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SALT LAKE COUNTY
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FOR IMMEDIATE RELEASE: December 18, 2013

Contact: Sim Gill: (801) 230-1209

Salt Lake City, UT – After conducting a routine Officer Involved Critical Incident (OICI) review, the Salt Lake County District Attorney's Office has determined that the Nov. 29 use of deadly force by a Salt Lake City Police Officer was legally justified.

See the attached letter to Salt Lake City Police Chief Burbank for additional details.

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Chief Chris Burbank
Salt Lake City Police Department
475 South 300 East
Salt Lake City, UT 84111

Via Hand Delivery

December 16, 2013

RE: Officer Involved Shooting of Travis Michael Keim
Incident Location: 164 South, 900 West #1, Salt Lake City, UT
Incident Date: November 29, 2013
SLCPD Case No.: 13-189097
Our Case No.: 2013-3157

Dear Chief Burbank:

The Salt Lake County District Attorney's Office ("D.A.'s Office") operates under Utah State law and pursuant to an agreement between the D.A.'s Office and participating law enforcement agencies to perform joint investigations and independent reviews of officer involved critical incidents ("OICI") including police officers' use of deadly force while in the scope of official duties. Pursuant to the agreement between the D.A.'s Office and participating law enforcement agencies, the D.A.'s Office has reviewed the above referenced matter to determine whether, and if so why, the above referenced OICI was "justified" under Utah law.

On November 29, 2013, Salt Lake City Police Officer Bryan Lutz shot Travis Michael Keim while trying to remove Keim from an apartment building at 164 South 900 West in Salt Lake City, Utah. As outlined more fully below, D.A.'s Office has determined that Officer Lutz's use of force was justified under Utah law.

UTAH LAW

The D.A.'s Office relied in part upon the following statutory provisions for the legal analysis:

76-2-401. Justification as defense -- When allowed.

(1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:

(a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-406 of this part;

(b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;

...

76-2-404. Peace officer's use of deadly force.

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(3) or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

FACTS

The following facts were among those presented to the D. A.'s Office at a briefing held at the Office on December 12, 2013. The following discussion and analysis assumes and depends on the veracity of the facts as set forth below. Should additional or different facts subsequently come to light, the opinions and conclusions set forth herein may be different.

Late in the evening on November 29, 2013, Brittany Biederman called 911 to report that Travis Michael Keim was off his medication, suicidal and out of control in his apartment at 164 South, 900 West in Salt Lake City, Utah. Ms. Biederman reported that Keim had knives in his apartment and had turned the stove's natural gas on in an attempt to blow up the apartment building. Public safety dispatchers sent the Salt Lake City Fire Department to the apartment on a natural gas leak and the Salt Lake City Police Department on a suicidal person call.

Salt Lake City Police Officer Ryan Sanders heard the call dispatched over the radio and recognized Keim's name and address as a person with whom he had had an encounter several weeks ago. He responded to assist.

Salt Lake City Police Officers Bryan Lutz and Alma Sweeny also arrived at the scene. Shortly thereafter, Salt Lake City Fire Department arrived. The police officers and fire personnel could smell natural gas outside the apartment building.

Officer Sanders made contact with Keim who was standing at an open upstairs window. Officer Sanders instructed Keim to come down out of the apartment building and speak with him. Keim did not comply. Officer Sweeny expressed his concern to Officer Lutz about the natural gas smell and said that they needed to secure the uncooperative Keim. Officers Lutz and Sweeny discussed the hazard the natural gas presented to Keim, themselves and others in the apartment building. Officers Sweeny and Lutz decided to enter the apartment building and bring Keim out.

Officers Sweeny and Lutz went up the staircase to apartment #1. Officer Sweeny forced the door open and Officer Lutz entered the apartment with his firearm at the low ready. Officer Sweeny followed Officer Lutz into the apartment. Both officers subsequently recounted that the apartment smelled full of natural gas as though there were a "cloud" of gas inside.

Both the officers saw Keim standing at the window in the apartment's living room. Officer Lutz identified himself as "Police" and ordered Keim to come out of the apartment. Instead, Keim turned and went into a bedroom at the back of the apartment. The officers followed.

