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Chief Douglas Diamond
West Jordan Police Department
8040 South Redwood Rd.
West Jordan, UT 84088

August 29, 2014

RE: *West Jordan Police Officer Ian Adams' Use of Deadly Force*
Incident Location: 7037 South Plaza Center Drive, Utah
Incident Date: July 10, 2014
WJPD Case No.: 2014-H-009361
Our Case No.: 2014-1605

Dear Chief Diamond:

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 their 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, this OICI was "justified" under Utah State law. As outlined more fully below, the D.A.'s Office determined Officer Adams' use of deadly force was "justified."

On July 10, 2014, West Jordan Police Department (WJPD) Officer Ian Adams encountered Timothy James Peterson in the Office Max parking lot. As outlined in more detail below, Peterson confronted Officer Adams with what appeared to be a weapon. Officer Adams fired at Peterson, striking him twice. Peterson was transported to the hospital for treatment; he survived the shooting.

UTAH STATE LAW

As part of the review and “justification” determination, 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

1. *Peterson Violates a Protective Order; Threats to Police*

On February 20, 2014, Stacie Peterson, Timothy James Peterson's ex-wife, obtained a protective order against him. The protective order made it unlawful for Peterson to contact Stacie directly or indirectly.

On July 6, 2014, Stacie received telephone and text messages from Peterson. He said that he was going to stop by her house and give her a hug. Shortly after midnight on July 7, 2014, Stacie heard her door bell ringing. She looked out her front window and saw Peterson standing at her front door. She called WJPD. Peterson left before police arrived, but WJPD took a report. The DA's Office later reviewed and filed criminal charges against Peterson for the protective order violation and a warrant for his arrest issued.

On July 7, 2014, an anonymous caller called WJPD and said that she saw Peterson's Facebook profile on which he posted that he was upset with Stacie for calling the police. On his Facebook page, Peterson made several threats to shoot police officers if they come after him. The anonymous caller said that Peterson posted that he was then in the Jordan Landing area and that he had a pistol. The caller sent WJPD four pages of Peterson's Facebook statements from his profile. Among Peterson's Facebook postings were his threats to "shoot the cops if they come¹."

WJPD filled out a report and attached Facebook information to the protective order violation report from July 6th. WJPD also prepared an officer safety bulletin with Peterson's photo and physical description, the criminal charges and warrants against him, and the information about Peterson threatening to shoot police officers and possible suicide ideation.

At the start of their graveyard shifts on July 8, 2014, WJPD Officer Ian Adams reviewed the officer safety bulletin about Peterson. During the briefing at the beginning of the shift, officers discussed Peterson's threats to shoot and kill officers and/or attempt a "suicide by cop." Officers also reviewed the outstanding arrest warrants for Peterson.

2. *Dustin Tippie's Statement*

Dustin Tippie was interviewed by the OICI investigation team and recounted the following information. Tippie said he was friends with Peterson and with him on July 10, 2014. Tippie said they went to the West Jordan Walmart in Jordan Landing. Tippie said Peterson was carrying a large knife in his pants. Tippie said that Peterson took the knife out prior to going into Wal-Mart, hid it, and then put back into pants after coming out of store.

¹ Peterson also wrote on his Facebook page: "don't matter when I get shot by the cops it dobt [sic] matter..." "...her heart will change. i'll be dead and gone before then but it will..." "I'm not threatening any certain person this goes for anyone I find out something fucked up I'll kill you and your whole fucking family I aint goin home to mine so neither will you. This aint no cry for help I'm just not going back to jail..."

Tippie said that Peterson was carrying a metal object that Tippie said Peterson had made previously. Tippie said that Peterson had a piece of flat metal that he had bent one end over at a ninety degree angle to the length of the metal (see *Fig. 1*). As Peterson fashioned it, the flat metal bar had a “handle” and longer segment perpendicular to the handle, and resembled the shape of a handgun. According to Tippie, Peterson attached a red laser to the “barrel” segment of the metal bar (see *Fig. 2*). Walmart surveillance video of Peterson prior to the OICI appears to show this metal object partially sticking out of Peterson’s pants pocket.

Tippie told investigators that Peterson had made several statements to him over the past few weeks that he was going to do a “suicide by cop.” Peterson told Tippie that if he was approached by police, Peterson would pretend to pull out a gun so they would have to shoot him. Tippie told investigators that Peterson had told him about Facebook comments about shooting cops and suicide.

3. *Officer Ian Adams’ Statement*

WJPD Officer Ian Adams was interviewed by OICI investigation team members. Officer Adams said he was on duty on July 10, 2014. Officer Adams said that prior to his shift, he had reviewed the officer safety bulletin that described Peterson’s threats to shoot and kill officers and/or commit a “suicide by cop.” Officer Adams also reviewed the outstanding arrest warrants for Peterson.

Officer Adams said that on July 10, 2014, he was patrolling the parking lot and surrounding areas of the Office Max store in Jordan Landing². Officer Adams said that he saw two males walking in the area. Officer Adams said that he thought one of the males looked like Peterson. Officer Adams said he drove his marked police vehicle over to the males and asked one of the males (who turned out in fact to be Peterson) what his name was. Officer Adams said Peterson claimed his name was “Mike.” Officer Adams said that Peterson was making furtive movements with his right hand that concerned Officer Adams and raised his suspicion.

Officer Adams said that he got out of his police car and gave commands to Peterson. Officer Adams said Peterson started to run and Officer Adams ordered Peterson to stop. Officer Adams chased Peterson. Officer Adams said that Peterson dropped a grocery bag he was carrying and then threw something away to his left that appeared to Officer Adams to be a weapon.

