. But, there's not enough money and the current law makes it difficult for parents of adult children with mental illness to force hospitalizations and treatments.

Earlier this year, Ohio State Senators Burke and Tavares introduced legislation -- SB 43 -- that would clarify that a county probate court may order someone who is a threat to themselves or others to receive mandatory outpatient treatment. Today, most judges do not believe the law gives them the authority to refer such a person to outpatient treatment. Rather, judges believe they have basically three options: 1. Do nothing; 2. Put the person in jail; or 3. Order the person to a mental health hospital. Typically, judges either don't order the person to the hospital for lack of adequate space, or when they do, the person stays an average of only 11 days.

This legislation would also eliminate the ambiguity in existing law with regard to the conditions under which a person is considered a mentally ill person subject to court ordered treatment. NAMI Ohio supports this legislation and believes it is a step in the right direction because it would help persons with mental illness get treatment plans that include regular follow-up, and it would help families get their loved ones much-needed medical help when they are not willing, or able, to do so on their own.

In addition, it has been 25 years since the Ohio General Assembly enacted sweeping reforms in 1988 with the Mental Health Act of Ohio, which was authored by then State Senator Dave Hobson from Springfield. Perhaps it is time to call for a comprehensive, independent study of Ohio's mental health system. What is working? What isn't working? How can we do better?

Terry Russell also told me that 57 percent of all care-giving for persons with mental illness does not come from the mental health system. Rather, it comes from the families of those with mental illness. As Terry put it so well, "No one gives more than the families dealing with these issues. They pay the highest price."

That was certainly the case for Paulie's family. Paulie's mother said that her family "suffered along with him and learned to adapt.... The journey these last 25 years has been heart-breaking, as we realized the difficulty in helping him to remain on a stable course."³⁶

Paulie was, as his mother described, "intelligent, artistic, handsome, charismatic, lovable -- and self-destructive."³⁷ On the night of July 30, 2013, Paulie's self-destruction became all too evident. All the elements for disaster were there -- alcohol, mental illness, grief over the loss of

³⁶ Yellow Springs News, Letter/Column, 2013.

³⁷ Yellow Springs News, Letter/Column, 2013.

a beloved pet, and an arsenal of guns. If we are to prevent future such tragedies for other families, we must, as Paulie's mother put it, "Open [our] eyes and hearts to the many walking wounded among us."³⁸

I will now take your questions.

³⁸ Yellow Springs News, Letter/Column, 2013.