



JEAN PETERS BAKER
Jackson County Prosecuting Attorney

June 8, 2022

Chief Adam Dustman
Independence, MO Police Department
223 N Memorial Dr
Independence, MO 64050

To the family and loved ones of Mr. Aaron C. Pouche
c/o Mr. Tom Porto
712 Broadway Street #100
Kansas City, Missouri 64105

Re: Fatal Officer Involved Shooting of Aaron C. Pouche March 31, 2021

All Interested Parties:

On March 31, 2021, an officer involved shooting resulting in the death of Aaron C. Pouche¹ occurred at 808 South Carlisle Avenue, Independence, MO 64054. This incident was investigated by members of the Missouri State Highway Patrol (hereinafter *MSHP*) at the request of the Independence, MO Police Department.² The Jackson County, MO Prosecutor's Office conducted its examination of the attendant facts and circumstances surrounding this incident. Based on the investigation and our review and analysis, we have concluded that the evidence does not support filing criminal charges against the officers in this matter.

Summary of Facts

On the night of March 31, 2021, at approximately 11:20 PM, Independence, MO Police Officer Ian Storey³ was dispatched to the area of 808 Carlisle, Independence, MO.⁴ While enroute to the scene, Officer 1 was informed the suspect was shooting into a residence.⁵ Upon his arrival,

¹ The victim in this use of force case will hereinafter be referred to as the "Civilian" and described as a "white male" in part for purposes of this document. However, his name was Aaron C. Pouche, who was thirty-five (35) years of age at his death and a resident of Independence, Missouri.

² See Missouri State Highway Patrol General Report, Incident 210151802 dated March 31, 2021.

³ Hereinafter, Officer [REDACTED] will be referred to as Officer 1.

⁴ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 25 – INTERVIEW OF [REDACTED] page 1.

⁵ *Id.*

Officer 1 was talking to a neighbor to investigate the nature of the disturbance.⁶ While talking to the neighbor, Officer 1 heard arguing followed by a gunshot.⁷ Officer 1 ran to the back of the residence and saw the Civilian in the backyard.⁸ Officer 1 issued commands to the Civilian, but the Civilian turned and walked away from Officer 1's position.⁹ Officer 1 lost visual contact of the Civilian.¹⁰ Officer 1 moved to regain visual of the Civilian and reissued verbal commands.¹¹ Officer 1 was able to see that the Civilian had a rifle in his hands as the Civilian approached Officer 1.¹² Officer 1 drew his patrol Taser and tased the suspect, but it was ineffective.¹³ The Civilian pointed his rifle, and Officer 1 discharged his patrol rifle.¹⁴ The Civilian moved behind a deck staircase, and Officer 1 lost visual again.¹⁵ Officer 1 relocated again to get a visual of the suspect.¹⁶ As Officer 1 was moving, he heard gunfire, which he believed was other officers on the scene.¹⁷ Officer 1 was moving to get a better visual of the suspect and the shots that were being fired.¹⁸ Officer 1 was struck in the head, which knocked him to the ground.¹⁹ Officer 1 stated another officer found him and moved him to the front of the residence.²⁰ Officer 1 was later transported to the hospital.²¹

Officer 1 stated he was wearing his standard patrol uniform, which is clearly identifiable as law enforcement.²² It included a police badge and a nametag.²³

On the night of March 31, 2021, at approximately 11:20 PM, Independence, MO Police [REDACTED] overheard the call for service through the dispatch scanner and observed the call notes relating to the instant action.²⁵ Officer 2 chose to "self-dispatch" because of his proximity to the call for service and seeing it was an armed disturbance, which was later upgraded to an aggravated assault.²⁶ After arriving at the staging area with other officers, Officer 2 retrieved a shotgun from a secured location in his patrol vehicle.²⁷ After retrieving the shotgun, Officer 2 heard gunfire to which he described as sounding like a small caliber weapon.²⁸ Officer 2, along

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Hereinafter, [REDACTED] will be referred to as Officer 2.

