



JEAN PETERS BAKER

JACKSON COUNTY PROSECUTING ATTORNEY

May 20, 2016

██████████
230 N.W. Hickory St.
Lee's Summit, MO 64064

Chief Travis Forbes
Lee's Summit Police Department
10 NE Tudor
Lee's Summit, MO 64086

Re: Officer-involved shooting on March 27, 2016 in Lee's Summit, Missouri, CRN 16-002470

Chief Forbes:

On April 8, 2016, the Jackson County Prosecutor's Office Use of Force committee reviewed the investigation of the shooting death of ██████████ in Lee's Summit on March 27, 2016. This incident involved Officer ██████████ of the Lee's Summit, Missouri Police Department. The LSPD case number is 16-0002470. Based on the investigation and our analysis, our committee concluded the evidence does not support the filing of criminal charges against Officer ██████████

Summary of Facts

On March 27, 2016, at approximately 9:30 A.M., ██████████ and ██████████ arrived at 227 NW Hickory in Lee's Summit, Missouri. The ██████████ were hired by the homeowner, Mrs. ██████████, for painting and cleaning services in preparation for sale of the property. The ██████████s entered the premises and began working while ██████████ remained in his downstairs bedroom. ██████████ is the victim in this case and was the thirty-four year old step-son of the owner, Mrs. ██████████. ██████████ had a bedroom in the basement of the family home. Mrs. ██████████ arrived home from church services after the ██████████ had begun working, finding ██████████ cleaning in the basement and ██████████ painting in the upstairs portion of the residence.

Unknown to the ██████████ and the reporting officer, ██████████ ██████████ was struggling with acute mental health issues since his father's recent death.¹ ██████████ had recently

¹ In conversations with Mrs. ██████████ I learned her husband of twenty-one years, ██████████ father, had died tragically and unexpectedly while they were vacationing approximately one month prior to this incident. Mrs. ██████████ had also stated ██████████ frequently commented on committing suicide by means of a police officer, however, she never believed he was serious.



threatened to cut his own wrist, was described as autistic and taking anti-depressants.² Also unknown to other parties at the residence that morning, ██████ was told by the homeowner to exit the residence by the following day.

Police Officer ██████, a 22-year veteran of the department, was working a twelve-hour shift when he received a call for service to 227 NW Hickory St., Lee's Summit regarding domestic violence. Upon Officer ██████'s arrival, he was immediately contacted by a man with a paint stick in his hand. The officer described the man as agitated. He learned the reporter's name was ██████. ██████ excitedly explained to Officer ██████ that his wife had been choked by the suspect and there was another lady in the residence with the suspect. The disturbance was described to have occurred between the owner of the house and ██████. ██████ described ██████ as having confined ██████ in the basement after assaulting ██████.

Due to the nature of the call, P.O. ██████ requested backup and continued to talk with ██████ while awaiting additional officers. Witnesses next described seeing ██████ push his stepmother out of the house through the front door. Moments later, ██████ came out of the house holding a knife. ██████ is described by all witnesses as holding the knife in a threatening manner. ██████ then, charged ██████ while holding the knife. ██████ gave commands to stop and put the knife down. Those commands were ignored.

Officer ██████ fired a single round, striking ██████ in the chest.

CPR was administered to ██████ as he lay in the yard of the residence. He was then transported to Centerpoint Hospital in Independence, Missouri. Mr. ██████ was pronounced deceased a short time after transport to the emergency room.

A 911 recording captures ██████'s voice reporting the disturbance at the residence. ██████ reports that she was asked to call 911 by the homeowner, stating, "her son is freaking out and putting his hands on her."³ Within moments, the caller is heard shouting that the individual has just grabbed her and he is telling her that he wants to take her hostage."⁴ The audio next captures the caller stating, "He's got me in a chokehold."⁵ She continues on the call with dispatch, stating, "All he keeps saying is he wants the cops to shoot him."⁶

Officer ██████ provided a statement of the events as he perceived them during his response at the scene. His statement is consistent with other witnesses present at the scene and the physical evidence. ██████ described the knife as black and lowered in a position ready to stab him.⁷ He gave commands to stop and get on the ground, but the subject continued to come at him with

² See Statement and audio recording of Mrs. ██████ taken by members of the Lee's Summit Police Department. Mrs. ██████ reported she was unable to keep the residence after his death. Her step-son, ██████, also lived with her and was diagnosed with Asperger's Syndrome and depression.

