# Confidential Investigative Report

**Prepared by**

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In the matter of:

**CEDAR HILLS CITY**

**vs.**

**JANENE HELEN THORPE**

Utah County Justice Court

201101569, 211100077, 211100670, 211100828, 211100835

HONORABLE JUDGE STEVAN W. RIDGE

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## Case Background

Janene and Christopher Thorpe, Sr. are a married couple with two adult children, Brittney and Christopher, Jr. The Thorpe family resides at 9267 N Canyon Heights Drive in Cedar Hills where they have lived since 2016.

Maria and Edward Sanches are a married couple with two children, Ryder and another male child whose name is not known to me. The Sanches family reside at 9254 N Emerald Lake Cove in Cedar Hills and have since 2000.

The Thorpe and Sanches home have adjoining back yards, so the rear of their respective homes face the other, however the Thorpe home is at a much higher elevation than the Sanches home as they are built on a mountainside. When the Thorpe's moved into their home there existed a retaining wall built of large boulders at the rear edge of what they believed at the time to be the property line. The Thorpes were of this belief because the Sancheses utilized all of the land up to the retaining wall, which included a shed built immediately adjacent to the base of the wall.

## Sancheses sue the Thorpes over dead trees along the property line

Also along the supposed property line were several trees. At some point after the Thorpes moved into their home, many of the trees along that imaginary line began to die and eventually did die. There arose a lawsuit filed by the Sancheses against the Thorpes accusing them of killing the trees. As I have not read the suit, I am uncertain of the specifics of the allegation.

It is my understanding that the Sancheses spent a considerable amount of money prosecuting their lawsuit against the Thorpes, something in the neighborhood of a quarter-million dollars, I'm told. The result, as I understand, was a settlement with the Thorpe's property insurer in the low six-figures, significantly less than what the Sancheses spent, if accurate. According to the Thorpes, this lawsuit brought by the Sancheses was the genesis of the turbulent relationship between the families which continues to this day.

## Land survey results in the shared property line moving closer to the Sanches home

Though I am uncertain of the timing – whether during or after the lawsuit – the Thorpes hired a land surveyor to survey and mark the Thorpe property lines. The result of the survey moved the shared property line several feet toward the Sanches home.

The Sancheses vigorously disputed the survey and asserted the true property line was the base of the rock retaining wall. Of course, this furthered the existing animus between the families and the Thorpes allege that the Sancheses were responsible for the survey stakes set by the surveyor being pulled out of the ground on more than one occasion causing the Thorpes to have to recall the surveyor to remark the property line. This also led to the Thorpes spray painting survey data on the boulders of the retaining wall and installing surveillance cameras around their home to capture any further interference with the survey stakes. According to the Thorpes, Cedar Hills City eventually forced the Sancheses to move their shed after it was determined it had been built partially on the Thorpe's property.

With the land survey expanding the Thorpe property further toward the Sanches home, it is unclear to me if the newly discovered property line would have then placed the dead trees at issue in the aforementioned litigation on the Thorpe side of the property line.

**Janene Thorpe undergoes brain surgery to attempt the removal of a tumor**

In May 2018, having been suffering from excruciating headaches and seizures for some time, Janene underwent brain surgery to attempt removal of a walnut-sized tumor discovered by her doctor who predicted she would be dead in five to six months without the procedure. During the operation, the surgeon discovered the tumor was in an inoperable position attached to a blood vessel which would cause her to bleed to death if cut. The doctor was able to remove a large part of the tumor, but the tumor base remains attached to the blood vessel.

During post-surgery recovery, Janene's doctor discovered she had lost all feeling and movement on the right side of her body. She had also lost any memory from two months prior to the surgery as well as memory of two months after. Janene also had to relearn to walk and talk and had to learn to feed herself with her left hand. After extensive long-term physical therapy at two separate facilities, Janene was eventually discharged and still suffers lingering effects, including seizures.

One lingering affect, and the point of this section, is Janene's severely diminished capacity to make good judgment decisions, according to an evaluation at Neural Effects in Provo, as explained to me by Mr. Thorpe. It was explained that on a 0 to 5 scale of decision making, with 0 being poor judgment decisions and 5 being good judgment decisions, Janene is at 0.

Even after surgery, Janene still suffers headaches and seizures and will likely require brain surgery again at some point as the tumor base remains attached to a blood source potentially feeding regrowth.

# Criminal Charges against Janene Thorpe

1. 211100077 – June 5, 2020: Littering, Nuisance, Disorderly
2. 201101569 – October 24, 2020: Disorderly
3. 211100828 – April 22, 2021: Assault
4. 211100670 – April 23, 2021: Assault, Disorderly, Interference w/peace officer
    a. 211100905 – April 23, 2021: Disorderly, Interference w/public servant (**Christopher**)
    b. 211100906 – April 23, 2021: Disorderly, Interference w/public servant (**Taylor**)
5. 211100835 – May 3, 2021: Stalking, Retaliation

## 211100077 – June 5, 2020: Littering, Nuisance, Disorderly

### Notable issues with the City's Information

The City alleges in the Information filed with the court that the alleged acts occurred on or between the dates of June 5, 2020, and October 8, 2020. It is with some confusion then that Count I of the information alleges that Janene Thorpe committed the offense of "DESTRUCTIVE OR INJURIOUS LITTERING" on or about September 9, 2019.

Further confusion arises from Count III charging the defendant with disorderly conduct under UCA 76-9-102(4), wherein the City applies language from the state statute then adds alternative elements that are not part of the statute, to wit: "or engaged in abusive or obscene language or made obscene gestures in a public place".

## Littering & Public Nuisance

Though the City does not specify the particular behavior alleged to have been committed by Janene Thorpe to warrant any of the charges, it is suspected that the allegation of "Destructive Littering" and creating a public nuisance is that the defendant is responsible for the many items of refuse and animal feces which the complainant discovered in various areas of his adjoining backyard.

American Fork police case number 20AF05360 was initiated on July 4, 2020, by AFPD Sergeant Q. Adamson. In the report, Edward Sanches complained about finding "dog poop…in area's (sic) that didn't appear to be normal including a rock and scattered about the property." Mr. Sanches reported other items such as orange peels and dirty diapers turning up in his yard. Without any evidence to support his claim, Mr. Sanches told the sergeant that he suspected the Thorpes were responsible speculating they were retaliating over a civil suit which recently ended between the two families. Though the Thorpe family consists of multiple members, none were specifically named at this point in the report.

AFPD Detective Murray followed up with Mr. Sanches a few days after the initial report. According to Det. Murray's report, "Edward stated he knew there was nothing we could do for him due to the fact they don't have proof on who was throwing the items in his hard (sic)." Though the

Sancheses provided Det. Murray with "lots of video surveillance of them cleaning up the dog poop and other items in the yard", he also noted that he "reviewed all video surveillance and can not (sic) see a time it shows who is actually throwing the objects into their yard." Det. Murray concludes, "At this time I have no evidence of the Thorpe's (sic) throwing dog poop in the back yard of the Sanches's (sic) or the adult diapers."