²⁵ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 24 – INTERVIEW OF [REDACTED], pages 1 thru 3, page 1.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

with three other officers, began approaching the residence from the southern side.²⁹ About the same time, Officer 2 overheard—through his hand-held radio—Officer 1 and another officer say they were approaching the call for service from the opposite direction.³⁰

While walking toward the disturbance, Officer 2 heard additional gunfire.³¹ Officer 2 and the other officers began running to speed up their approach.³² Officer 2 and the other officers were between the neighbor's residence and the Civilian's residence, as he overheard Officer 1 ordering the Civilian to "Drop it, Drop it."³³ Officer 2 then saw muzzle flashes and heard gunfire coming from the direction where he was previously informed by neighbors that the Civilian was located.³⁴ Officer 2 stated the Civilian was located at the edge of a concrete slab, slightly "over the edge."³⁵ Officer 2 observed Officer 1 returning fire toward the location of the suspect.³⁶

At this point, "shots fired" was called out over the radio, and Officer 2 raised the shotgun firing multiple rounds.³⁷ After Officer 2 initially fired his weapon, he paused to see if the exchange of gunfire ceased.³⁸ Officer 2 stated he heard additional gunfire; then re-engaged the suspect with three (3) or four (4) rounds.³⁹ According to Officer 2, immediately following this, Officer 1 stated he was "hit in the head."⁴⁰ During the initial interview, Officer 2 stated he believed he shot Officer 1.⁴¹ However, he now believes he did not shoot Officer 1.⁴²

According to Officer 2, Officer 1 was removed by other Independence Police Officers from the scene and taken to the hospital.⁴³ Officer 2 stated that after this, he and other officers located the Civilian, "face down, with the rifle still in his hands."⁴⁴ Officer 2 stated the Civilian was bleeding but appeared to be alive.⁴⁵ Officer 2 stated he kept his gun trained on the Civilian while other officers handcuffed the Civilian and began administering first aid.⁴⁶

Officer 2 stated he was wearing standard uniform with his badge on the left side of his shirt, and he had visible Independence, MO, Police Department patches on the shoulders of the shirt.⁴⁷

²⁹ *Id.* at 1

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.* 1-2

³⁴ *Id.* at 2

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

On April 01, 2021 at approximately 1:54 AM, MSHP investigators interviewed [REDACTED] [REDACTED]⁴⁸, the [REDACTED] the Civilian.⁴⁹ Witness 1 stated that she returned home from the bowling alley around 11:00 PM.⁵⁰ The Civilian was at the bowling alley as well but returned home later than Witness 1.⁵¹ While Witness 1 was at home with her child in common with the Civilian, the Civilian returned home.⁵² According to Witness 1, when the Civilian came home, the Civilian started arguing with some neighbors who reside at 812 South Carlisle Avenue.⁵³ Witness 1 explained she turned the volume up on the television in the bedroom to keep their child from hearing the yelling.⁵⁴ Witness 1 explained she went outside to convince the Civilian to come inside, but he refused.⁵⁵ Witness 1 explained the Civilian was attempting to keep the neighbor from coming onto his property because of a previous incident.⁵⁶ Witness 1 explained the Civilian posted “No Trespassing” signs on his property about a week prior because the neighbor attacked him in their house.⁵⁷

Witness 1 she went back inside the master bedroom when she heard more yelling and a single gunshot outside.⁵⁸ Witness 1 went to the basement of her house where she found the Civilian and told him, “Give me the fucking gun.”⁵⁹ The Civilian turned around and Witness 1 removed a pistol⁶⁰ from the Civilian’s waistline, which was positioned behind his back.⁶¹ Whenever Witness 1 removed the gun from the Civilian’s waistline, the Civilian did not tell Witness 1 what happened with respect to the gunshot she just heard.⁶²

Witness 1 unloaded the pistol and took it upstairs.⁶³ Witness 1 said she hid the “cartridges” in the hall closet and hid the pistol behind the dining room hutch.⁶⁴ Witness 1 explained she hid the pistol and magazines because of the ongoing argument with the neighbors and she didn’t want the Civilian coming upstairs to find it.⁶⁵ However, she totally forgot about the black .22 caliber rifle that the Civilian owned.⁶⁶

⁴⁸ Hereinafter [REDACTED] will referred to as Witness 1. Witness 1 explained she was the fiancé of the Civilian and the mother to their son, James Pouche, date of birth May 05, 2017. Witness 1 explained she was also three months pregnant with the Civilian’s child.