³ See 911 recording ██████'s call to dispatch.

⁴ See *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ See transcribed statement of Police Officer ██████ taken on March 30, 2016 by members of the Lee's Summit Police Department. The statement is also audio recorded.

the knife with a determined look. He estimates that he fired a round with approximately 10 feet between himself and the suspect, though the suspect was continuing to close the distance. After the suspect was struck, he immediately went to the ground. The suspect then looked up at the officer and thanked him. Officer [REDACTED] kicked the knife out of the subject's reach, repeatedly telling him to stay on the ground, and turned the scene over to other officers.⁸ The description of the knife varied by witness, however, the knife was photographed and recovered from the scene.



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[REDACTED] also provided a statement to members of the Lee's Summit Police Department. [REDACTED] stated he was painting on an upstairs level when he heard [REDACTED] yelling for help. He ran downstairs and witnessed the downstairs occupant, later determined to be [REDACTED], lying on the floor yelling. He then witnessed [REDACTED] grab [REDACTED] by the throat with one hand and push her repeatedly against the wall. During the altercation, [REDACTED] heard [REDACTED] state, "there's no fucking helping me, I want to die."¹⁰ [REDACTED] attempted to restrain [REDACTED] but then [REDACTED] went after his wife, [REDACTED]. In reference to [REDACTED], [REDACTED] claimed "she's my fucking hostage, that's how I'm getting out of this house" and that he was "gonna make the cops kill him."¹¹ [REDACTED] and [REDACTED] were able to escape from the house and waited for police to arrive. As Officer [REDACTED] arrived, [REDACTED] witnessed the encounter in the yard of the residence. He described [REDACTED] "aggressively" charge at the officer with a knife in his right hand and heard [REDACTED] provide commands to stop.¹² [REDACTED] believes [REDACTED] fired his weapon at [REDACTED] with approximately 15 feet between them, while [REDACTED] was advancing toward the officer.¹³

[REDACTED]'s statement is similar to that of [REDACTED]'s version of events. [REDACTED] however, heard an argument occur between [REDACTED] and [REDACTED]. Though she did not know the nature of the argument, she heard [REDACTED] call out for help. She witnessed [REDACTED] grab and shake [REDACTED], requiring [REDACTED] to intervene. [REDACTED] then called 911 as [REDACTED] was trying to calm [REDACTED]. The stepson then pushed her against the wall and put her in a chokehold, stating, "you're going to be my hostage until the cops get here and the only way we're coming out is if they take my life."¹⁴ [REDACTED] then kicked the door open to the basement, allowing [REDACTED] to exit the residence with [REDACTED]. [REDACTED] witnessed the stepson exit the house toward the officer armed with a

⁸ See the transcribed statement of Police Officer [REDACTED] taken on March 30, 2016 by members of the Lee's Summit Police Department.

⁹ Picture of the knife held by [REDACTED] recovered from the scene.

¹⁰ See recorded statement of [REDACTED] taken by Lee's Summit Police Department on 4/1/16.

¹¹ See *id.*

¹² *Id.*

¹³ *Id.* [REDACTED] further stated his belief was that [REDACTED] intended to stab Officer [REDACTED] with the knife during the advance.

