



JEAN PETERS BAKER
Jackson County Prosecuting Attorney

April 29, 2015

Chief Darryl Forte
Kansas City Police Department
1125 Locust
Kansas City, MO 64106

**Re: Officer-involved shooting on August 31, 2014 at 3825 E. 6th Street, Kansas City, Missouri,
CRN 14-062359**

Dear Chief Forte:

On April 23, 2015, the Jackson County Prosecutor's Office Use of Force committee reviewed the investigation of the shooting death of Eugene Turner III in Kansas City on August 31, 2014. Our analysis is regarding the actions of Officer [REDACTED] and [REDACTED] of the Kansas City, Missouri Police Department. The KCPD case number is 14-062359. Based on the investigation and our analysis, our committee concluded the evidence does not support the filing of criminal charges against either officer, [REDACTED] or [REDACTED].

Summary of Facts

On August 31, 2014, at approximately 4:40 a.m., a 911 caller stated that a white male was armed with an AK-47 and walking down Independence Avenue. Officers [REDACTED] and [REDACTED] were dispatched to assist other officers that were on the scene. Upon arrival, they parked at the intersection of 6th and Myrtle and began walking toward Independence Avenue looking for the individual described in the 911 call. Due to the nature of the call, Officer [REDACTED] was armed with his patrol rifle. The officers were notified a male was running away from an assisting officer, westbound on 7th from Norton. Officers [REDACTED] and [REDACTED] moved in the direction of 7th and Norton to assist.

Officers [REDACTED] and [REDACTED] stated they observed a black male, later identified as Mr. Eugene Turner, running westbound in the intersection of 6th and Myrtle. Officer [REDACTED] broadcast his location and description that they were pursuing an individual on foot, believing he may be associated with the armed party. [REDACTED] and [REDACTED] pursued this individual onto 6th Street. While running, [REDACTED] yelled, "Hey, police, stop running." Turner kept running and [REDACTED] momentarily lost sight of him as he ran behind a vehicle. Turner emerged from behind that vehicle and began firing a gun at [REDACTED] and [REDACTED]. The officers believed Turner fired two or three rounds at them before officers were able to take cover and return fire. While taking cover behind vehicles on the street, [REDACTED] and [REDACTED] returned fire until Turner fell to the ground and stop firing his weapon. A black 9mm Luger semi-automatic pistol was found next to Turner's body.



Irvin Nevels responded to police and provided a witness statement. Mr. Nevels witnessed some of the events that morning as the shooting occurred in front of his residence located at 3828 East 6th Street. Nevels was awakened to the sound of small gunshots and looked out his window, observing an individual pointing what appeared to be a gun toward the police and falling to the ground. He then stated he witnessed the police firing rifles seconds later. When the police approached the body, he heard an officer state "kick the gun away." He observed officers kick an item away from Turner's body and was later able to identify as a black gun that was pointed at police. He observed the shooting from the second floor window of his residence. He did not see the individual shoot at police, but heard shots that sounded like it came from what he believed to be a semi- automatic handgun. The second rounds of shots sounded like they were a different speed and caliber of sound. The two sets of gunshots were described by Nevels as different and distinguishable to him by their sound. It should be noted, this description of gunfire is corroborated by sound captured by Officer Ethan Skinner's dash cam recordings.

Officer Ethan Skinner's patrol vehicle was equipped with dash cam recordings and was recovered in this investigation. Skinner was in the area assisting in the search for the individual with the AK-47. The recovered dash cam recording captures the sound of multiple gunshots as Skinner is in route to the scene. Specifically, three gunshots are heard, immediately followed by multiple gunshots. The first three shots are more distant and distinct from the following gunfire believed to be fired by police rifles.

Medical Examiner's Report

Dr. Ross Miller with the Jackson County Medical Examiner's office performed an autopsy of Mr. Eugene Turner on September 1, 2014. Those findings are found in a written report and conclude Mr. Turner's cause of death was multiple gunshot wounds. Mr. Turner sustained nine gunshot wounds to his body, causing wounds to his heart, chest, back, hip, leg, stomach and right hand.

