



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

SPENCER B. MERRIWEATHER III
DISTRICT ATTORNEY

700 EAST TRADE STREET
CHARLOTTE, NC 28202
TELEPHONE: 704-686-0700
FAX: 704-686-0716

December 14, 2017

Chief Cleveland L. Spruill
Huntersville Police Department
9630 Julian Clark Ave
Huntersville, NC 28078

Re: Joseph Charles Cook Death Investigation

Dear Chief Spruill:

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the shooting death of Joseph Charles Cook on September 10, 2017. The case was investigated by the North Carolina State Bureau of Investigation under case number 2107-02567. The purpose of this review was to examine whether the conduct of Huntersville Police Officers Travis Watts and/or Michael Joseph was unlawful when they shot and killed the decedent.

The decedent was a patient at Novant Health Medical Center in Huntersville when he removed a firearm from his belongings and fired two shots in his hospital room. Medical personnel and patients fled, and the hospital was placed on lock-down under the hospital's active shooter policy. When Huntersville police officers arrived and encountered the decedent, he raised his gun at one of the officers. Officers Travis Watts and Michael Joseph discharged their firearms, killing the decedent.

This letter specifically does not address issues relating to tactics, or whether officers followed correct police procedures or Huntersville Police Department (HPD) Directives.

One of my senior Assistant District Attorneys (ADAs) immediately responded to the incident location to monitor the investigation. I personally reviewed the investigative file as provided by the SBI. Finally, consistent with the District Attorney's Office Officer-Involved Shooting Protocol, this case was presented to the District Attorney's Homicide Prosecution Team, which is comprised of the office's most experienced prosecutors.

A. The role of the District Attorney under North Carolina law

The District Attorney (DA) for the 26th Prosecutorial District is a state official and, as such, does not answer to city or county governments within the prosecutorial district. The District Attorney is the chief law enforcement official of the 26th Judicial District, the boundaries of which are the same as the County of Mecklenburg. The District Attorney has no administrative authority or control over the personnel of the HPD or other police agencies within the jurisdiction. That authority and control resides with each city or county government.

Pursuant to North Carolina statute, one of the District Attorney's obligations is to advise law enforcement agencies within the prosecutorial district. The DA does not arrest people or charge people with crimes. When police charge a person with a crime, the DA decides whether or not to prosecute the charged crime. Generally, the DA does not review police decisions not to charge an individual with a crime. However, in officer-involved shooting cases, the DA reviews the complete investigative file of the investigating agency. The DA then decides whether he agrees or disagrees with the decision made by the police. If the DA concludes that uncharged conduct should be prosecuted, the case will be submitted to a Grand Jury.

If no criminal charges are filed, that does not mean the District Attorney's Office believes the matter was in all respects handled appropriately from an administrative or tactical viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt unanimously to a jury. This is the limit of the DA's statutory authority in these matters. The fact that a shooting may be controversial does not mean that criminal prosecution is warranted. Even if the DA believes a shooting was avoidable or an officer did not follow expected procedures or norms, that does not necessarily make it criminal. In these circumstances, remedies (if any are appropriate) may be pursued by administrative or civil means. The DA has no administrative or civil authority in these matters. Those remedies are primarily in the purview of city and county governments, police departments and private civil attorneys.

B. Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." A police officer does not lose the right to self-defense by virtue of becoming a police officer. Officers are entitled to the same protections of the law as every other individual. An imminent threat to the life of a police officer entitles the officer to respond in such a way as to stop that threat.

Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in State v. Norris, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order to save himself from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. Id. at 530.

C. Use of deadly force by a law enforcement officer

The same legal standards apply to law enforcement officers and private citizens alike. However, officers fulfilling their sworn duty to enforce the laws of this State are often placed in situations in which they are required to confront rather than avoid potentially dangerous people and situations.

The United States Supreme Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham v. Connor, 490 U.S. 386, 396 (1989). The Court further explained that “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396–97. A situation in which an officer is confronting an armed person with uncertain motives is by definition dangerous, and such a circumstance will almost always be tense, uncertain and rapidly evolving. In these circumstances, this office is not deciding whether the officer’s belief in the need to use deadly force was correct but only whether his belief in the necessity of such force was reasonable.

In conducting a legal analysis, this office must take its guidance from the law, and a decision must not be based upon public sentiment or outcry. The obligation of a District Attorney is clear; he must simply apply the law to the known facts.

As stated by the Fourth Circuit Court of Appeals, “The [law] does not require police officers to wait until a suspect shoots to confirm that a serious threat of harm exists.” The Court suggests that when reviewing use of force cases, caution should be used to avoid analysis “more reflective of the ‘peace of a judge’s chambers’ than of a dangerous and threatening situation on the street.” Elliot v. Leavitt, 99 F.3d. 640, 643 (4th Cir. 1996).

D. The officer-involved shooting of Joseph Charles Cook

Timeline

- 9/10/17, 23:40 – 911 receives a call from Novant Health Medical Center in Huntersville about a patient who has fired a gun inside the hospital. The 911 caller describes the incident as an active shooter situation.
- 9/10/17, 23:41 – The dispatcher provides responding officers, who are en route, with the information that the patient with the gun is an older white male wearing a hospital gown.
- 9/10/17, 23:45 – The dispatcher provides responding officers, who are now on scene, with information that the shooter is no longer isolated in his room and his location inside the hospital is unknown.
- 9/10/17, 23:47 – Shots are fired by officers.
- 9/11/17, 01:14 – The Huntersville Police Department notifies the NC SBI of an officer-involved shooting.
- 9/11/17, 02:29 – NC SBI Agent Lail arrives at HPD to assume responsibility of the investigation.
- 9/11/17, 03:12 - NC SBI Agent Wright arrives at Novant Health Medical Center in Huntersville and assumes responsibility of the incident scene.