¹⁴ See recorded statement of [REDACTED] taken by members of the Lee's Summit Police Department on 4/1/16.

knife. She stated that he carried the weapon, a long butcher knife, down by his side. But he soon raised it while charging at the officer.¹⁵

██████████ provided additional details of the events just prior to the shooting. She described hiring the ██████████ earlier in the week to paint and clean her home in order to put the house up for sale. An argument occurred when ██████████ asked her step-son if he had made arrangements to remove his personal belongings from the residence.¹⁶ Her step-son, ██████████ had grabbed her wrists, but she was able to free herself to call 911. She requested the assistance of ██████████ the painter, as ██████████ was becoming more violent. After ██████████ had made threats to ██████████'s wife and had locked the door to the residence, ██████████ kicked the door open. This allowed them to safely exit the residence. An officer arrived, but ██████████ appeared with a large knife and advanced toward the officer with the knife raised. ██████████ was unable to provide a detailed description of the knife as her glasses were knocked off when ██████████ assaulted her. ██████████ described the officer providing commands to ██████████ prior to firing his weapon.¹⁷

██████████ made a separate call to 911 requesting help due to her stepson's violent outburst. She is heard saying he is out of control and that he has attacked her and two other people in the home. During the call, ██████████ is heard taking the phone and stating, "I've just decided to end it. You're the tool."¹⁸ The call is then disconnected.¹⁹

The physical evidence also includes ██████████'s dash camera video. His patrol car, however, was not pointed at the front of the residence where the shooting occurred. As a result, the shooting was not captured on video, but was audio recorded. A review of that audio recording captured the sound of someone exiting the home just before 1:00 PM. A voice identified as Officer ██████████ can be heard repeating, "slow down" and then the sound of a single shot is fired.²⁰

Legal Analysis

According to the facts of this case, Missouri law must be applied regarding the officer's use of force on March 27, 2016. Specifically, section 563.031, RSMo governs the use of force in defense of persons, providing that a person may ... use physical force upon another when and to the extent he or she reasonably believes [is] necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force

¹⁵ *Id.*

¹⁶ See Recorded statement of ██████████ taken by members of the Lee's Summit Police Department on March 27, 2016.

¹⁷ See Recorded statement of ██████████

¹⁸ See 911 recording by ██████████ to dispatch.

¹⁹ A follow-up statement is recorded of ██████████ on March 31, 2016 regarding the mental health condition of her step-son, ██████████. ██████████ reports that ██████████ was diagnosed with a form of Autism, known as Asperger's Syndrome and that he was receiving treatment for severe depression, including taking Lexapro as prescribed. She also described her step-son as having a history of suicidal threats, and specifically, stating he would carry out his threat of "suicide by cop."

²⁰ See dashcam audio. Approximately four seconds elapse between the sound of someone exiting the front door, commands to slow down and the sound a gunshot.

by such other person. It is Section 563.031 that applies to this case, and in our assessment, requires no further inquiry into other provisions of Missouri law governing the use of force specific to police officers.

Conclusion

Officer [REDACTED] use of deadly force on March 27, 2016 was deemed justifiable under the specific facts of this case. [REDACTED] was placed in a scenario necessitating the actions he took to fire his weapon with only seconds to access the danger presented by [REDACTED].

Though only three to four seconds transpired for Officer [REDACTED] decision to fire his weapon, that decision is also supported by the physical evidence of the how the shooting took place. The audio from [REDACTED]'s dash camera captured the incident prior to and including the shooting. Further, [REDACTED] articulated the events as they occurred through recorded broadcasting technology.

Based on all available physical evidence, witness statements, including the 911 calls and audio from the dash cam video, and those final words from [REDACTED] on the 911 call, Officer [REDACTED] was justified in using deadly force to defend himself and others against the threat of deadly force encountered that day. The force was initiated by [REDACTED] with an intent to commit suicide through the means of Officer [REDACTED]'s duty to defend himself and others against harm. The use of force is justified under Missouri law and the facts of this case. The tragedy in these facts is that the death of [REDACTED] was not prevented through earlier mental health interventions. Though [REDACTED] was receiving mental health treatment, he made decisions that set him and Officer [REDACTED] on a collision course with awful, yet lawful, consequences.

Sincerely,



Jean Peters Baker
Prosecutor for Jackson County