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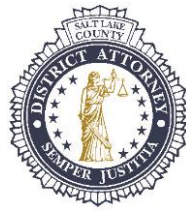
Salt Lake County District Attorney's Office Finds Salt Lake City Police Officer's Use of Deadly Force Legally Justified

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 March 28th Use of Deadly Force by a Salt Lake City Police Officer was legally justified.

The Salt Lake County District Attorney's Office is required by Utah State law, and operates pursuant to an agreement with participating law enforcement agencies and consistent with established protocols and applicable law, to perform joint investigations and independent reviews of officer involved critical incidents including police officers' use of deadly (including potentially deadly) force used in the scope of police officers' official duties.

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

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Chief Chris Burbank
Salt Lake City Police Dept.
475 South 300 East
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via hand delivery

May 12, 2014

RE: *Investigation of SLCPD Officer Moelealaolao Tafisi's Use of
Deadly Force*
Incident Date: March 28, 2014
Incident Location: 83 West, 300 South, Salt Lake City, UT
Our Case No.: 2014-780
SLCPD Case No.: 14-49811

Dear Chief Burbank:

As you know, the Office of the Salt Lake County District Attorney's Office, Sim Gill, Salt Lake County District Attorney, ("DA's Office") is required by Utah State law, and operates pursuant to an agreement with participating law enforcement agencies and consistent with established protocols and applicable law, to perform joint investigations and independent reviews of officer involved critical incidents ("OICI") including police officers' use of deadly (including potentially deadly) force used in the scope of police officers' official duties.

After working in conjunction with the Salt Lake City Police Dept. ("SLCPD") the DA's Office has completed its review of the investigation concerning Officer Moelealaolao Tafisi's use of deadly force against Christopher Leo Knight. The purpose of the review was to determine whether the force employed was lawful and justified under Utah law. As set forth more fully herein, we have concluded that Officer Tafisi's use of deadly force was justified under Utah law.

The opinions and conclusions set forth in this letter are based upon facts obtained from the investigation as set forth in investigation materials presented to the DA's Office. Should additional or different facts subsequently come to light, the opinions and conclusions contained herein may be materially different.

FACTS

In the very early hours of Monday, March 28, 2014, Francisco Gonzales was driving a 1995 Jeep Cherokee in the area of 300 South and West Temple in Salt Lake City, Utah. Salt Lake City Police Officer Tafisi observed that the Jeep had a nonfunctioning left headlight. Officer Tafisi pulled the Jeep over to investigate. Officer Tafisi made contact with the driver, Francisco Gonzales and obtained Gonzales' personal information. Officer Tafisi learned that Gonzales' driver's license was suspended and he had minor traffic warrants.

Officer Tafisi also questioned the passenger to determine, among other things, whether the passenger could drive the Jeep home. Officer Tafisi asked the passenger for his name and identification. The passenger said he did not have identification and his name was Matt and his last name was Hofer or Hoffman¹. Officer Tafisi returned to his patrol vehicle to try to validate the information.

About this same time, Salt Lake City Police Officer Dan Tueller arrived to back up Officer Tafisi. In a subsequent interview, Officer Tueller said that he saw Officer Tafisi using his computer in his patrol vehicle.

When Officer Tafisi's computer could not locate identification information for the passenger, Officer Tafisi returned to the Jeep and told the passenger that he could not verify the passenger's identity. Officer Tafisi told the passenger that Officer Tafisi believed the passenger was lying about his identity. The passenger acknowledged that he had given Officer Tafisi the wrong name; claimed that he used his middle name as his last name and gave Officer Tafisi a different last name to check. Officer Tafisi returned to his patrol vehicle a second time to check this newly provided last name.

When Officer Tafisi's second computer check revealed nothing (the passenger was subsequently identified as Christopher Leo Knight²) he told Officer Tueller that he had probable cause to arrest Knight and he wanted assistance in getting Knight out of the Jeep.