Facts as ascertained from the investigation

The decedent travelled from Florida to North Carolina due to Hurricane Irma. He checked into a Huntersville hotel but began having medical difficulties. He drove to a nearby fire department and was transported by Medic to Novant Medical Health Center. Firefighters went to visit him at the hospital the following day and agreed to bring his belongings from the hotel to the hospital.

Hospital staff accounts

Note: Non-law enforcement witnesses who agreed to be interviewed by the SBI and who have not otherwise identified themselves to the public will be referred to in this report by their initials only.

On September 11, 2017, at approximately 4:39 a.m., Special Agent T. L. Endicott-Powell interviewed L.A., a registered nurse. The interview took place at the Huntersville Police Department, which is located at 9630 Julian Clark Avenue, Huntersville, North Carolina 28078. No one else was present during the interview. This interview was audio and video recorded at the HPD. The recording is maintained by the NC SBI.

L.A. cared for Cook while he was a patient at the hospital. She recalled that Cook was an evacuee from a hurricane in Florida and was trying to get to his family in New York. He was concerned about his house being damaged in the hurricane and his belongs at the hotel where he was staying. She said he did not want to pay for both the hotel room and a hospital stay if he was going to be admitted to the hospital. She stated he was confused, and during a conversation, he thought she was in his house. She said she gave him a tablet (Simet) for Parkinson's disease. He was also receiving steroids for chronic obstructive pulmonary disease (COPD), oxygen and an IV with normal saline for hydration. When asked about his medical history outside of the mentioned conditions, L.A. said she thought he had hypertension.

She stated that when she came to work on September 10, Cook's belongings were in the room. She said he seemed agitated, and he was not cooperating with treatment. When Special Agent Endicott-Powell asked L.A. whether he assaulted her in any way, she mentioned pushing and not wanting to sit down, which to her was not outside the norm for some patients. She said she gave him an Ativan at 8:02 p.m. September 10 for his anxiety and agitation.

L.A. stated that on the evening of the incident, at approximately 11:30 p.m., she entered Cook's room, and while she was there, he retrieved a handgun from his suitcase. L.A. stated that she ran from the room and informed other hospital staff, who in turn notified hospital security. A Certified Nursing Assistant (CNA) was in the patient's room with L.A. She ran from the room with L.A. upon seeing Cook pull the handgun from his suitcase.

L.A. and a security guard walked back toward Cook's room, and, as they did so, she heard a gunshot. Both she and the security guard ran from the area. The CNA heard the gunshot from further down the hallway.

The CNA who was with L.A. was also interviewed, and her account was consistent with what L.A. told investigators. The CNA is also seen with L.A. on the hospital surveillance video fleeing the area.

Hospital security guards

On September 11, 2017, at approximately 5:26 a.m., Special Agent T. L. Endicott-Powell interviewed C.D. at the Huntersville Police Department. C.D. was employed and on duty at the time of the incident as an unarmed security guard at the hospital. This interview was audio and video recorded at the HPD. The recording is maintained by the NC SBI.

C.D. stated in his interview that at approximately 11:20 p.m. on the date of the incident, he was dispatched to respond to a disgruntled patient. C.D. took the elevator to the second floor. Upon exiting the elevator, he was met by a nurse (later identified as L.A.) who told him that the patient in room 2248 had a weapon. According to C.D., as he and the nurse walked toward the room, he heard a gunshot come from the room. C.D. retreated with the nurse but stayed close enough to maintain a line of sight on the room. Moments later, C.D. observed Cook leave room 2248 and begin walking down the hallway with a gun in his left hand.

A second security guard arrived to the second floor. This witness provided a statement to the NC SBI. The second security guard, C.B., was armed with a handgun. Upon arriving on the second floor, he heard a gunshot and was told by C.D. that a previous shot had been fired.

C.B. then witnessed Cook leave room 2248 and begin walking down the hospital hallway carrying a firearm in his left hand. C.B. confronted Cook and repeatedly told him to drop the gun. Cook refused. C.B. told investigators that when Huntersville police officers arrived, he heard them also order Cook to drop the firearm before hearing multiple gunshots and subsequently seeing the decedent's body on the floor near the nursing station.

Hospital surveillance cameras

The hospital video surveillance system captured much of what occurred, but it did not capture the actual shooting. The video corroborates the statements of the witnesses. Specifically, the video shows:

- L.A. and the CNA running from Cook's room after seeing Cook retrieve a gun from his belongings.
- L.A. and the security guard approaching Cook's room and then retreating after they heard a gunshot from within his room.
- The second security guard approaching the room.
- Cook coming out of the room with an object in his left hand.
- Cook walking down the hallway with an object in his left hand.

- The armed security guard encountering Cook.

Officers' interviews

The NC SBI generally does not provide transcripts of witness statements. The SBI does, however, provide detailed summaries of what each witness said during an interview. Below are detailed summaries of what each officer told the SBI when interviewed.

Both officers were wearing body worn cameras at the time of the incident. The body-worn cameras do not capture the entire event on video but do record parts of what occurred. My office has reviewed the footage of those cameras. In addition, several still images from those videos are attached to this report.

