



# JEAN PETERS BAKER

## Jackson County Prosecuting Attorney

November 2, 2021

Chief of Police Robert Muenz  
Blue Springs Police Department  
1100 SW Smith Street  
Blue Springs, MO 64015

**RE: Officer Involved Shooting January 8, 2021**

To all interested parties:

This office's Use of Force Committee has met to review this matter and it has concluded that the law does not support criminal charges against Jackson County Court eviction deputies [REDACTED] and [REDACTED], who, on January 8, 2021, shot at and hit a civilian, Donald Smith, during the course of serving him with eviction process.

### **Summary of the Facts**

On January 8, 2021, Blue Springs Police were dispatched to 465 NW Westchester Court, Blue Springs, MO, on a shooting. The residence was on the north side of Westchester Court, located two houses west of NW 4th Street Place, facing south. It appeared to be a one-and-a-half story residence with brown stucco and red brick. While being served with eviction process by Jackson County Court eviction deputies, tenant Donald Smith, W/M, born 04/10/1982, had an encounter with the deputies and suffered gunshot wounds. Smith was taken to CenterPoint Hospital for treatment.

Homeowner Kelly C. Gallegos, and her domestic partner Shawn F. Stevenson, stated that they had begun eviction proceedings against Mr. Smith because he was five months behind on his rent. Gallegos had previously had a relationship with Smith for 5.5 years. Gallegos and Stevenson met with Jackson County deputies, [REDACTED], and [REDACTED], to advise them of Mr. Smith's dangerous nature. According to police reports, "Ms. Gallegos quoted Mr. Smith when he said he had a plan and that she was not safe." But Gallegos believed that Mr. Smith would go peacefully. Gallegos and Stevenson watched the deputies approach the house from their car. Smith opened the door and admitted them. Then Gallegos and Stevenson heard about four gunshots.

Kenneth W. Casebier was also interviewed. He relayed that Ms. Gallegos is his daughter, and he went to the house with them to change the locks. He was in a van behind his daughter when the deputies approached the house. From his truck, he witnessed court deputies make contact with Mr. Smith. He saw the court deputies and Mr. Smith speak cordially at the front door for a moment. Mr. Smith allowed the court deputies inside the house. Approximately three minutes after the court deputies entered the house, he heard one gunshot, followed by three more.

██████████ told police that he and Hill were present to serve eviction papers on Donald Smith. They were notified that the subject might be dangerous. ██████████ said that he explained to Smith the eviction process and asked if there were any firearms or pets in the house. ██████████ stated he and ██████████ asked Smith three different times if Smith had firearms in the house before they entered the residence, and he stated no. ██████████ told Smith that he should get a warm coat as he might be standing outside for a while. ██████████ said when they first entered the house, Smith was calm and pleasant and did not seem to be an active threat. ██████████ said it was dark inside other than the ambient light coming into the house. ██████████ said he tried to make the situation as peaceful as possible and asked Smith what his cat looked like so they could look out for it. ██████████ said Smith stuttered and did not directly answer the question, and Smith turned toward ██████████, facing the door. ██████████ said there was a bookcase sitting on the wall and Smith stopped, looked at him, leaned over, and took his right hand and reached behind the bookcase while still maintaining eye contact with ██████████. ██████████ said he told Smith “don’t reach for anything, what are you ██████████ for,” and “show me your hand.” Smith’s hand emerged from the bookcase holding a long gun. Smith raised the barrel of the gun toward ██████████, and ██████████ drew his weapon and gave commands to Smith. ██████████ said he fired one time at Smith. ██████████ said as he was moving he tripped over Christmas lights and fell backwards. ██████████ said he heard Deputy ██████████ call out “gun” and Deputy ██████████ fired his weapon.