Despite the fact that naming any person responsible for the trash in the Sanches' backyard would be entirely speculation, Det. Murray correctly concluded there was no probable cause to believe that a crime had even been committed. Why then the detective chose to submit the case to the city prosecutor for screening is baffling. On July 15, 2020, the city prosecutor correctly declined to charge anyone in this matter.

### Significant challenge to probable cause

The Thorpes also have surveillance cameras which cover portions of their backyard. Looking through video clips they had previously saved of wildlife passing through the backyard of their mountainside home, one instantly captured my attention. The footage was of a raccoon walking along the rock retaining wall between the Sanches and Thorpe properties (**EXHIBITS A, B, C, D**). It is no mystery that raccoons are notorious and very capable trashcan raiders and regularly strew trash about without respect for property lines. Furthermore, it is not clear to me if either of the complainant(s) or any of the involved law enforcement officers are experts in discerning dog poop from raccoon scat. Though only one raccoon is seen in the brief footage, I can attest from personal experience where there is one raccoon, there are usually many.

The indisputable presence of raccoons, coupled with Mr. Sanches' admitted inability to produce a single surveillance clip of anyone tossing into his yard, trash, "dog poop", raw chicken, dirty diapers, or any other item later listed by Maria Sanches, thoroughly refutes any and every allegation that any person, including the defendant, is responsible.

## Disorderly Conduct

It is unclear by the charging document what is the actus reus alleged by the city in support of a disorderly conduct charge. What is clear is that the city includes antiquated language in their citation of

UCA 76-9-102 where "or engaged in abusive or obscene language or made obscene gestures in a public place" appears in the Information. This specific language was stripped from the statute by H.B. 217 in the 1999 General Session of the state legislature, best I can tell (see https://le.utah.gov/~1999/bills/hbillenr/HB0217.htm).

The language of the full and current statute, effective May 5, 2020, specifically addresses acts that originate in a "public place", or can be heard in a "public place", which the legislature specifically defines as "a place to which the public or a substantial group of the public has access, including: streets or highways; and the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops." Neither the Sanches home nor backyard is a public place as defined by the statute.

The statute then specifies the acts which if committed are unlawful. It is instructive to understand the context of the statute is about official meetings and public places, not private backyards. In UCA 76-9-102, the enumerated actus reus is as follows (emphasis added and investigator's notes included):

(2) An individual is guilty of disorderly conduct if:

(a) the individual refuses to comply with the lawful order of a law enforcement officer to move from a **public place or an official meeting**, or knowingly creates a hazardous or physically offensive condition, by any act that serves no legitimate purpose; or

**[INVESTIGATOR'S NOTE: Within (a), the venue is a "public place or an official meeting", not a private residential backyard. Therefore, described acts are not applicable to the present matter.]**

(b) intending to cause **public** inconvenience, **[public]** annoyance, or **[public]** alarm, or recklessly creating a risk of **public** inconvenience, **[public]** annoyance, or **[public]** alarm, the person:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

**[INVESTIGATOR'S NOTE: In addition to the same arguments that the cited statute does not apply to the Thorpe's private**

**backyard and the Sanches' private backyard, if the act alleged by the city is that the defendant was captured on video throwing a rock over a fence at Maria Sanches, this would be an inaccurate assessment of the video record. See below section "AFPD Sgt. Jennifer Nakai report body-worn camera" for analysis.]**

(ii) makes unreasonable noises in a public place or an official meeting;

(iii) makes unreasonable noises in a private place which can be heard in a public place or an official meeting; or

**[INVESTIGATOR'S NOTE: There are no witnesses mentioned in any police report provided in discovery who, while in a public place or an official meeting, purport to have heard any unreasonable noise by the defendant emanating from any place public or private.]**

(iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

## AFPD Sgt. Jennifer Nakai report and body-worn camera

American Fork police Sergeant Jennifer Nakai wrote a report of her contact with Edward and Maria Sanches at their home, a copy of which was provided to the defense as part of discovery for this case (211100077) in support of the charges against the defendant, Janene Thorpe.

It is not clear which is the correct date associated with this incident or this report as there are many.

- Sgt. Nakai's police report indicates the matter was reported to AFPD at 01:58 hours (1:58 AM) on October 16, 2020.
- Sgt. Nakai's body-worn camera footage displays the time as 02:39 hours (2:39 AM) on October 15, 2020.
- The filename of Sgt. Nakai's body-worn camera, "AXON_Body_2_Video_2020-10-14_2039.mp4", indicates a time of 20:39 hours (8:39 PM) on October 14, 2020.

- The "Media created" date associated with video clip IMG_0521 2.MOV provided to Sgt. Nakai by the Sancheses purporting to be of Janene Thorpe throwing a rock at Maria Sanches is September 16, 2020, at 12:44 PM.
- A request for a civil stalking injunction filed by Maria Sanches references the same video clip (IMG_0521 2.MOV) in Petitioners #9, wherein Mrs. Sanches purports the date of the recording as July 9, 2020.

Irrespective of the date, Sgt. Nakai met with Edward and Maria Sanches at their home sometime in October 2020. Sgt. Nakai writes that Mr. Sanches told her about three specific types of complaints "wherein someone (believed to be Janene Thorpe) was throwing trash (feces, food, adult diapers filled with excrement) in their yard, throwing rocks at Maria, and verbally abusing Maria."

The trash allegations will not be addressed here as they have been previously discussed in this report. Nor will I address the allegations that Janene Thorpe verbally abused Maria as this is not an element found within Utah's disorderly conduct statute which is cited by the city as the charge filed against the defendant – except to say that though words are heard on video recordings, never does Janene Thorpe appear in any provided video to affirm she is the source.

Returning to Sgt. Nakai's report of her interaction with the Sancheses in October 2020, Mr. Sanches played a video on his smartphone for the sergeant which he narrates. He prefaces the video telling the sergeant that it is hard to see from the recording what he is about to allege, so he zooms in the video to provide a better view.

Mr. Sanches first narrates that "she" (it can be stipulated that it is Janene Thorpe depicted in the video) "reaches down, picks something up and throws it." Watching the video demonstrates three things which seem obvious to this viewer: (1) the lush foliage sufficiently obstructs the view making any assessment of what object the defendant may have picked up from her own yard impossible; (2) whatever the defendant bent at the waste to pick up, she remains in the bent-over posture while using an underhand toss, not an overhand throw; (3) the nature of and force of the toss makes it appear the object was simply tossed over the edge of the Thorpe's rock wall and onto their own property –certainly not aimed at anyone.

From an overhead view of the two properties and using measuring tools available on Google Maps in an attempt to determine the distance between the two subjects from their approximate positions, it appears the defendant's underhand toss would have had to travel approximately forty-two feet through lush foliage to come anywhere near Maria Sanches (**EXHIBIT E**).

It seems apparent, just as Count I and Count II of the Information are unsupported by probable cause, such is the case with Count III.

## 201101569 – October 24, 2020: Disorderly

I will spend no further time addressing the same wrongly included statutory language within the Information for this matter concerning disorderly conduct allegation as was the case in 211100077, other than to draw attention here. Just as in the prior matter, the disorderly conduct allegation charged in this case does not seem to meet any elements proscribed in the statute. That said, it appears the City's intent was to charge the defendant with spraying the complainant(s) with water from a hose on the Thorpe side of the property line as he worked in his own yard.