Officer Michael Joseph

Officer Joseph was interviewed on September 13, 2017, at approximately 11:45 a.m. by Special Agent T. L. Endicott-Powell. The interview took place at the NC SBI Southern Piedmont District Office, which is located at 5994 Caldwell Park Drive, Harrisburg, North Carolina 28075. Present during the interview was Officer Joseph's attorney, George V. Laughrun. Assistant District Attorney Bill Stetzer monitored the interview through a live video feed. The interview was audio and video recorded. Officer Joseph provided the following account of what occurred:

- Officer Joseph stated that before midnight, he was finishing a traffic stop at Gilead Road and Statesville Road when he was notified about a priority call at Novant Health Medical Center.
- The information he received was that there was an older white male in a hospital gown who had fired a gun in the hospital.
- He responded to the hospital and waited for other officers to arrive.
- Officer Joseph subsequently learned that the alleged shooter was not contained in a room but was loose in the hospital.
- Upon learning this, he instructed hospital personnel to implement their active shooter protocol and lock down the hospital.
- He retrieved his patrol rifle and met up with Officer Travis Watts, who was in uniform with a compact ballistic shield. (*Note: The compact ballistic shield does not cover an officer's entire body*).
- Officer Joseph, along with Officer Watts and other uniformed officers, then went to the second floor of the hospital.
- After moving down the hallway, Officer Joseph stated, he saw an older man in a hospital gown behind the nurse's desk.
- Officer Joseph raised his rifle and began telling the man to show him his hands. Officer Joseph also heard Officer Watts giving the man commands.

- Officer Joseph stated that the man then raised the hand holding a black handgun, pointing the gun directly at Officer Watts.
- He said he thought Cook was going to shoot Officer Watts, so he fired his rifle multiple times.
- Officer Joseph next observed Cook's firearm on the floor near the decedent.
- He stated the gun was a black Smith & Wesson Bodyguard, which is a .380 caliber handgun. He was familiar with this handgun because a friend of his owns one.
- He stated that if he had not shot Cook, the decedent would have shot Officer Watts.
- He did not know the male subject before the incident occurred.
- He stated he has never been involved in a shooting incident before.

Officer Travis Watts

Officer Travis Watts was interviewed on September 13, 2017 by NC SBI Special Agent J. R. Alderman. The interview took place in an interview room at the NC SBI Southern Piedmont District Office, located at 5994 Caldwell Park Drive, Harrisburg, North Carolina 28075. Also present for the interview with Officer Watts was his attorney, George V. Laughrun. Assistant District Attorney Bill Stetzer monitored the interview through a live video feed. The interview was audio and video recorded. Officer Joseph provided the following account of what occurred:

- Officer Watts recalled a call coming over the radio regarding a subject firing two shots inside the hospital.
- Additionally, Officer Watts learned that this was a priority 1 call, which required emergency response (blue lights and siren), and that a man at the hospital had fired two shots and was possibly barricaded in a room.
- Officer Watts advised that while en route to the hospital, he heard additional updates over the radio. Watts recalled hearing that the subject was moving throughout the hospital.
- Officer Watts stated that he thought he had heard Officer Joseph state that the subject was at the emergency entrance, so that was where he responded.
- When Officer Watts arrived at the hospital, he immediately retrieved his ballistic shield out of his patrol car.
- The patrol shields are issued to SWAT operators or patrol sergeants. Officer Watts described the shield as black with "police" in white lettering on the front. The shield has a large window to look through when it is being carried.
- Officer Watts advised that he and other officers ran toward the hospital emergency room entrance.
- Officer Watts heard Officer Joseph call his name, so he went with Officer Joseph toward the main entrance. Officer Watts said Officer Joseph was wearing plain clothes, consisting of boots, blue jeans and a green jacket along with a black exterior tactical ballistic vest with "police" written on the front chest in white lettering.

- Officer Watts stated that Officer Joseph was carrying a police-issued .40 caliber handgun in a tactical holster on his right leg and a rifle slung on his chest.
- Officer Watts advised that when he entered through the hospital's main entrance, he observed a security guard sitting at the front desk and told the guard to hide.
- Officer Watts advised that he, Officer Joseph and other officers moved from the front desk to the elevators and went up to the second floor.
- The officers moved left down the hallway and came to a nurse's station at the corner. A nurse grabbed Officer Watts by the arm or back of his shoulder and pointed him in the direction of the armed subject.
- Officer Watts stated that he, Officer Joseph and another officer went through a set of doors and made a right turn. When he turned right, he saw another security guard. The security guard informed them that there was another armed security guard around the next corner. Officer Watts advised that they kept moving. He was leading the group with the ballistic shield with Officer Joseph to his left and another officer behind Officer Joseph.
- Officer Watts advised that they walked through the hallway to the next security guard who was standing with HPD Officer Williams. Officer Watts did not notice whether this security guard was armed or not. Officer Williams and the security guard pointed Officer Watts in the direction of the armed subject.
- Officer Watts said that when they arrived at the nurse's station, he observed an older white male wearing a hospital gown standing at a doorway behind the nurse's desk. When Officer Watts first saw him, he could only see the subject's body from the waist up and was approximately 7-10 yards away. Initially, Officer Watts could not see the subject's hands. But as Officer Watts continued to move toward the subject, he saw his hands and observed what he knew to be a black semiautomatic handgun in the subject's left hand. Officer Watts stated that the man had both of his hands down by his side and was looking side to side.
- Officer Watts advised that when he observed the older male with the gun in his left hand, he yelled "Gun," because he did not know whether Officer Joseph or the other officers could see it. The man turned his head and was looked directly at the officers.
- Officer Watts began loudly yelling for the subject to "drop it" or "drop the gun." Officer Watts stated that he also heard someone else giving the subject commands.
- According to Officer Watts, the subject then raised his left hand and pointed the gun at Officer Watts. Officer Watts stated that based on the information he knew about the subject previously firing two rounds, he felt threatened and thought the subject was going to shoot him.
- Officer Watts stated that he took one side step to his right and gave the command to "drop it" as he was moving. Officer Watts stated that the subject did not lower the gun so he fired four to six times until he could not see the firearm and the subject was falling toward the floor.