Lab Analysis

The black 9mm Luger recovered from the scene was sent to the Kansas City Crime Lab for DNA testing. Blood was recovered from the handle of the firearm. After testing, Eugene Turner was determined to be the source of the blood recovered from the black 9mm Luger firearm. Seven casings were recovered from the scene. Findings by the Kansas City Crime Lab determined the casing came from the 9mm Luger firearm. Other ballistics recovered from the scene were tested and determined to be fired from the officer's weapons.

Defendant's Background

Mr. Eugene Turner had prior convictions involving resisting arrest and unlawful use of weapons. The relevant portions of his criminal history as it pertains to this review are as follows: In case number 0716-CR02845 he plead guilty to Unlawful Use of a Weapon; In case number 0616-CR02490 he plead guilty to Resisting Arrest; and in case number 16CR04002657 he plead guilty to Unlawful Use of a Weapon. Mr. Turner also had a history of assaultive behavior toward his girlfriend of eleven years. In a statement provided to officers, Turner's girlfriend stated recently he had become increasingly violent toward her and her children. [Under the laws of the State of Missouri, a victim's reputation for violence, turbulence or aggression may be admissible when a defendant asserts that his use of force was justified as a defense of self or others.]

Legal Analysis

Under Missouri law, there are two statutes that govern the use of force applicable to the facts of this case. 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 by such other person. Further, Section 563.046, RSMo governs the use of force by police officers when effectuating an arrest. This provision specifically authorizes a law enforcement officer in the use of such physical force as he reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody [as limited by *Tennessee v. Garner*, 471 U.S.1 (1985) limiting deadly force to prevent escape unless probable cause exists that the subject poses a significant threat of death or serious physical injury to the officer or others].

Conclusion

Officers [REDACTED] and [REDACTED] use of deadly force on the early morning hours of August 31, 2014 was deemed justifiable under the facts of this case and the law that governs that conduct. Tragically, the officers were placed in a scenario necessitating the actions they took to return fire, killing Mr. Turner. While responding to a 911 call for service stating a man in the area was in possession of an AK-47, [REDACTED] and [REDACTED] came into contact with Eugene Turner. A foot pursuit ensued and [REDACTED] identified himself as police, instructing Mr. Turner to stop. Those police commands were ignored and Mr. Turner began firing a 9mm Luger at the officers in a residential neighborhood. [REDACTED] and [REDACTED] were immediately thrust into a life threatening scenario by the actions of Mr. Turner, therefore, they returned fire until Mr. Turner stopped firing his weapon.

The actions of the officers are supported by statements provided by Irvin Nevels, who witnessed much of the incident as it occurred in front of his residence. Mr. Nevels viewed the incident from the second floor of his home after awaking to sounds of gunfire. He reports first hearing gunshots that sounded as if they came from a smaller gun, and then hearing gunshots that sound like they came from a different weapon. The shots were reported as sounding different and distinct from each other. He witnessed officers kick a small black handgun away from Eugene Turner.

The physical evidence tested by the Kansas City Crime Lab corroborates statements provided by the officers. The testing confirmed that the gun recovered near the body of Eugene Turner was a black 9mm Ruger that fired rounds in the direction of police. The substance tested on the recovered 9mm Ruger was determined to be the blood of Eugene Turner. The casings recovered from the scene were fired from the 9mm Ruger. The remaining casings were fired by the officer's service rifles.

Further corroboration of the accounting provided by [REDACTED] and [REDACTED] is heard on the dash cam video of Officer Skinner's patrol vehicle. Skinner was in the area assisting in the search for the individual armed with the AK-47. His dash cam video captures multiple gunshots that are consistent with testimony that the first gunshots are from a small caliber weapon. Immediately after the smaller caliber shots are heard, multiple gunshots are heard that are consistent with testimony that subsequent gunfire is from a high caliber weapon. Skinner's location is seconds away from where the shooting took place. This video corroborates statements given by [REDACTED], [REDACTED] and Irvin Nevels.

Based on the physical evidence, witness statements and dash cam video, Officer David [REDACTED] and [REDACTED] were justified in using deadly force to defend themselves against the use of

deadly force initiated by Eugene Turner. Though their use of force is justified under Missouri law and the facts of this case, the death of Eugene Turner is a tragedy for his family and our community.

Sincerely,

Jean Peters Baker

Jean Peters Baker
Prosecutor for Jackson County

cc:



Virginia Murray, Legal Counsel for Kansas City, Missouri Police Department