This section of the investigative report demonstrates that no crime was committed by the defendant and the charge should be summarily dismissed.

### Sanches cell phone video IMG_8488.MOV

Ed Sanches' cell phone video begins with him recording a stream of water coming from the Thorpe's upper-level lawn area (atop the elevated rock retaining wall). The water stream is directed at a tree which is immediately adjacent to but on the Thorpe side of the property line. The tree is wet on the Thorpe side from several feet up the trunk to the bottom of the trunk. Though water does spray past the trunk on either side and therefore does end up on the Sanches side of the property line on their rock path, the water is confined to an area a few feet on either side of the tree. The source of the stream is not captured on video at this early part of the video.

Ed Sanches is standing several feet to the north at the time his video recording begins. He states that Janene Thorpe is spraying him with water, which does not appear to be the case, as described above. He does not show his clothing at the time his recording begins.

Seconds into the video at 00:12, Mr. Sanches records as he walks directly into the path of the stream from north of the tree to south of, while falsely accusing the defendant of "pretending to spray her bushes". As he stands briefly on the south side of the tree calling the defendant "juvenile and pathetic", the water stream diverts to two-foot shrubs at the top of the rock wall with some overspray from the stream hitting the top of the large boulders at the top of the wall.

Because he does not show his clothing before he intentionally walks south through the overspray it is presumed that the minimal amount of water on his shorts and shirt, which he later shows on video, was caused by his own action and not the defendant.

The water stream ceases momentarily as Mr. Sanches then walks to the north side of the tree again. From the north side of the tree Mr. Sanches yells to the defendant who has not said a word, "Get a life!"

Having called the defendant "juvenile and pathetic" and telling her to "get a life", Mr. Sanches stands near Mrs. Sanches, who is also pointing her smartphone at the Thorpe property, as the stream of water diverts for about 1-second from the tree towards the Sancheses who continue to provoke the defendant (00:46).

At 1:04, as Mr. Sanches taunts the defendant telling her to quit hiding and calls her "the most pathetic human being on the face of the Earth" a second stream diversion of about 1-second turns toward Mr. Sanches.

Not until 3:11 does Mr. Sanches ever turn the camera toward himself to show some parts of his shorts are damp.

Though the water stream had ceased, Mr. Sanches continues to skulk along the property line with his cellphone camera pointed at the Thorpes, who have spoken not a word. At 3:33, Mr. Sanches narrates his thoughts about the defendant as he continues to record her walking in her own yard and waves at him, "There she goes. There she is right there. Right there. A friendly little neighbor. So cute." As the defendant's daughter, Brittney Thorpe, enters the frame, Mr. Sanches calls her "Dumbass daughter."

At 4:19, the defendant's husband, Christopher Thorpe, who was outside performing yardwork, can be heard asking, "Janene, do you need more dirt anywhere?" Mr. Sanches then points his still-recording camera at the Thorpe residence where you can see Mrs. Sanches standing at the property line also pointing her cellphone camera at the Thorpes with Brittney's back to both cameras and Mr. Thorpe briefly passing through the frame. Mr. Sanches narrates the video, "Oh boy, tough guy. Tough guy."

At 4:40, Brittney turns and notices both Sancheses standing near each other by the property line, each with their cell phone cameras pointed at her. Brittney turns toward the cameras and folds her arms prompting Mr. Sanches to move even closer to the property line where he speaks directly to Brittney, "Hey cutie. How are ya." Speaking not a word, Brittney takes a couple of steps toward the Sancheses and puts one foot on top of the rock retaining wall. "You're so intimidating. Wow. Incredible.", Mr. Sanches taunts, as Brittney merely smiles at him and nods.

**Thorpe surveillance video**

For additional context, the Thorpes provided footage from their motion-activated surveillance cameras which captured some of the same period of time.

**10-24-20 4.20 PM.mp4**

At 4:20 PM, one of the Thorpe's surveillance cameras shows the top of the Thorpe's rock wall, the property line between the Thorpes and Sancheses, and the Sancheses rock path.

There is a stream of water from the Thorpe side of the property line spraying a tree on the Thorpe side of the property line, but it is immediately adjacent to the line. The tree trunk appears to be wet from the base of the trunk to about 12-feet vertical feet, or so. Immediately adjacent to the left (south) side of the trunk are a couple of wood pallets standing vertically along a wire fence which separates the two properties. The pallet closest to the base of the tree is a partial pallet, perhaps half the length of a full pallet. That pallet is wet, but the full pallet immediately left of that is not. Though there are wood pallets to the right of the tree, they are two or three feet right of the trunk and only appear slightly wet on the side closest to the tree.

Beyond the tree is the Sancheses rock path. The rock path is wet a few feet on either side of the tree trunk, indicating overspray from the stream which is spraying high and low on the tree but mostly centered on the trunk. Mr. Sancheses movement along the already wet rock path with leaf blower in hand begins at the left edge of the already wet rock path. As he walks from south to north, he walks directly through the water stream that had clearly been flowing well before he walked through the area blowing leaves from the path.

This context is important because Mr. Sanches accuses the defendant of seeing him blowing the leaves from the rock path and intentionally comes outside, turns on the hose and intentionally sprays him. It is clear that before he ever gets to the area of the tree, the water had already soaked the trunk from ground to 12-feet up, the pallets had already been soaked, and the water was already on the rock path. It was Mr. Sanches who, while not paying attention, walked through the water stream causing his shorts to get a little wet, then blamed the defendant and pulled out his phone to begin recording while taunting the defendant and her family and calling them names. Mr. Sanches, not knowing of the Thorpe surveillance footage which debunks his claims, files a false report to police and twists the facts of the incident. It is clear from Mr. Sanches' own provided cellphone footage that the Thorpes said not a word to him, instead he records his own animus and hateful words and, perhaps, his motive to file a false police report.

**Wrong party charged?**

It is apparent that it was Mr. Sanches himself who initially walked through the water stream due to his own inattentiveness, and later by his own intentional action. Therefore, no crime had occurred when Mr. Sanches engaged in provocative taunting and name calling, and camera stalking behavior. If the City's flawed recitation of the state disorderly conduct statute was applied to this private property to private property interaction, then it is Mr. Sanches who should be considered disorderly, not the defendant.

**Improper level charged**

Arguments about the applicability of the state disorderly conduct statute and the addition of language not part of said statute aside, the disorderly conduct statute sets out varying degrees of severity and available punishment based on certain factors. In this instance, the City charged the defendant with a class C misdemeanor rather than the lowest level infraction. The difference between an infraction and a class C misdemeanor is "if the violation occurs after the individual has been asked to cease conduct prohibited under this section". At no time did anyone ask the defendant to stop spraying water.

Mr. Sanches wrote in his sworn statement, “I asked her to stop and she did not”. Mrs. Sanches wrote in hers, “She continued to spray us even after my husband asked her what she was doing and to stop”. Even Ian Sanches, their 16-year-old son, who appears in none of the video footage until the entire exchange had concluded and his parents walk down their rock path and steps to their lawn near their house, writes in his sworn statement, “My dad asked her to stop and she continued to spray our property and attempt to hit my dad.” All of these sworn statements are demonstrably false.