██████████ said he looked towards the west wall of the living room and he saw a long gun laying on the floor. ██████████ said ██████████ pulled Smith’s shirt up to see if Smith had been shot and they could see a bullet hole in his upper left chest which exited through upper back and two other wounds in his groin area. ██████████s said ██████████ asked him if he had a first aid kit on him and ██████████s said he had one in his car. ██████████ had latex gloves and put them on and gave some to ██████████. ██████████ said he grabbed two towels from the bathroom down the hallway and gave them to ██████████, who was talking to Smith. ██████████ does not recall what ██████████ was saying to Smith, but he does remember ██████████ telling Smith that he needed to apply pressure to his wound around his stomach area. ██████████ said he asked Smith twice why he grabbed a gun but Smith never responded. ██████████ said Smith was saying “ouch,” “it’s ok,” and “it’s alright,” as he was getting transported off on a gurney.

██████████ statement was similar to ██████████s statement. He said things happened “so fast.” ██████████ heard ██████████ yell “gun” and heard a shot. He saw ██████████ fall backwards and thought he was shot. ██████████ saw the gun in Smith’s hands and fired. Mr. ██████████ later learned that ██████████ had not been shot but was retreating backwards when he saw the gun and tripped over some rope lights. ██████████ said he holstered his weapon and there must have been a bathroom nearby and ██████████ brought him some towels to apply pressure. ██████████ stated that while he was rendering aid, Smith told him not to worry about it and to let him die, and that he meant to do it. ██████████ said he told Mr. Smith that he wasn’t going to let him die and tried to keep reassuring him.

Two paramedics who treated and transported Smith in the ambulance told police that Smith said to them several times, “I wanted them all to shoot me.”

Smith was interviewed in the hospital and he told police, "I intentionally had a toy gun that I knew I couldn't hurt them with it and I knew if they saw it that they would fire on me and that's what they did." Smith also said, "I wanted them to kill me," and that he could tell they (the process servers) were "good guys," and he had hoped they wouldn't be. Smith said that he was sorry and said, "I felt bad for doing that to them." Smith said that he thought of it the night before. "I was just ready to go." Smith also said, "they did nothing wrong."

Two spent handgun rounds were removed from Smith during surgery. A search warrant was obtained and evidence from the house was obtained and catalogued. Two spent handgun rounds were recovered from a wall in the main floor living area, behind where Smith had been standing. In the kitchen, which is located west of the living room and north of the dining room, two spent shell casings were recovered just inside the kitchen entry way. Four bullets were recovered in total, but two shell casings were not able to be located. It was noted that the rounds were fired by the process servers in areas that experienced high foot traffic as well as medical equipment movement during Smith's treatment. The interior and exterior of the residence were photographed.

From the living room, after it was photographed, a black in color pellet rifle, with a scope, was seized. It was determined to be a black Crosman brand .177 Caliber BB/Pellet Rifle. The rifle consisted of a black metal barrel, black synthetic fore grip and black synthetic stock. It was equipped with front and rear iron sights as well as a scope. The rifle did not have any bright colored markings, tags, or plastic tip markings that would indicate it was not a gunpowder based platform, excluding the black writing on the black body stating the brand, model, and .177 caliber. The rifle did not contain any bbs or pellets.

### Law and Analysis

The force used by [REDACTED], and [REDACTED] in this case must be examined pursuant to the Missouri Revised Statutes 563.031, which state that:

A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he or she reasonably believes such force 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 by such other persons

The investigation in this case involved determined that Mr. Smith was displaying what appeared to be a firearm in in a threatening manner. He admitted that his intention was to draw fire from the deputies. Here, the law does not justify criminal charges against [REDACTED] and [REDACTED] because they reasonably believed that it was immediately necessary for then to use deadly force to defend themselves against what they believed to be a deadly weapon that Mr. Smith was brandishing. Thus, [REDACTED] and [REDACTED] decisions to fire meet the requirements of Missouri law because the need to defend themselves from Smith's display of what appeared to be a deadly weapon was reasonable.

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## Conclusion

For the reasons stated above, the shooting deputies would be entitled to an instruction based upon RSMo 563.031 and therefore, there is no basis in the law or the facts to conclude that the defense can be overcome. Accordingly, the Use of Force Committee's decision is to decline charges, and the case has now been declined.

Sincerely,

A handwritten signature in black ink that reads "Jean Peters Baker". The signature is written in a cursive, flowing style.

Jean Peters Baker  
Jackson County Prosecuting Attorney