⁴⁹ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 7 – INTERVIEW OF [REDACTED], pages 1 thru 3, page 1.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 2

⁵⁶ *Id.* at 1

⁵⁷ *Id.*

⁵⁸ *Id.* at 2

⁵⁹ *Id.*

⁶⁰ [REDACTED] described the pistol as a “Taurus”. *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at 3

Witness 1 went back inside with the child and heard more screaming from outside.⁶⁷ She then heard what “sounded like small caliber gunshots, like a .22.”⁶⁸ She heard “a lot of gunshots.”⁶⁹ Witness 1 was unsure about the order of the gunshots but heard “small and large caliber gunshots.”⁷⁰ Witness 1 explained the Civilian owned a black, .22 caliber rifle.⁷¹

From the record, it is unclear whether Witness 1 witnessed or knew that the Civilian was shot and killed at the time it occurred. However, upon starting the interview, MSHP investigators notified Witness 1 that the Civilian was transported to North Kansas City Hospital where he was pronounced dead by medical staff.⁷²

On April 1, 2021 at 4:24 AM, MSHP investigators interviewed [REDACTED], one of the neighbors at 812 Carlisle, Independence, MO.⁷⁴ The Civilian was engaged in an ongoing feud with several of the neighbors at 812 Carlisle.⁷⁵ Witness 2 was laying on the bed in his bedroom, located on the main floor in the northwest corner of the residence.⁷⁶ Witness 2 said a window on the north wall of the bedroom was open.⁷⁷ Witness 2 heard the Civilian outside his bedroom window yelling, “Fuck you guys.”⁷⁸ Witness 2 identified the Civilian as his neighbor and the person who was shot in this use of force incident involving the Independence Police Department.⁷⁹ Witness 2 responded through the open window to the Civilian’s yells, asking the Civilian who he was talking to.⁸⁰ The Civilian replied, “You mother fucker, come outside and I’m going to kill your whole family.”⁸¹ Witness 2 said he could not visually see the Civilian, due to it being dark outside.⁸² Witness 2 said a short time later, he heard a gunshot that came from the outside directly under his bedroom window.⁸³

Witness 2 immediately left his bedroom and went to his mother’s room to alert her.⁸⁴ Witness 2 and his mother called 911.⁸⁵ Witness 2 went into the living room where he remained

⁶⁷ *Id.* at 2

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* at 1

⁷³ Hereinafter, [REDACTED] will be referred to as Witness 2.

⁷⁴ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 9 – INTERVIEW OF [REDACTED], pages 1 thru 2, page 1

⁷⁵ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 10 – INTERVIEW OF [REDACTED]

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

until he saw several police officers in the front yard.⁸⁶ Witness 2 said after the police officers went towards the Civilian's residence, he heard five or six gunshots.⁸⁷

Investigators with the MSHP interviewed two other witnesses at 812 Carlisle, Independence, MO who each gave statements that strongly corroborate Witness 2's statement about hearing a gunshot and/or hearing the Civilian threatening to kill the family.⁸⁸

Investigators with the MSHP interviewed [REDACTED] at 806 Carlisle, Independence, MO.⁹⁰ Witness 3 described an interaction earlier in the night in which residents of 808 Carlisle and 810 Carlisle⁹¹ were arguing over "stupid shit".⁹² When asked to describe further, Witness 3 said, "the male resident of 808 Carlisle yelled toward the residence of 810 Carlisle stating, 'I'm gonna kill you and your family.'"⁹³ Witness 3 believed the Civilian was intoxicated because the male was slurring his words.⁹⁴ Witness 3 saw the Civilian enter his home at 808 Carlisle to get a firearm.⁹⁵ Witness 3 stated he was "almost certain the house with the yellow light (810 Carlisle) fired first."⁹⁶ However, there is no indication that any firearm was ever located at the home. Witness 3 said the (male from 808 Carlisle) came out and another shot went off.⁹⁷ Then, an officer was walking through the back yard between 808 Carlisle and 810 Carlisle.⁹⁸ Close in time to the volley of shots between the Civilian's house and Witness 2's house, a cop said, "drop your weapon", but the Civilian didn't.⁹⁹ Gunshots were then exchanged between law enforcement and the Civilian.¹⁰⁰

Investigators with the MSHP interviewed four additional witnesses who were at 806 Carlisle, Independence, MO the night of the incident.¹⁰¹ Each of the witnesses provided statements that were strongly corroborative of Witness 3's statement. In particular, each of the four witnesses

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 10 – INTERVIEW OF [REDACTED] Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 11 – INTERVIEW OF [REDACTED] for corroborative statements.

⁸⁹ Hereinafter, [REDACTED] will be referred to as Witness 3

⁹⁰ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 12 – INTERVIEW OF [REDACTED].