AFPD Officer J. Nordin writes in his report, 20AF08974, that “Edward called out to Janene and requested her to stop, but Janene continued to spray water.” This is an inaccurate statement. The entire incident is recorded on video and at no point is any such request made. I presumed that Officer Nordin was simply reporting what Mr. Sanches had told him, however, the officer also wrote in his report that he “watched the video that Edward took of this incident”, so he should have discovered that this was a false assertion. It is evident that Officer Nordin was biased by preconceptions when he watched the video.

To further illustrate Officer Nordin’s preconceptions and resulting misconceptions written into his official report, he also reported observing in the video Brittney Thorpe “saying rude things to the Sanches (sic)”. This too is demonstrably false as Brittney said not a single word throughout the video, rather she stood silent and stoic as Mr. Sanches verbally taunted her.

## 211100828 – April 22, 2021: Assault

AFPD Officer Seth Waite writes in his report dated April 22, 2021, that he "made contact with Maria by phone" who told him she had returned home from a run and was stretching in her backyard when the defendant "started throwing rocks at her" and she was able to capture the incident on video.

Officer Waite then writes that Maria showed and gave him a copy of the video footage she had recorded on her smartphone – it is presumed that the video was provided electronically since the officer states contact with Mrs. Sanches was by telephone. The officer's account of what he viewed on the video is as follows:

> *In the video footage you can see Maria set the phone down in the backyard near where she was stretching. You can see a phone poking out from behind a bush recording Maria. You then start to hear rock (sic) being thrown in the vicinity of Maria. The rocks sound like they are bouncing off trees and the rock patio area. You then can see Janene pick up a rock and throw it and watch it go through tree branches and land near Maria.*

### IMG_3169~video.MOV

I too watched Mrs. Sanches' video recorded from her smartphone – IMG_3169~video.MOV. At about 3:46 there is the slight sound of leaves rustling and a few small leaves are observed falling to the ground on the Thorpe side of the property line; whatever the cause, it is undetectable. Further analysis which irrefutably places this occurrence on the Thorpe side of the property line is the slight yet detectable movement of a small branch which is partially obscured by a large branch offshoot from the main trunk of the tree which is on the Thorpe property (**EXHIBITS F, G**). No one is observed in frame and Mrs. Sanches is nowhere even close.

At around 6:25 the defendant is partially seen at the upper level of her property, she is bent at the waist with her head slightly below the level of her hips, her head is obscured by a lush bush. The defendant picks a small rock from off the ground and while still bent at the waist, casts the rock with a sideways underhand motion over the edge of her rock wall with her elbow up. Though the rock clangs off the wire fence dividing the two properties, it harmlessly bounces on a part of the Sanches rock path about ten to twelve feet to the south of where Mrs. Sanches stood, placing her in no danger of being

struck. When the defendant tossed the rock with the sideways underhand motion her head is still obscured by the lush bush, meaning her vision was also obscured, hardly evidence of intentional targeting.

In fact, there are other videos captured by the Sancheses showing the Thorpes doing yardwork where they pick up an object from the upper-level and toss it over the edge of their rock wall onto the lower part of their own property, so this is not unusual. If the viewer is not aware of the existence of the other footage and watches the isolated video footage provided by the Sancheses having already been primed by the submitting party, it is possible to view the footage with a skewed frame of reference.

With the benefit of knowing the Sancheses have multiple surveillance cameras throughout their backyard covering multiple angles, including one that provides a much better angle and view of this area of the upper-level Thorpe property, I wondered why the Sancheses chose to withhold this footage from police. For the sake of comparison, I have included screenshots of both angles (**EXHIBITS H, I, J**).

**Point of confusion and concern**

It is important to address a point of confusion before concluding this section of the investigative report. Typically, each call or complaint received by police dispatch results in the generation of a unique case number at the minimum. An incident report is not necessarily written for each case number generated, but there is a time and date automatically associated with the initial incoming call or complaint. Generally speaking, if an incident report is necessary, it will be written by the officer before the end of their shift; this appears not to be the case here. This case number, 21AF03282, was generated on April 22, 2021, when the call was received into dispatch, yet it appears that Officer Waite took no action and wrote no report until April 26, 2021, the date automatically associated with his supplemental narrative.

Two things are particularly notable: Officer Waite wrote in his report that he “was unable to make contact with Janene due to time constraints and call volume”, which can be verified by analyzing dispatch records for that date and time frame (which I don’t have); and Officer Waite writes about a related incident (21AF03332) that didn’t occur until April 23, 2021, the day following this incident.

Officer Waite wrote that "Officer Blackburn received the evidence a second time from the first incident and booked the recording in on his case." This seems to suggest that Officer Waite, though he claims to have viewed and been in possession of the video evidence recorded by Mrs. Sanches on April 22, 2021 from which he discerned a crime was committed and the defendant committed it, he did not bother to enter said video footage into evidence and did not write a report documenting what he purportedly perceived was a criminal act until Officer Blackburn's response the following day apparently forced that action.

It is further notable that on April 23, 2021, Officers Blackburn and Craig, both responded to a second call from Mrs. Sanches alleging another rock throwing incident. Officer Blackburn wrote in his report that "[t]he video recorded on 04/23/21 was unable to catch a suspect however you can clearly hear multiple loud thuds landing near where Maria was standing." Officer Blackburn writes about Officer Waite's response the day prior, "I found that no actions were taken in the previous case…"

Following their interaction with Mrs. Sanches, the two officers contacted Mr. and Mrs. Thorpe at the front door of their residence. After lots of back and forth and Mrs. Thorpe's declining to sign the citation Officer Blackburn held in his hand, and Mr. Thorpe instructing the officers to simply leave the citation on the ground, Mr. Thorpe opted to close the door of his residence. Both officers, in the absence of any exigent circumstance, forced the front door of the Thorpe residence open, unlawfully entered the home, assaulted the defendant and terrorized the Thorpe family in their own home.

It seems reasonable to presume that Officer Waite wrote his report three days after this unlawful entry to support any attempt at justification for the actions of Officers Blackburn and Craig.

## 211100670 – April 23, 2021: Assault, Disorderly, Interference

### Assault (and maybe disorderly conduct?)

The video footage (1619225177003.MP4) provided by the alleged victim to support this assault allegation is a mere 17-seconds and no one, save the torso of the alleged victim, ever appears in frame. AFPD Officer Blackburn writes in incident report number 21AF03332, "The video recorded on 04/23/21 was unable to catch a suspect however you can clearly hear multiple loud thuds landing near where Maria was standing."

I concur with Officer Blackburn's observation and conclusion that he cannot attribute the alleged act to any particular individual. That fact alone is enough to overcome the second of the two requirements of the probable cause test, that it was the accused who committed the prohibited act.

Refuting the allegation is the defendant's assertion to her defense counsel that she was not even home around the time noted in the officer's report when the alleged act is said to have occurred, between 19:00 and 19:02. The defendant provided surveillance footage from their front door cameras showing her departure on foot at 18:54 to a neighbor's home carrying an Amazon shipping box and a bottle of water (**EXHIBITS K, L**). The return video provided marks the time as 20:47 (**EXHIBIT M**).