- Officer Watts stated that prior to firing his weapon, he heard a loud bang, which he believed to be Officer Joseph's rifle. Officer Watts stated that his first shot very closely followed Officer Joseph's first shot. The shots were almost simultaneous. Officer Watts did not know how many times Officer Joseph fired his rifle.
- Officer Watts advised that when he side stepped, the subject moved his gun like he was tracking Officer Watts' movements. Officer Watts stated that he thought the subject was going to shoot him. The subject never attempted to lower his gun, and Officer Watts never heard the subject say anything.
- Immediately after the shooting, Officer Watts observed a black semiautomatic handgun lying on the floor on the opposite side of the doorway from the subject.
- Officer Watts advised that Officer Joseph relayed over the radio that shots had been fired. Officer Watts then got on the radio and informed responding officers, "The suspect was shot, no officers injured, and medic was needed across from Room 2265 at the nurse's station." Officer Watts stated that at this point, other officers began entering into the hallway. Officer Watts holstered his weapon and put the shield on the floor.
- Officer Watts advised that the backup officers arriving on scene did an initial sweep of the hallways and cleared all rooms. No other suspects or victims were located on the second floor.
- Officer Watts advised that Lt. Medlin requested that he and Officer Joseph separate. Officer Watts left the second floor with HPD Officer Collins. Officer Joseph left the second floor with HPD Officer Kreeza.
- Officer Watts stated that both he and Officer Joseph still maintained possession of their firearms used during the shooting incident.
- Officer Watts advised that he did not know the subject he shot and had never seen or encountered him in the past.
- Officer Watts advised that the suspect was armed and dangerous. Officer Watts stated that he felt the subject was dangerous, and he was threatened when he saw the gun pointed at him, and he discharged his weapon at the subject to neutralize the threat.

Evidence collected

The firearm recovered at the scene was lawfully purchased by Cook in October 2011 in Orange City, Florida.

The body-worn camera video and hospital surveillance video were collected by the NC SBI and retained by the SBI.

Based on crime scene evidence and inspections of the officers' weapons, it was determined that Officer Joseph fired his weapon eight times, and Officer Watts fired his weapon seven times.

E. Report of the Medical Examiner

ADA Bill Stetzer spoke with Dr. Owens, Mecklenburg County Chief Medical Examiner, on the telephone to review the findings from his examination of the decedent. Dr. Owens determined that Cook was shot between eight and 11 times and was struck by projectiles from both guns fired by officers during the encounter. Shots from either of the weapons used would have been lethal. Nothing found during his examination was inconsistent with the accounts provided by the witnesses in this investigation.

F. Conclusion

There is no dispute that Officers Joseph and Watts fired their guns and killed the decedent. Therefore, the central issue in this review is whether or not the officers were justified under North Carolina law in using deadly force. A police officer – or any other person – is justified in using deadly force if he reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death from the actions of the person who is shot. In this case, the officers were responding to an active shooter in a hospital. When they encountered the subject, Cook pointed a gun at a police officer. Under these circumstances, I have determined that these officers acted within the bounds of the law, and no charges will be sought against them.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in black ink, reading "Spencer B. Merriweather III". The signature is written in a cursive, flowing style.

Spencer B. Merriweather III
District Attorney

Exhibits

Photograph of the firearm recovered near the decedent's body. Records show the decedent purchased this handgun in 2011.



Photograph of the gun after the magazine was removed and live ammunition was ejected from the chamber.



Inside the decedent's hospital room. Placards mark the location of shell casings and projectiles from the decedent firing his gun inside the hospital room prior to police being called.