Officer Adams said that Peterson slowed, stopped, turned towards him and raised his hand towards Officer Adams. Officer Adams said that when Peterson turned, he made eye contact with Officer Adams and Peterson began to draw what Officer Adams described as a handgun. Officer Adams said he screamed “gun!” Officer Adams said that as Peterson drew his weapon he saw it flash silver, red then silver and red again. Officer Adams said at this point he knew his life was in danger and Peterson was going to either kill him or try to kill him. Officer Adams said when he saw Peterson raise his hand with the metal object in it, he

² Officer Adams said he routinely patrols the parking lot at night looking for suspicious activity including drug activity.

pointed his firearm at Peterson and fired at Peterson. Adams stated he fired his weapon to prevent Peterson from killing him or trying to kill him. Officer Adams said he fired his weapon until Peterson went to the ground and he believed that Peterson was dead.

Officer Adams called for help on his police radio and kept Peterson at gunpoint until other officers arrived to render medical aid to Peterson and take Peterson and Tippie into custody. Officer Adams said that after the shooting, Peterson said to Officer Adams that his name was Tim Peterson and that he was sorry.

4. *Peterson's Statements*

Peterson was interviewed by the OICI investigation team. Peterson said that on July 10, 2014, he encountered a police officer near the area of the Office Max in Jordan Landing. Peterson said that the officer asked him if his name was "Tim." Peterson said he told the officer: "No, it's none of your business." Peterson said the officer said "you look like Tim," and the officer got out of his vehicle. Peterson said he heard the officer tell him to stop. Peterson said he heard the officer yell "he's got a gun!" Peterson said he heard gunshots.

Peterson said he didn't have a gun on July 10, 2014. Peterson said he did have a piece of metal to which he had attached a laser, but he denied folding the metal over to form a handle. Peterson claimed that the metal bar was straight, and speculated that it bent when he fell on it after he was shot³.

5. *Evidence from the Scene*

Among the items of physical evidence recovered from the OICI scene was a large knife and red sheath which Peterson apparently threw away or dropped during the foot pursuit. WJPD Officer Gray also recovered a smaller knife, a pair of scissors and a folded length of metal from Peterson's front pants pocket. The folded metal had duct tape on the longer portion (see *Fig. 1*) where Peterson had ducted taped a black laser to the metal bar.

³ Whether the metal bar in question was straight or bent when Officer Adams fired has no bearing on our review and conclusions related to this OICI; however, it seems highly unlikely that the metal bar would bend as it did by Peterson falling on it in the moment.



Fig. 1 The metal bar recovered from the scene.



Fig. 2 The laser recovered from the scene.

DISCUSSION

1. *Use of Deadly Force: Utah State Law*

Individuals (including but not limited to peace officers) are justified in using deadly force to defend themselves or effect an arrest under circumstances outlined by law. Utah Code Ann. 76-2-402 states that a “person is justified in threatening or using force against another when and to the extent that the person reasonably believes that force or a threat of force is necessary to defend the person or a third person against another person's imminent use of unlawful force.” *Id.* This section also states: “A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force, or to prevent the commission of a forcible felony⁴.” *Id.*

In addition to the justifications set forth above regarding the use of deadly force, peace officers are justified in using deadly force when:

“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 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 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 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.” U.C.A. 76-2-404.

In essence, the analysis for the use of deadly force to prevent death or serious bodily injury (whether to individuals or peace officers) turns on similar elements: *individuals*: “A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force” U.C.A. 76-2-402(1)(a),(b); *peace officers*: “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,” or to effect an arrest under circumstances set forth in law. See, U.C.A. 76-2-404. The justification for the use of deadly force by a peace officer requires that the officer “reasonably believe” that the use of deadly force is “necessary to prevent” the threat of “death or serious bodily injury.”

⁴ Utah Code 76-2-402(4)(a): “For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.”

2. *Officer Adams Reasonably Believed Deadly Force was Necessary.*

Before he encountered Peterson, Officer Adams knew that Peterson had threatened to use deadly force against police officers, had threatened to commit a “suicide by cop,” and had made statements about Peterson wanting to die and possibly others too. Officer Adams also knew that Peterson had warrants for his arrest. When Officer Adams encountered Peterson, Peterson’s initial furtive movements, coupled with his flight and subsequent turning towards Officer Adams and raising his hand with a metal object reasonably made Officer Adams fear that Peterson was going to use deadly force against Officer Adams. Officer Adams’ belief that Peterson had a weapon and was going to use it was reasonable in light of all the circumstances.

Because Peterson presented an imminent threat of death or serious bodily injury to Officer Adams, his use of deadly force was “justified” under Utah law.

CONCLUSIONS

Peterson’s arrest warrants gave Officer Adams a legal basis to make contact with Peterson and take him into custody. Officer Adams was aware of Peterson’s threats and statements concerning killing police officers and killing himself. So when Peterson ran, turned and presented what Officer Adams believed to be a weapon, it was reasonable for Officer Adams to believe that his life was in jeopardy and that it was necessary for Officer Adams to use deadly force against Peterson. As such, his use of deadly force is “justified” under Utah law.

If you have any questions or concerns regarding the determination made in this case, or otherwise wish to discuss the matter, please feel free to contact our office to set up a personal meeting.

Very Truly Yours,

SIM GILL,
Salt Lake County District Attorney