I must, however, disagree with the officer's statement that he could hear "multiple loud thuds landing near where Maria was standing. I hear and see a single object strike a metal pole at the property line dividing the two properties, an estimated ten or so feet from Mrs. Sanches. I also observed the object fall to the ground and remain on the Thorpe side of that line, never crossing onto the Sanches side. What Officer Blackburn and I don't see is who may have cast the object, and if I cannot see who cast the object it is reasonable to presume whoever cast the object did not see Mrs. Sanchez several feet below and several feet beyond the rock wall. If he or she who cast the object could not see Mrs. Sanches, then there can certainly be no intent to do bodily injury to another using unlawful force or violence. I renew my curiosity why Mrs. Sanches did not produce video from one of their alternate cameras with a better view of where the object was purportedly launched from (see again **EXHIBITS I, J**).

Without proper context to reasonably articulate facts and circumstances that a crime was actually committed, and Officer Blackburn's observation that he did not observe anyone cast any object,

along with the lack of evidence to support that he or she who cast the object even knew Mrs. Sanches was below in her yard, and that the object remained on the Thorpe property never crossing onto the Sanches property, and because the Sancheses apparently chose not to provide footage from their own surveillance cameras which would have offered a much clearer view of the alleged criminal act, it is reasonable to conclude there is insufficient evidence to substantiate probable cause that a crime was committed and that the defendant committed it.

**The citation**

It is worth noting the citation that Officer Blackburn prepared, and later violently served upon the defendant, listed two separate charges: ASSAULT – ATTEMPT TO DO BODILY INJURY TO ANOTHER, 76-5-102(1)(A); and DISORDERLY CONDUCT AFTER BEING ASKED TO CEASE, 76-9-102(4)(B). The officer indicated the date of occurrence was "04/23/2021".

This presents some confusion for the defendant who knows not which act Officer Blackburn believes was disorderly and how the alleged act(s) may actually meet the elements of the actual statute (not the one the City seems to believe is the statute), and introduces some complications for the City as it relates to the charge of INTERFERENCE WITH A PEACE OFFICER MAKING A LAWFUL ARREST.

The complication arises from the officer's sworn certification "THAT A COPY OF THIS CITATION OR INFORMATION WAS DULY SERVED UPON THE DEFENDANT ACCORDING TO LAW ON THE ABOVE DATE AND I KNOW OR BELIEVE AND SO ALLEGE THAT THE ABOVE NAMED DEFENDANT DID COMMIT THE OFFENSE HEREIN SET FORTH CONTRAY TO LAW." Officer Blackburn's citation clearly notes the alleged act he was citing the defendant for occurred on "04/23/2021", not for a case alleged to have occurred a day earlier on April 22, 2021 and handled by Officer Waite who chose not to issue a citation. Officer Blackburn himself clearly communicates that after watching video provided by the alleged victim, he has no evidence that it was the defendant who cast any object on April 23, 2021. It could have been any other Thorpe family member; it could have been Mr. Sanches sneaking up to the Thorpe property to cast an object to make it appear that it was a Thorpe family member while Mrs. Sanches recorded from below taking care not to capture who cast the object. Officer Blackburn had no legitimate reason to believe the defendant committed any crime on April 23, 2021, despite his sworn certification.

This citation for a prohibited act Officer Blackburn alleged occurred on April 23, 2021, committed by an admittedly unknown person, leads to the next charge of INTERFERENCE WITH A PEACE OFFICER MAKING A LAWFUL ARREST.

**Interference With a Peace Officer Making a Lawful Arrest**

The defendant is charged by the City for interfering with a peace officer making a lawful arrest under Utah Code 76-8-305, in this case – her own arrest. The statute is unambiguous, for one to be guilty of interference with a peace officer making a lawful arrest, the arrest must be a lawful one.

Officers Blackburn and Craig made an unlawful forcible warrantless entry into the Thorpe's residence solely to effect an "arrest by citation", in violation of UCA 77-7-8(2)(a), which expressly prohibits a peace officer from forcing entry into a building to conduct a search or make an arrest if the officers know the building is a private residence, know that it is the defendant's residence, knew they had no consent to enter, and in the absence of exigent circumstances. The actions of the officers also violate Article I Section 14 of the Utah Constitution and the Fourth Amendment to the United States Constitution. Because the arrest was unlawful and unconstitutional, there can be no interference by the defendant in her own arrest, nor can there be interference by Christopher Timothy Thorpe (father) (211100905 – dismissed) and Christopher Taylor Thorpe (son) (211100906 – dismissed).

**No apparent officer safety concerns as Officers Blackburn and Craig contact the Thorpes**

Officer Blackburn knocked on the front door of the Thorpe residence, a completed citation for Janene Thorpe attached to a clipboard in his left hand, his right hand at his side as he waited for someone to come to the door. Officer Craig stood in front of the door, though several feet from it, with the thumb of each hand snugly tucked underneath either side of his ballistic vest just below his armpits (**EXHIBIT N**).

Body-worn camera footage from each officer, along with home surveillance footage provided by the Thorpe's, reveals there was no discussion between the officers as they approached the residence about potential officer safety issues, nothing about prior reports of violent behavior toward police, no previous calls for weapons-related offenses, no mention of threats toward officers. Indeed, the officers did not make a tactical approach or take up tactical positions when they approached the Thorpe's front

door and knocked. Even when Christopher Thorpe opened his front door approximately halfway his right hand behind the wood door and out of view, neither officer asked to see both of his hands to assure themselves he was not hiding a weapon behind the door. Officer Craig stood in the same position, flat-footed, thumbs tucked in his vest, and directly in front of the door, while Officer Blackburn took a small step forward and introduced himself to Mr. Thorpe asking if Janene was home. If either officer had any concern there was an officer safety issue, none was apparent by their actions and demeanor (**EXHIBITS O, P, Q**).

I pause here to note that Officer Craig will later write in his official police report that "The Thorpes have been a problem with the police department for a while and have unexpected behaviors when dealing with police." Though he offers no further explanation of the "problem" the Thorpes have been to the police department, nor does he articulate the "unexpected behaviors" the Thorpes have allegedly displayed when "dealing with police", his nonchalant physical stance clearly communicates he has no concern that his or Officer Blackburn's safety is in peril.

Mr. Thorpe told Officer Blackburn that Janene was at home, followed by Officer Blackburn asking if they could have a word with her. Mr. Thorpe asked the officer why he needed to speak with her. Officer Blackburn responded, "Or just both of you guys, if that's okay."

"Sure. Why?", Mr. Thorpe again asks. To this point, Janene Thorpe has twice recently been charged with criminal offenses alleged by the Sancheses and experienced an unpleasant verbal exchange at their front door with another American Fork police officer (J. Nordin) who intended to issue the defendant a citation which she did not want to sign. In that case, Officer Nordin told the defendant and Mr. Thorpe he would simply write on the citation that she refused to sign it, then placed it on the ground just inside the doorway and left.