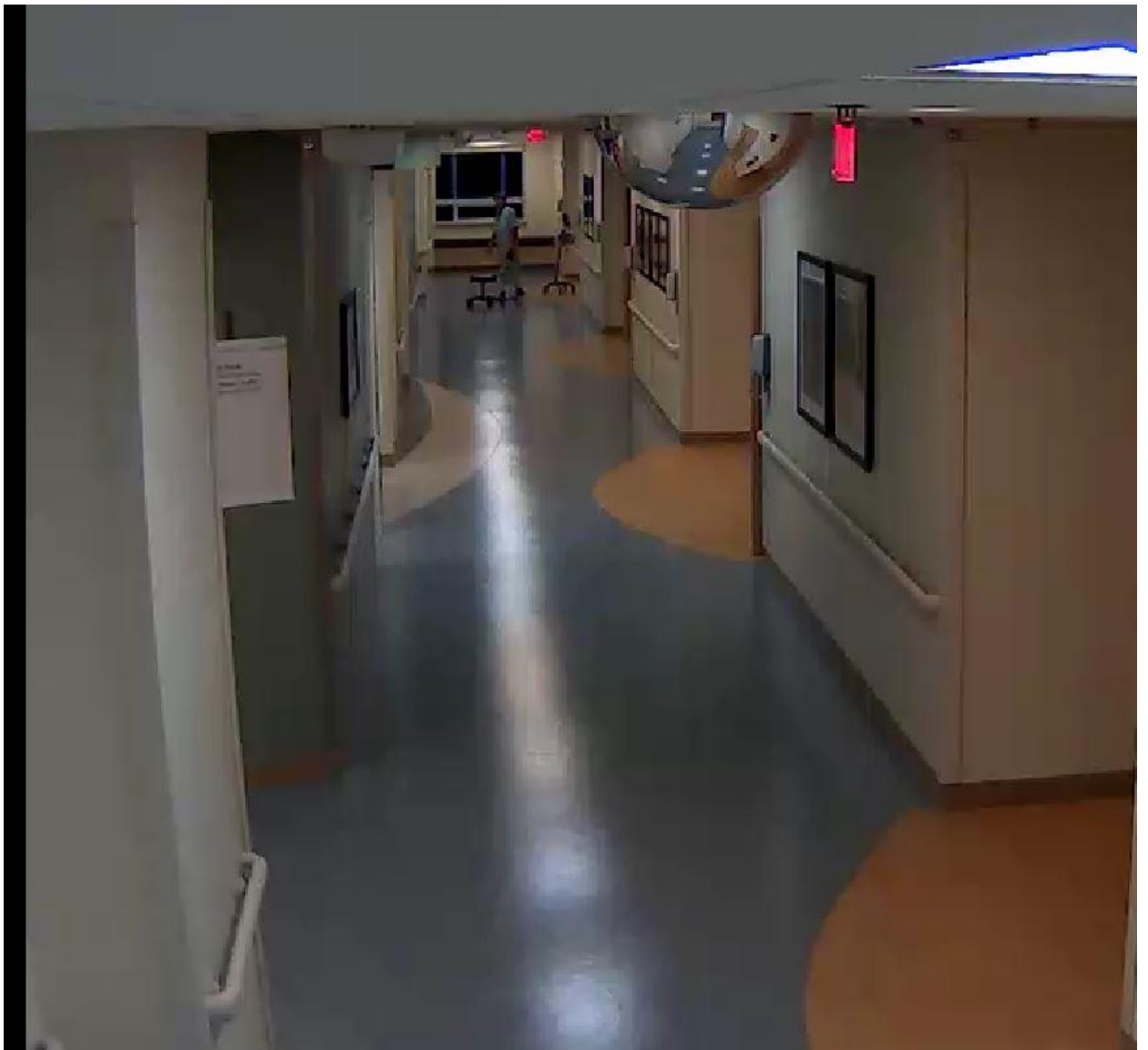
Photograph of the bathroom in the decedent's hospital room. Placards mark shell casing and projectile damage.



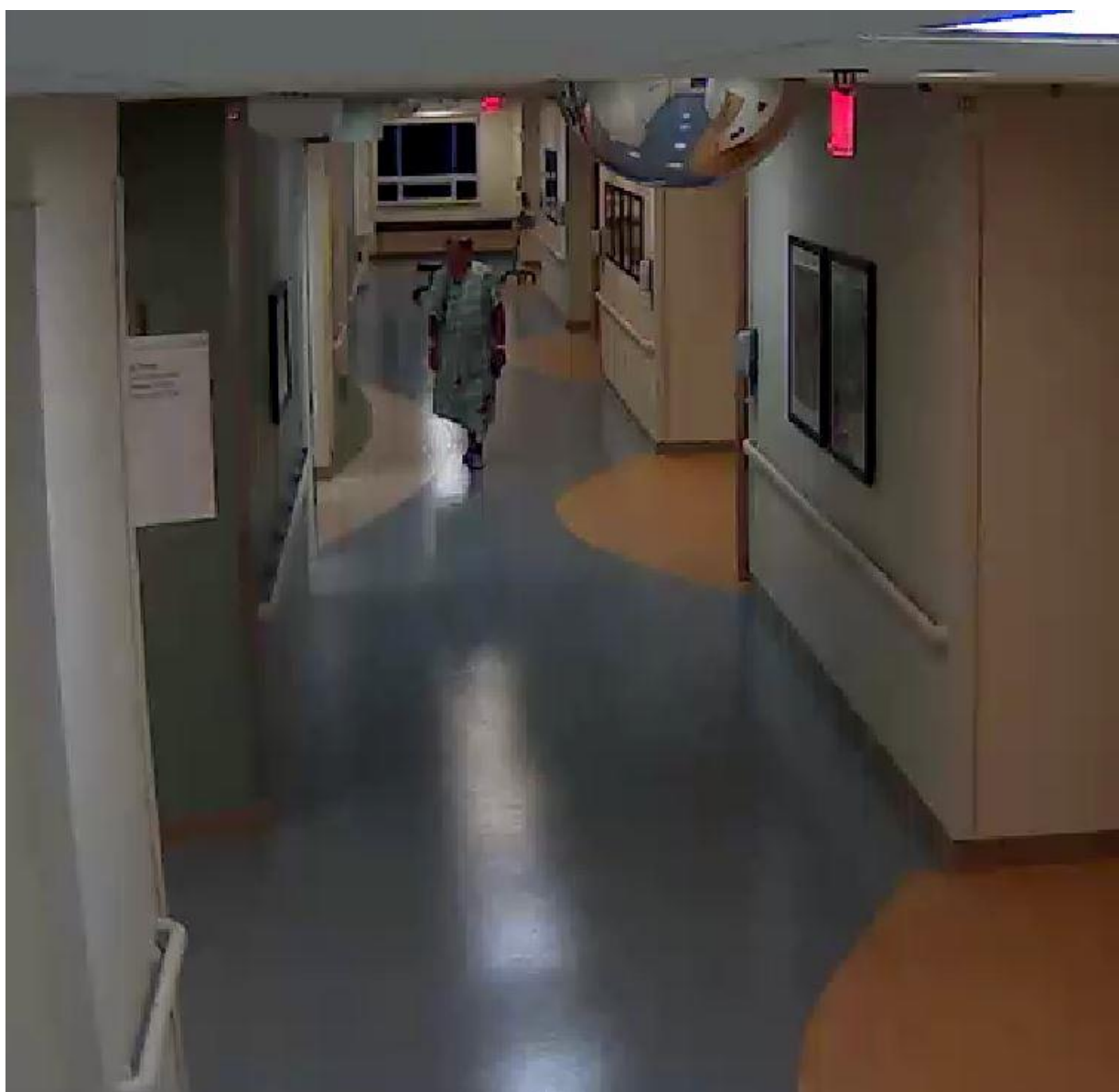
Photograph from inside the decedent's hospital room showing the luggage that was brought to him from a nearby hotel.