When the officers entered the bedroom, they saw Keim standing to the side of a bed with something in his hand. Officer Sweeny yelled to Officer Lutz "he's got a knife." In a subsequent interview, Officer Sweeny explained that he saw what looked like a knife handle in Keim's hand held in a way that could have concealed a blade behind Keim's forearm. Officer Lutz said that he also saw a black and gray knife handle in Keim's hand.

Officer Lutz ordered Keim to "drop the knife." Keim did not. Instead, Keim lunged towards Lutz using the bedpost in front of Keim as leverage to propel himself. When he pulled back on the bedpost, the movement of clothes and other debris under the bedpost and on the floor pulled Officer Lutz's legs out from under him. Officer Lutz fell backwards and down onto the floor. Keim was coming directly at and over Officer Lutz who was down on the ground.

In a subsequent interview, Officer Lutz said he felt afraid for his life and believed that Keim was coming down onto him to stab him with a knife. Officer Lutz said he believed it was "the end." Officer Lutz quickly pointed the front sight of his firearm at Keim and fired one round. Keim immediately fell and dropped the object in his hand.

Officers Lutz and Sweeny, still aware that the apartment seemed to be full of natural gas, quickly grabbed Keim and dragged him out of the apartment. The officers quickly searched Keim for weapons and had him treated by medical personnel on scene.

Investigators from the Salt Lake City Police Department and District Attorney's Office inspected Officer Lutz's duty weapon and documented that the weapon was down one round. One spent shell casing was recovered from the scene.

Investigators found a flashlight near where Keim fell after being shot. They also found several knives in the bedroom, one of which had a black and gray handle. Some of the knives were found on and round the bed where Keim had been standing. Because the bedroom was extremely unkempt, there were a lot of clothes and items and other debris when Keim fell.

DISCUSSION

1. *Police Officer's Use of Deadly Force*

As reflected in Utah Code Annotated 76-2-404, the justification for the use of deadly force by a peace officer "when effecting an arrest" requires that the officer have "probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or others if apprehension is delayed."

Case law is consistent with and adds to the factors to analyze. Among the factors to consider include "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Cordova v. Aragon*, 569 F.3d 1183, 1188 (10th Cir. 2009), quoting *Weigel v. Broad*, 544 F.3d 1143, 1151-52 (10th Cir. 2008)(citation omitted).

Our standard of analysis is also governed by a principle articulated in the *Cordova* opinion: "We ... ask 'whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." *Cordova*, at 1188 (citations omitted). Furthermore, "[r]easonableness 'must be judged from the perspective of a reasonable officer on the scene,' who is '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.'" *Id.*

In this case, the threat of death or serious bodily injury to the officers, Keim and other in the apartment building necessitated quick action by the officers to secure the scene and remove Keim from the building. Officers lawfully ordered Keim to leave the building due to among other things the report and smell of natural gas coming from the apartment building. When Keim didn't comply, officers lawfully entered Keim's apartment given the need to quickly address the emergent situation and Keim's unlawful disregard of the officers' commands to leave the building.

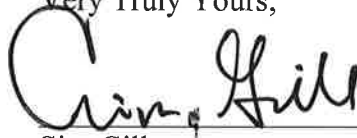
Once lawfully inside Keim's apartment, the officers had several public safety tasks to attend to, including assessing and addressing the natural gas hazard as well as Keim's threat to his own safety and the safety of others. Officers Lutz and Sweeny lawfully ordered Keim to come with them, and lawfully pursued Keim when he disobeyed and fled into the back bedroom.

Officers Lutz and Sweeny were in a difficult position due to the close quarters in the bedroom and Keim's apparent mental health condition. Also, the report of weapons in the apartment and what appeared to be a knife handle in Keim's hand caused the officers to take appropriate caution. When Keim lunged at Officer Lutz and pulled Lutz's footing out from under him, Officer Lutz had a reasonable belief that his use of deadly force against Keim was necessary to prevent Officer Lutz's death or serious bodily injury.

OICI CONCLUSIONS

Keim presented a public safety risk to officers, himself and others in the area. He unlawfully disobeyed orders from police officers who were trying to address the public safety threat. Officer Lutz was justified in his use of deadly force against Keim because Officer Lutz reasonably believed that the use of deadly force was necessary to prevent death or serious bodily injury to himself.

Very Truly Yours;

A handwritten signature in black ink, appearing to read "Sim Gill", written over a horizontal line.

Sim Gill,
Salt Lake County District Attorney

SG/JWH/mh