At this point, Officer Craig interjected telling Mr. Thorpe, "It's not regarding you, it's about her. We can't talk to you unless she gives us consent." Though I've heard other officers make similar statements, I am not certain where this false belief originated. If law enforcement officers could only discuss criminal allegations with the subject of the allegations, our justice system would grind to a halt.

Mr. Thorpe told the officers, "Okay, you don't need to talk to her either", then closed his front door. Officer Blackburn stood there for a brief moment before turning and glancing at Officer Craig.

This clearly did not sit well with Officer Craig who marched straight up to the door, thumbs still tucked into his vest. Officer Craig rang the doorbell and knocked on the door, then took what I perceived to be a bit more of an aggressive stance placing his left foot on the stepped-up door threshold and canting his body sideways.

Mr. Thorpe calmly opened the door again and listened to Officer Craig, who seemingly had taken over from Officer Blackburn. Officer Craig again explained that they just needed to talk to Janene "real quick". "Are we under arrest?" asks Mr. Thorpe. "She is" answers Officer Craig.

The exchange between Mr. Thorpe and Officer Craig continues:

Mr. Thorpe: Why?
Officer Craig: We can't tell you that. It's not about you.
Mr. Thorpe: I'm her husband.
Officer Craig: I understand that, but it's about her, not about you.
Mr. Thorpe: She's under arrest?
Officer Craig: She is. So, we need to talk to her. She's not going to jail, but she is under arrest.
Mr. Thorpe: Is she going to be read her Miranda rights?
Officer Craig: She will. If we have questions for her.

Digressing from the exchange between the two for a moment here, it is important to understand that Utah law defines "Arrest" within UCA 77-7-1 as "…an actual restraint of the person arrested or submission to custody." Neither officer had yet contacted the defendant, so neither "actual restraint of the person arrested or submission to custody" had been achieved and, therefore, Janene Thorpe was not arrested, or "under arrest".

It is fair to say that Officer Craig delivered notice to Mr. Thorpe of the intent to arrest the defendant, but that does not suffice under UCA 77-7-6 which instructs, "The person making the arrest shall inform the person being arrested of his intention, cause, and authority to arrest him." There are three enumerated exceptions where such notice shall not be required, when: (a) there is reason to believe the notice will endanger the life or safety of the officer or another person or will likely enable the party being arrested to escape; (b) the person being arrested is actually engaged in the commission

of, or an attempt to commit, an offense; or (c) the person being arrested is pursued immediately after the commission of an offense or an escape. None of the enumerated exceptions existed, which is presumed to be why Officer Craig informed Mr. Thorpe that Janene Thorpe was 'under arrest'.

Mr. Thorpe said to Officer Craig, "One second", as he began to close the front door of his home once again. This time, Officer Craig moved his foot from outside the door threshold to a position partially across the inside of the threshold, preventing Mr. Thorpe from closing the door (see EXHIBIT K). His thumbs still tucked inside either side of his vest, Officer Craig admonishes Mr. Thorpe, "Don't shut the door", as he shakes his head back and forth.

The conversation between Mr. Thorpe and Officer Craig continues:

Mr. Thorpe: I am allowed to shut my door.

Officer Craig: No.

Mr. Thorpe: Yeah, I actually am.

Officer Craig: No. (shakes head side to side - thumbs still tucked inside armpits of vest)

Mr. Thorpe: You're allowed to move your foot.

Officer Craig: No (shakes head side to side)

Mr. Thorpe: Yes, you are allowed to move your foot.

Officer Craig: No (shakes head side to side). The citation is for assault, and I'm not letting you go in there…

Mr. Thorpe: Assault?

Officer Craig: …to grab weapons. Yes. So, she can come out here and we can talk about it, or we can go in and get her.

It is curious that Officer Craig, who had been adamant that he could not reveal to Mr. Thorpe the purpose for their request to speak with his wife, chose this moment to unbind himself from that imaginary rule and reveal the purpose for their request to speak with his wife.

It is disingenuous for Officer Craig to suddenly claim that because the citation for the defendant was for assault, he was now concerned that Mr. Thorpe, who was not the subject of the misdemeanor citation, was going to his weapons chest to collect an implement to attack the officers with. By his own

admission, Officer Craig knew of the various calls for service involving the Sancheses and the Thorpes, none of which are for weapons offenses, violent crimes, or threats with weapons. He knew that the problems he mentioned the police had with the Thorpes was that they were argumentative, not that they were violent people. Officer Craig displayed absolutely no concern for his or Officer Blackburn's safety as he stood directly in front of the Thorpes' door with thumbs tucked under his ballistic vest at first contact. He continued to display the same lack of concern for officer safety when Mr. Thorpe closed the door after telling the officers if they couldn't tell him what they wanted to speak with his wife about then they didn't need to speak with her, Officer Craig stood directly in front of the door as he rang the doorbell and knocked on the door (most certainly a tactical failure if officer safety is a legitimate concern), then tucked his thumbs back in their spot under his vest below his armpits while waiting for Mr. Thorpe to open the door again – which he calmly did without a single weapon in hand.

By all appearances, Officer Craig reveals his intentions within the last sentence of the exchange above where he tells Mr. Thorpe: "So, she can come out here and we can talk about it, or we can go in and get her."

Acquiescing to the officer's demand that he not shut the door, Mr. Thorpe left it partially open and told the officers he would be right back as he went to get Janene. Officer Craig's foot remained partially across the threshold preventing the door from closing. The officer writes in his report that he peered through the crack (between the hinged side of the door and the frame) and could see "a second person standing right by Mr. Thorpe", he could not tell if the person was male or female. A legitimate question might be, how well was any danger to the officer's safety mitigated by ordering Mr. Thorpe to leave the door ajar if Officer Craig couldn't even distinguish a man from a woman?

About 12-seconds later, Mr. Thorpe returned to the front door accompanied by his wife, again with no weapon in hand. "Here's Janene Thorpe", announces Mr. Thorpe. Officer Blackburn attempts to coax the defendant outside of her home, "Alright Janene, if you can just come out and talk to us." Mr. Thorpe objects and Mrs. Thorpe declines. Not to be deterred Officer Craig points to the threshold and states, "She can come right here." The couple again declines Officer Craig's suggestion and Mr. Thorpe informs Officer Craig that he and his wife will listen to the officers, but their lawyer has advised both of them not to speak with the officers.

Officer Blackburn informs the defendant that she is being cited for assault and disorderly conduct and the officer tells her that she was "caught on video throwing rocks down at [her] neighbor". The defendant disputes the allegations and tells Officer Blackburn that she hasn't been home to do as alleged. Officer Blackburn explains to the defendant, "So, you can sign this, or you don't have to."

Mr. Thorpe, wondering if this allegation is an old one already in the judicial system asks Officer Blackburn "How long ago was this?" Officer Craig responded shaking his head back and forth as if scolding a child, "No, you said you don't want to talk so we're not going to talk." Officer Craig then directs his attention to the defendant telling her "You can sign it."