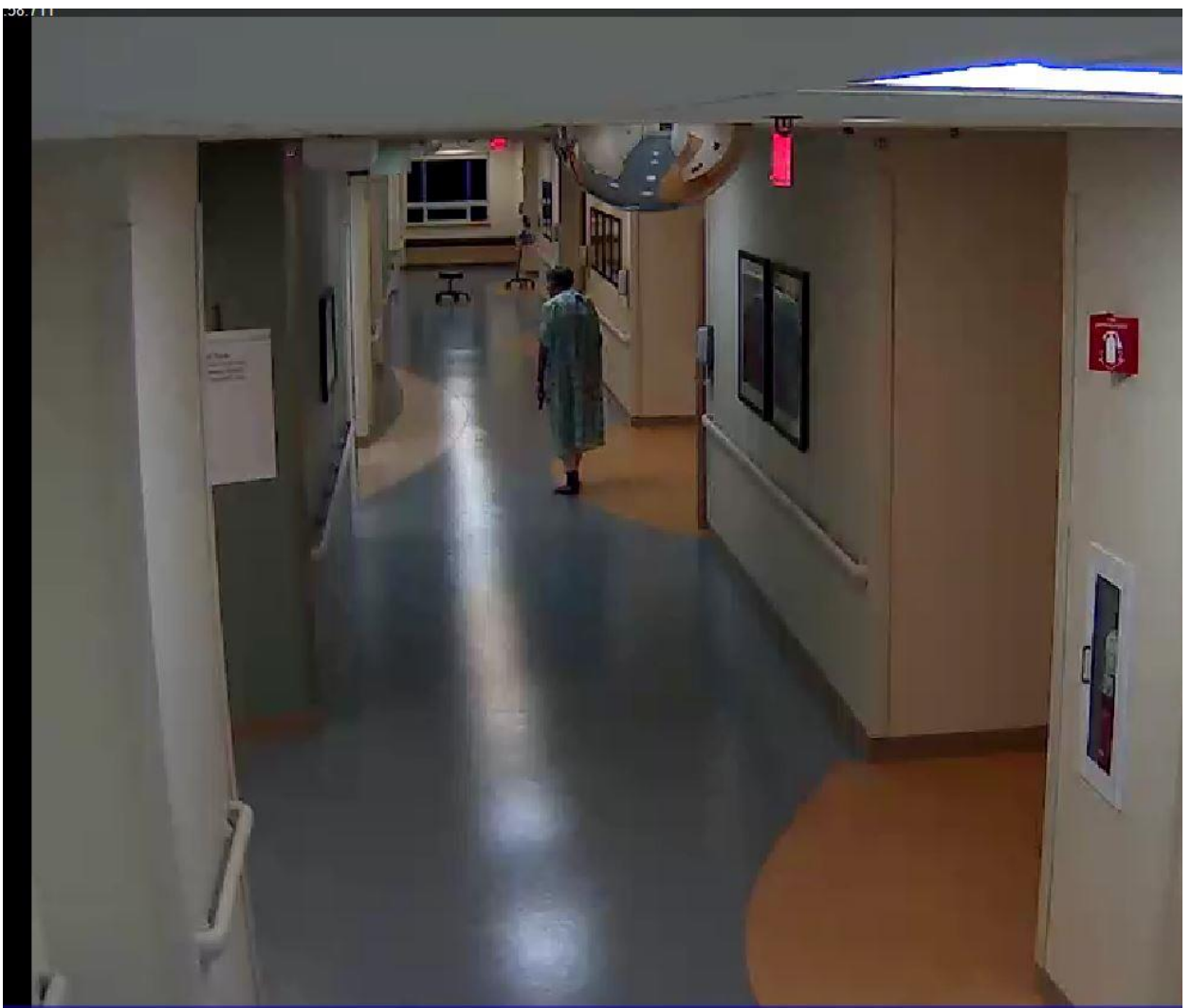
Hospital surveillance still image showing the decedent coming from his room after medical staff and a security guard fled due to hearing gunshots from his room.



Still image from surveillance showing the decedent walking down the hospital hallway with a firearm in his hand.