Officer Tafisi returned to the Jeep and told Knight to get out of the vehicle. Knight said: "No." Officer Tafisi again ordered Knight out of the car. Knight again said: "No." Officer Tafisi and Officer Tueller saw Knight put his hand into his sweatshirt pocket. Both Officer Tafisi and Officer Tueller said that this concerned them, and they ordered Knight to show his hands. Knight refused.

In order to arrest Knight, Officer Tafisi attempted to take him into custody. Officer Tafisi opened the passenger door and attempted to physically remove Knight from the Jeep. Knight resisted and an altercation ensued. When Officer Tafisi was able to pull Knight out of the

¹ In a subsequent interview, Gonzales said that the passenger told Officer Tafisi that the passenger's last name was Hofer or Hoffman, but couldn't remember for certain.

² Subsequent investigation revealed that Knight was wanted for a parole violation and drug charges in California. While not known to the officers at the scene, this information is included here to corroborate the officer's account that Knight was noncompliant and resisted arrest at the scene, and may have factored into Knight's apparent motive to try to kill the police officers.

Jeep, Knight fell to the ground and Officer Tafisi saw a firearm fall from Knight's clothing. Officer Tafisi yelled "Gun!" to alert Officer Tueller to the weapon.

In a subsequent interview, Officer Tafisi said he saw Knight pick up the gun and point it forward in Officer Tueller's direction. Officer Tafisi drew his weapon. Officer Tafisi saw and heard Knight shoot several times. At the same time, Officer Tafisi fired his weapon at Knight. Officer Tafisi said he fired at Knight because he believed he and Officer Tueller were in imminent danger of Knight killing them.

Officer Tafisi said that he fired at Knight until Knight was "no longer a threat." When Knight stopped firing, Officer Tafisi went to check on the driver, Gonzales. Officer Tafisi saw that SLCPD Officer Thornblad had arrived and taken Gonzales into custody. Officer then went to Officer Tueller's aid who was down and who appeared to have been hit. Officer Tafisi assisted Officer Tueller in applying a tourniquet to Officer Tueller's leg. Officer Tafisi noticed that he too had been hit, and applied a tourniquet to himself. Other police officers arrived and secured the scene.

The subsequent investigation of the incident revealed that Knight probably fired three rounds from his stolen Springfield XP 9mm firearm; Officer Tafisi fired five rounds from his Glock 17 9mm weapon.

Officers took Gonzales into custody and medical personnel arrived to treat the officers and Knight. Knight died from his injuries.

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 under circumstances outlined by law.

Anyone's use of deadly force is governed by, among other law, Utah Code Ann. 76-2-402 which 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 felony³." *Id.*

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

³ 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."

“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.”

2. *Officer Tafisi's Use of Deadly Force was Reasonable.*

Knight presented an imminent danger of death or serious bodily injury when he fired his weapon at Officers Tafisi and Tueller. Officer Tafisi saw Knight's weapon pointed at Officer Tueller and saw and heard Knight fire in Officer Tueller's direction. Officer Tafisi faced circumstances which required Officer Tafisi to use force intended or likely to cause Knight's death or serious bodily injury in order to prevent Officer Tafisi's death or serious bodily injury as well as Officer Tueller.

Moreover, in the process of Officer Tafisi's arrest of Knight, Officer Tafisi had probable cause to believe that Knight posed a threat of death or serious bodily injury to himself and Officer Tueller if Knight's apprehension was delayed. To allow Knight any more time than already elapsed to continue to use deadly force against Officers Tafisi and Tueller would have been to expose the officers to a greater threat of death or serious bodily injury than they already faced. Officer Tafisi needed to apprehend Knight instantly and eliminate the threat Knight presented.

CONCLUSION

Officer Tafisi reasonably believed that deadly force was necessary to defend himself because Knight unlawfully used deadly force against him and Officer Tueller. Also, Officer Tafisi had probable cause to believe that deadly force was necessary to prevent Knight's apprehension

from being delayed because of Knight's imminent use of deadly force or serious bodily injury. As such, we conclude that Officer Tafisi's use of deadly force was justified under Utah State 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

SG/JWH/jh