⁹¹ Witness 3 is likely referring to 812 Carlisle not 810 Carlisle.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ See Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 13 – INTERVIEW OF [REDACTED], page 1 of 1; Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 14 – INTERVIEW OF [REDACTED], page 1 of 1; Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 16 – INTERVIEW OF [REDACTED], page 1 of 1; Missouri State Highway Patrol Supplemental Report Incident #210151802, Supplement 17 – INTERVIEW OF [REDACTED], page 1 of 1 for corroborative statements.

heard someone yelling, “drop the gun”, “drop it”, “put the gun down” or an exclamation similar in nature.¹⁰²

Applicable Law

In determining whether an officer used justifiable, deadly force, courts—including the United States Supreme Court—have held that “such claims are properly analyzed under the Fourth Amendment’s ‘objective reasonableness’ standard”¹⁰³ The “reasonableness” inquiry in an excessive or deadly force case is an objective one: the question is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting the officer on scene at the time of the incident.¹⁰⁴ Under the “reasonableness standard”, “[t]he “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”¹⁰⁵

“With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: ‘Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers, violates the Fourth Amendment.’”¹⁰⁶ “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”¹⁰⁷

Under Missouri law, our analysis is primarily guided by statutory construct. Here, RSMo 563.031 is our guidepost and reads in relevant part:

Use of force in defense of persons—1. 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 to be 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 person, unless:
(emphasis added).

(1) The actor was the initial aggressor; except that in such case his or her use of force is nevertheless justifiable provided:

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) *He or she is a law enforcement officer and as such is an aggressor pursuant to section 563.046;*
(emphasis added).

¹⁰² *Id.*

¹⁰³ *Graham v. Connor*, 490 U.S. 386, 388 (1989).

¹⁰⁴ *Id.* at 397.

¹⁰⁵ *Id.* at 396.

¹⁰⁶ *Id.*, quoting *Johnson v. Glick*, 481 F.2d, at 1033.

¹⁰⁷ *Id.* at 397-398.

Finally, in deciding whether to bring criminal charges, we must be guided by the appropriate charging standard which mandates that “[a] prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice.”¹⁰⁸

Legal Analysis and Conclusion

After our analysis and applying the facts to the law, it is concluded that no criminal charges are warranted in this matter. Under the objective reasonableness standard laid out by the United States Supreme Court, the officers were “objectively reasonable” in light of the facts and circumstances confronting the officer on scene at the time of the incident.

Officers were dispatched on a call of a party shooting into a residence. Upon their arrival, officers quickly spoke to neighbors in the area to gather as much information as they could in the short amount of time allotted. While talking to neighbors, officers overheard arguing, and quickly thereafter, they heard gunfire. When officers responded to the location of the sounds of gunfire, officers located the Civilian in that same area. Officers saw that the Civilian was armed with a rifle. Officers exercised caution and reasonableness when initially confronting the Civilian. In particular, Officer 1 initially deployed a taser when, by all accounts, he was authorized to deploy lethal force munitions when he first observed the Civilian armed with a rifle.

Multiple witnesses and involved officers report that officers ordered the Civilian to drop his gun. The Civilian did not adhere to these orders. Even so, Officer 1 initially attempted to use his taser instead of lethal force munitions. Deployment of the taser ultimately proved ineffective. During an exchange of gunfire with law enforcement in which Officer 1 was shot in the head, and only after Officer 1 unsuccessfully tried to use the less lethal munition of a taser, the Civilian sustained fatal gunshot wounds from law enforcement officers.

Taking the totality of the circumstances confronting the officers on scene, including the nature of the call advising officers that someone was shooting into a residence, officers finding the Civilian armed with a rifle, officers hearing gunshots emanating from close proximity to the Civilian’s position, the Civilian pointing the gun at the officers while advancing toward their position, and the officers failed attempts to disarm the Civilian through verbal commands and less lethal munitions, we conclude that the officers were objectively reasonable in their application of deadly force.

We also believe that, consistent with Missouri law, the officers used the force they reasonably believed to be necessary to defend themselves or others from what they reasonably believed to be the use or imminent use of unlawful force by another.

¹⁰⁸ ABA STANDARDS FOR PROSECUTION FUNCTION 3-4.3(a) (2015); see MO. SUP. CT. R. 4-3.8(a).

It is always unfortunate and tragic when officers are faced with life and death decisions that result in the death of any one of our community members. Our hearts are even heavier when the loss of life befalls the father of such a young child, another unborn child who was on the way, and a future husband to his fiance. Our hearts also go out to his parents and step parent(s) as well.

However, the officers' acts were within the scope of their legal authority as law enforcement officers in the state of Missouri.

It is my legal assessment that no criminal charges should be filed against any of the officers who acted within the limits contained under Missouri law. I offer my sincerest condolences to the family, friends and loved ones of this young man.

Sincerely,

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

Jean Peters Baker
Prosecutor for Jackson County