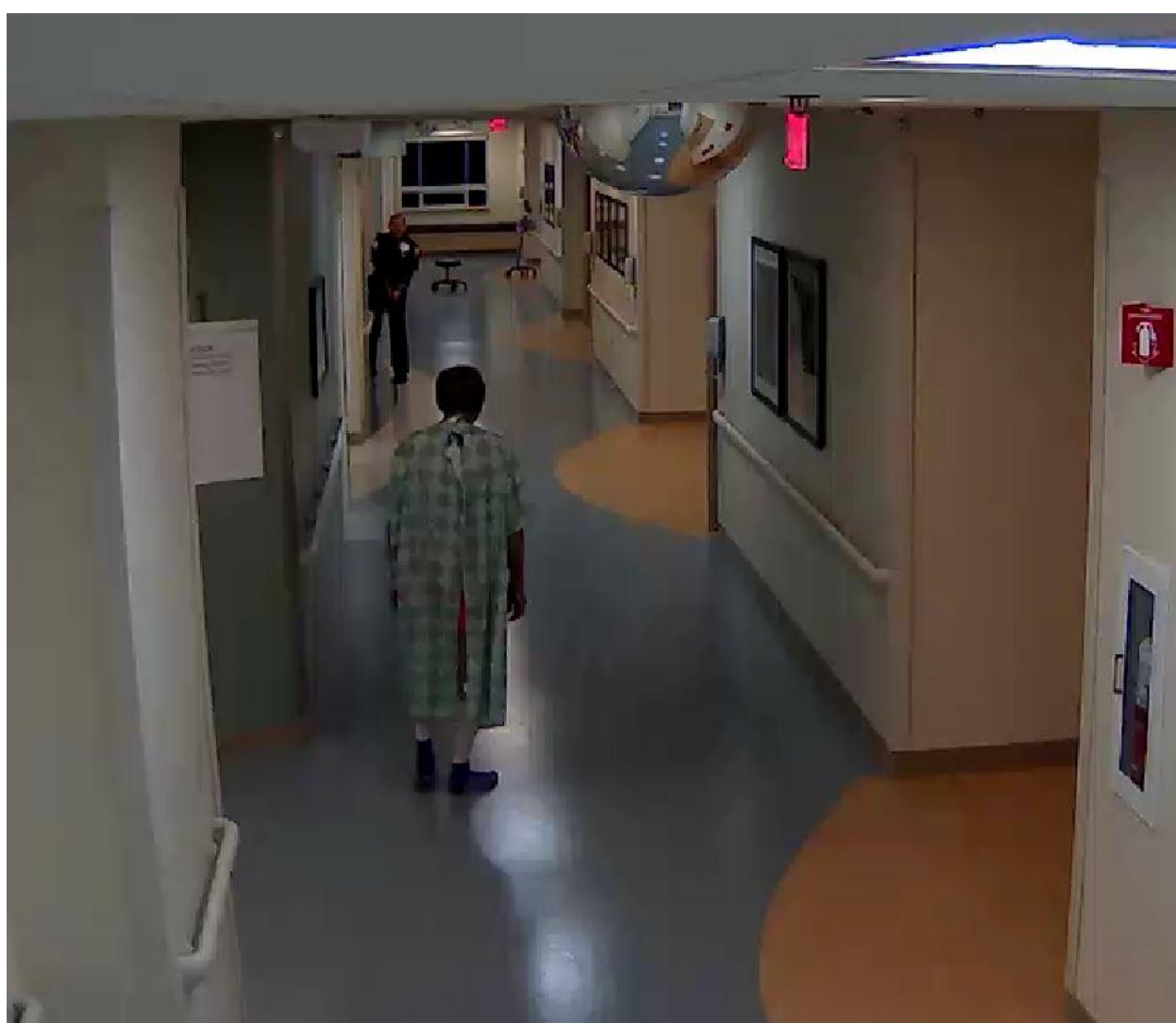
Still image from surveillance showing the decedent walking down the hospital hallway with a firearm in his hand.



Still image from surveillance showing the decedent walking down the hospital hallway with a firearm in his hand.



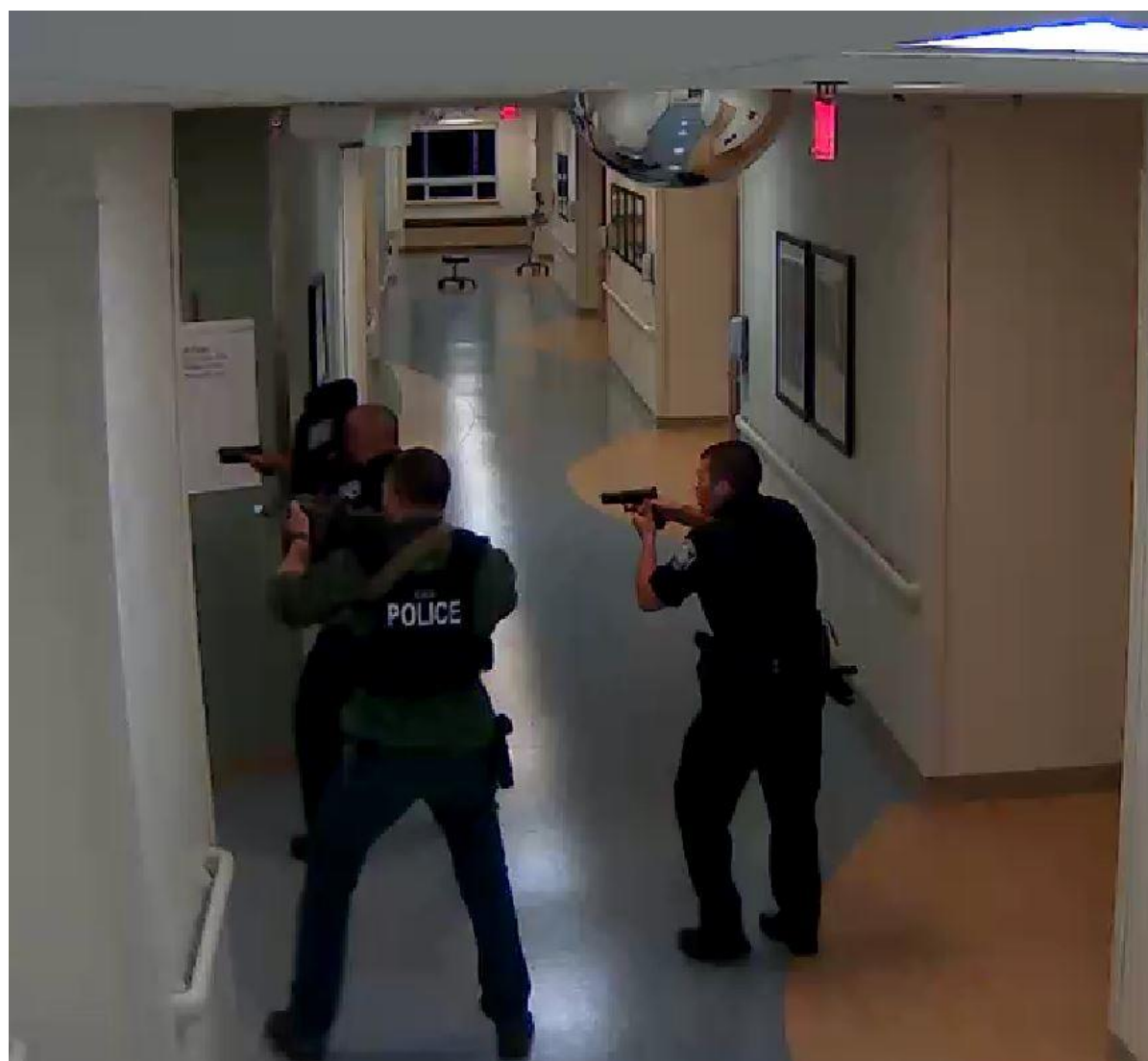
Still image from surveillance. Video captures a security guard retreating from the decedent.