Having just been advised by Officer Blackburn that Janene did not have to sign the citation, and Officer Craig telling Mr. Thorpe "…you don't want to talk so we're not going to talk", the Thorpes understood that the conversation was going nowhere, and the officers were done. Janene had received a summons in a prior case and a citation she refused to sign in another, so the Thorpes already understood that it was not a legal requirement that the defendant had to sign the citation, just as Officer Blackburn advised, and it could be left at the threshold of the door or stuck in the crevice between the door and the door frame. With this understanding, the defendant told the officers "Okay, thank you. We'll talk to you later" as Mr. Thorpe began to close their front door.

**Alleged interference with a public servant by Christopher Timothy Thorpe (father)(211100905)**

**and**

**Police officers force entry into a private residence to serve a misdemeanor citation**

As Mr. Thorpe is trying to close the door, Officer Craig moves his left foot further into the residence to block the door from closing and begins to admonish Mr. Thorpe about closing the door, "Don't you…", then switches his attention back to the defendant and orders her to "Sign it. It's a charge." Mr. Thorpe tells the officers again, "We do not have to sign it" and nearly gets the door closed when Officer Craig announces, "You do not", and throws both hands up against the door and with his might forcefully shoves the door open then storms in. Simultaneously, Officer Blackburn uses his right foot to also force the door open (**EXHIBITS R, S, T, U, V, W**) and follows Officer Craig through the entry.

Officer Blackburn wrote in his report the reason the officers forced entry: "Officer Craig opened the door due to both Janene and Christopher retreating into the residence without me having issued the citation. Officer Craig stopped Janene from fleeing and began bringing her back to the front door. I assisted Officer Craig to bring her back so the citation could be issued."

Terrified at the sight of two police officers forcefully invading her home, at least one of them aggressively charging directly at her, Mrs. Thorpe instinctively retreated from the entryway into the open area front room. Officer Craig pushed right past Mr. Thorpe exposing both his weapon-side and turning his back to the man who only moments earlier he'd ordered not to close the door ostensibly citing officer safety concerns, making a beeline toward Mrs. Thorpe grabbing at her and trying to latch onto her (**EXHIBITS X, Y, Z**).

**Officer Craig alleges interference with a public servant by Christopher Taylor Thorpe (son)**

**and**

**Negating Officer Safety Claims**

The terrified Mrs. Thorpe ran past her equally terrified young adult son, Christopher Taylor Thorpe ("Taylor"), as Officer Craig pursued her inside her own home. Officer Craig describes in his report "Christopher Thorpe Jr. (son), got in my way and grabbed me, holding me back from getting his mother. Son Thorpe told me to stop. I had to push Son Thorpe out of the way, and I continued my pursuit of Janene."

Officer Blackburn's body cam footage shows Taylor with both hands partially extended in front of his body with his hands open, fingers up, with his palms toward Officer Craig, who was rushing toward him, in what appeared to be an attempt to show the officer that he was not a threat and was merely trying to diffuse the situation (**EXHIBIT AA**). It is notable that Officer Blackburn seemed so unconcerned that any occupant of the house was a threat that throughout the entire incident he never let go of his clipboard with the paper citation attached, at times even holding the clipboard in his weapon hand (right) while Officer Craig was directly engaging Mrs. Thorpe by himself (**EXHIBITS AA, BB, CC, DD, EE, FF**), nor did he ever rush to the aid of Officer Craig.

In conflict with Officer Craig's report, Officer Blackburn wrote that "Christopher Thorpe (son) pushed Officer Craig to stop him from apprehending his mother Janene. Christopher then began holding on to Officer Craig to stop him from bringing Janene to the front of the residence." Where it would understandably be instinctive to protect one's mother who is under attack, Taylor did not interfere with Officer Craig as the officer claims in his report, he merely put his hands in front of his own torso with his palms facing the officer who was barreling toward him, pleading with him to stop. Officer Craig's Body camera footage refutes clearly both of these assertions and shows that it was Officer Craig who initiated contact with Taylor, grabbing Taylor's right forearm near the elbow with his left hand, placing his right hand on Taylor's right shoulder as he easily pushed Taylor to the side and continued to run down Mrs. Thorpe (**EXHIBITS GG, HH, II, JJ, KK, LL**). In my two decades as a Utah law enforcement officer never would I have ever considered Taylor's terrified defensive reaction an interference with a peace officer.

Officer Craig was quickly able to latch onto Mrs. Thorpe's left arm and applied significant pressure to his grip as he began to pull her toward the entry way. Officer Blackburn, who aided the forced entry and shoved Mr. Thorpe away from the door, did not pursue Mrs. Thorpe as Officer Craig did, instead he sauntered from the entryway into the open front room still holding his clipboard and citation, even holding the clipboard in his left hand while fumbling with the citation with his right. Officer Blackburn displayed absolutely no concern for officer safety, and it was clear there was no exigency. In fact, Officer Blackburn never let go of his clipboard throughout the entire encounter. Were officer safety truly a concern, he would have immediately discarded the clipboard so that both hands would be free to assist his fellow officer and deal with any imminent threat that may have presented.

Officer Craig's supposed concern for officer safety also fails for several reasons, perhaps the most blatant is his total disregard for any danger he once claimed Mr. Thorpe might pose as he burst through the Thorpe's front door, immediately pushing past and turning his back to not only Mr. Thorpe but also their adult son and another young man in the room who appeared stunned and in shock at what was unfolding in front of him. Officer Craig presented his gun side to both Mr. Thorpe and Taylor several times in close proximity without any apparent concern.

**Officer Craig again alleges interference with a public servant by Christopher Taylor Thorpe (son)(211100906) and Christopher Timothy Thorpe (father)(211100905)**

Officer Craig also writes in his report "While I was escorting Mrs. Thorpe, Son Thorpe and Mr. Thorpe grabbed onto Mrs. Thorpe making it so I could not escort her out of the residence." This is an inaccurate claim by Officer Craig, one not backed up by Officer Blackburn's reporting who writes, "While in the living room officers decided to let Janene go…"

Officer Craig's assertion is further disputed by both officers' body camera footage (**EXHIBIT MM**) which shows everyone stationary when Mrs. Thorpe was demanding officers let go of her arms and stop pulling her. Officer Craig was latched on to Mrs. Thorpe's left arm with both hands and Officer Blackburn attached to her right arm with his left hand. Officer Blackburn then raised his right hand to maintain control of Mrs. Thorpe's arm, as he did so the clipboard that he held in his right hand hit Mrs. Thorpe in the face causing her to withdraw and pull backward as she yelled out "Get this out of my face!" In an attempt to calm her down Mr. Thorpe tucked his right forearm under her armpit and kept repeating her name and looking at her face trying to get her to focus on him. Simultaneously, Taylor loosely grabbed hold of her left arm above Officer Craig's grip while saying, "Mom, mom, mom, calm down." Officer Craig then released his right-hand grip from her arm and held his hand up telling everyone to calm down. Within seconds, Officer Craig released his other hand from her arm then placed his right hand on Mrs. Thorpe's left shoulder as one would do when they were trying to console another or communicate sincerity. Still stationary, and still tightly gripping Mrs. Thorpe's right upper arm, Officer Blackburn admonished Mrs. Thorpe that she had to sign the citation after minutes earlier at the front door telling her that she did not have to sign it. Mr. Thorpe reminded Officer Blackburn that she did not have to sign anything, prompting Officer Blackburn to again admonish them both "Okay, you guys do need to accept this copy of the citation". When Mr. Thorpe told him that he could set the citation on the ground like a previous officer did, Officer Blackburn finally let go of Mrs. Thorpe. It is important to note that this all occurred while they all stood stationary, they were not actively trying to pull her toward the front door at this time contrary to Officer Craig's claim.

When both officers released their grip on Mrs. Thorpe and tried to explain away their unlawful forced entry, Mr. Thorpe continuously pointed to the open front door and ordered both officers out of his house no fewer than twenty-five times. It was not until then that officer safety suddenly again became a concern for Officer Craig, telling Mr. Thorpe that he was leaving his residence but didn't want to turn his back on Mr. Thorpe even after his total disregard for the three adult males in the room,

turning his back on them several times as he and Officer Blackburn accosted Mrs. Thorpe, even presenting his gun side to Taylor Thorpe several times, the very individual he now accuses of interfering with the arrest.

Having thoroughly reviewed four videos capturing different perspectives of this event including body-worn camera footage from each officer and two home surveillance videos from the Thorpe residence, it is evident the charges against both the senior and junior Mr. Thorpe alleging disorderly conduct and interference with a public servant appear to be contrived afterthoughts perhaps to deflect from the officers' unlawful forced entry into the Thorpe residence and assault on Mrs. Thorpe, or to intimidate them against filing an internal affairs or civil complaint against the officers, the police department and the city. If these officers believed they were interfered with they have already demonstrated they would not have hesitated to take immediate action and arrest the two men right there in their own home rather than wait for a police report to make its way to the city prosecutor for an Information to be filed and a summons or arrest warrant to issue, which they should have done in the matter that brought them to the Thorpe's front door in the first place.

**Officer Craig attempts damage control**

Immediately after Officer Craig released his grip on Mrs. Thorpe's arm and moved his hand to her shoulder, he began to speak in what sounds like a reconciliatory tone and project similar accompanying mannerisms like holding his open hands with palms inward toward his chest and extending his hand(s) forward with palms up as he attempted to explain to Mrs. Thorpe why they did what they did, sounding very much like he realized their actions had exceeded the scope of their authority and was trying to make amends. I recognized these open hand palm showing gestures as those often used by law enforcement officers to diffuse or deescalate heated situations.

Officer Craig was unable to explain to Mrs. Thorpe the reason officers stormed her home because Mr. Thorpe was repeatedly commanding the officers to leave his home. As previously mentioned, Officer Blackburn explained succinctly in his report exactly why they forced entry into the Thorpe's private residence, it was because they had not given Mrs. Thorpe her copy of the citation. It was not out of exigency. It was not because they feared she or Mr. Thorpe were going for a weapon.

**"With you guys retreating back before we were done with the process, that gives me grounds to go in and detain her."** - Officer Craig

After finally heeding Mr. Thorpe's two dozen orders to get out of his house, Officer Craig again tried to rationalize to Mr. Thorpe once back outside the threshold of the home that they forced entry into their home stating, "With you guys retreating back before we were done with the process, that gives me grounds to go in and detain her." (EXHIBIT OO) This further demonstrates Officer Craig's ignorance of the law which expressly prohibits exactly what he claims he has the right to do in these circumstances.

**Both Thorpe men charged with disorderly conduct**

To briefly address the disorderly conduct charges against each of the Thorpe men (211100905, 211100906), the cited statute, UCA 76-9-102, refers to acts committed in a public place or official meeting, not in a private residence, save only one exception, when an unreasonable noise is made in a private place which can be heard in a private place or official meeting, none of which apply here. If the intent of the charge was to level an allegation that both men refused to comply with the lawful order of a law enforcement officer, it is instructive to then note that the statute dictates the lawful order must be "to move from a public place or an official meeting", which again does not apply to this situation, or if the individual "knowingly creates a hazardous or physically offensive condition, by any act that serves no legitimate purpose" – again, this does not apply.

**77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.**

**Utah Constitution – Article I, Section 14**

**United States Constitution – Fourth Amendment**

The forced entry by the officers into the Thorpe home is statutorily unlawful according to UCA 77-7-8(2)(a), which in the absence of consent or exigent circumstances requires an arrest warrant or search warrant when the building is a private residence and is the residence of the person to be arrested. The forced entry also appears to violate Article I, Section 14 of the Utah Constitution and the Fourth Amendment to the United States Constitution which both guarantee the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall

not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched, and the person or thing to be seized.

**76-8-305 Interference with peace officer**

The statute Mrs. Thorpe is charged with violating, 76-8-305 Interference with a peace officer, requires that a person knew or should have known that a peace officer was seeking to effect a lawful arrest or detention of that person or another person and interferes with the arrest or detention by the use of force or any weapon, or by refusing to perform any act by lawful order necessary to effect the arrest or detention, and that lawful order was made by a peace officer involved in the arrest or detention, or the person refused to refrain from performing any act that would impede the arrest or detention.

It is not argued that Mrs. Thorpe knew that a peace officer was seeking to effect a lawful arrest (by citation, as it was put by the officers) or detention of herself. However, there was no "lawful order necessary to effect [her] arrest or detention" given by either officer that she refused to perform, nor any act that she refused to refrain from performing that would impede her arrest or detention. That leaves only the use of force or any weapon to interfere with her arrest which is not at issue here.

While officers stood on the outside of the residential threshold, the communication of their intent to arrest Mrs. Thorpe was first given to Mr. Thorpe and eventually to Mrs. Thorpe. Mrs. Thorpe was asked if she would come outside to talk with officers, which she refused. And later, while still on opposite sides of the threshold she was informed of the citation and told that she need not sign it. No lawful orders were given that she must step outside the threshold of her home to submit to arrest or to take physical possession of the citation and she had not submitted herself to actual physical restraint or to custody, so she was not actually arrested by statute. Mrs. Thorpe opted not to sign the citation and Mr. Thorpe chose to close his front door. Rather than leave the citation at the threshold, Officers Craig and Blackburn forcibly burst through the nearly closed door and stormed the residence.

**Interference with a peace officer analysis**

Once the officers forcibly entered Mrs. Thorpe's residence, aside from being both state and federal constitutional violations, the officers were in statutory violation of UCA 77-7-8 which prohibits

officers from such forcible entry without an arrest warrant or search warrant in the absence of consent or exigent circumstances. No consent to enter was given by any resident and no exigent circumstances existed, making the arrest effected on the inside of the threshold unlawful, and there is no ambiguity in the language of 76-8-305, which makes it clear that if an arrest is unlawful it cannot therefore be interfered with. This determination would not prohibit the state from charging acts of assault if alleged, but it is important to make the distinction that the officers did not report they were assaulted by any of the Thorpes, nor did the state reach that conclusion when considering charges.

This seems a similar concept of fruit of the poisonous tree. If evidence is obtained by unlawful means it is ill gotten and therefore inadmissible. Similarly, if officers violate the law to effect an arrest the arrest is therefore unlawful and only lawful arrests are subject to the interference provisions in 76-8-305 Interference with peace officer. It is not by accident or mistake that the state legislature specifically designated the intended arrest to be a lawful arrest.

End of Report

N. DeLand