Surveillance image showing the decedent turning into the hallway nurse's station, where he was shot by officers.



Surveillance still image of officers first confronting the decedent.



Still image from the body-worn camera worn by Officer Joseph showing the position of Officer Watts and the tactical shield.



The decedent cannot be seen in Officer Joseph's body-worn camera at the time of the shooting because Officer Joseph's rifle stock obscures him.



Image from the body-worn camera worn by Officer Watts showing what appears to be a black firearm in decedent's left hand.

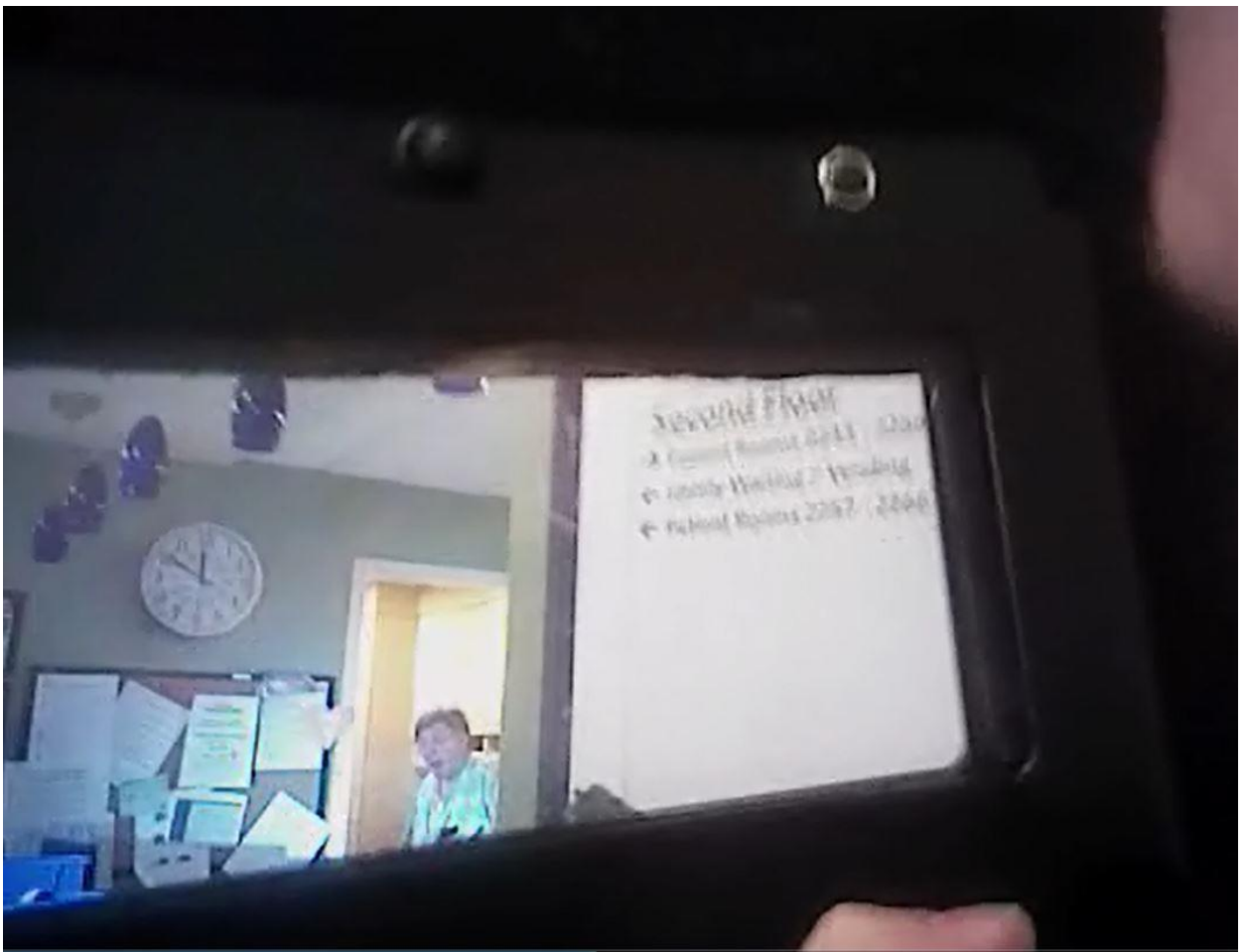


Image from the body-worn camera worn by Officer Watts showing what appears to be a black firearm in decedent's left hand.

