

Ralph Chamness
Chief Deputy
Civil Division



Jeffrey William Hall
Chief Deputy
Justice Division

Blake Nakamura
Chief Deputy
Justice Division

DISTRICT ATTORNEY
SALT LAKE COUNTY
SIM GILL

Chief Anita Schwemmer
West Valley Police Department
3575 S. Market St.
West Valley City, UT 84119

Via Hand Delivery

July 15, 2013

RE: Officer Involved Shooting of James Ramsey Kammeyer, Jr.
Incident Location: 3575 S. Market St., West Valley City, UT
Incident Date: April 29, 2013
WVPD Case No.: 13I016946
Our Case No.: 13-1298

Dear Chief Schwemmer:

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." As outlined more fully below, D.A.'s Office has determined that Sgt. Conger's use of force was justified under Utah State law.

UTAH STATE 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

As discussed in more detail below, on April 29, 2013, James Ramsey Kammeyer, Jr. entered the West Valley Police Department Station, went to the front desk and asked to speak with a detective. When the officer came to see how he could assist Mr. Kammeyer, Kammeyer drew a pistol and pointed it at the officer and a civilian employee working at the desk.

West Valley Police officers responded to the lobby. Kammeyer pointed his weapon in the direction of the responding officers, one of whom fired at Kammeyer, injuring him. Kammeyer was taken into custody and the scene was secured.

West Valley Police invoked the OICI protocol and an investigation team performed an investigation of the incident and presented the matter to the D.A.'s Office for review and analysis.

WITNESS INTERVIEWS

The OICI investigation team interviewed numerous witnesses. Summaries of relevant witness statements are set forth below.

Officer Scott Arnold

West Valley Police Officer Scott Arnold was working at the police station desk on the morning of the OICI. He was interviewed by the OICI investigation team.

Officer Arnold said that Kammeyer came into the lobby and asked to speak with a police detective about reporting a crime. Officer Arnold said that he (Arnold) was on the phone at the time and instructed Kammeyer to wait until he was finished with the phone call. Officer Arnold said that Kammeyer paced around the lobby, waiting.

Officer Arnold said that when he finished his phone call, Kammeyer again said he wanted to speak with a detective. Officer Arnold said that Kammeyer was acting "fidgety" and "nervous." Officer Arnold said that Kammeyer wanted to discuss something in "private." Officer Arnold said that he told Kammeyer that "this was as private as it is gets." Officer Arnold said that Kammeyer asked Arnold to come out from behind the counter area into the lobby and speak to him.

Officer Arnold said that he walked past Michelle Vaughn, a civilian employee also working at the desk, and walked to the door leading to the police department lobby. Officer Arnold said that he believed something was "abnormal" with Kammeyer and mentioned this to Vaughn as he went to speak with Kammeyer.

Officer Arnold said that he stepped into the lobby and asked Kammeyer to take his hands out of his pockets. Officer Arnold said that Kammeyer raised and pointed a firearm directly at Officer Arnold. Officer Arnold said that he believed Kammeyer was "going to shoot and kill" him. Officer Arnold said that he quickly ducked back behind the door and behind the desk area where Michelle Vaughn was taking cover.

Officer Arnold said he saw Kammeyer tracking him and Michelle with his gun. Officer Arnold drew his own weapon and ordered Kammeyer several times to drop Kammeyer's gun. Kammeyer continued to track both Arnold and Vaughn with his weapon.

Officer Arnold said he advised dispatch over the radio that there was a subject armed with a gun in the police department lobby and requested assistance. Shortly thereafter, Officer Arnold saw the door from the stairwell to the lobby open slightly and could see a pistol emerge from behind the door. Officer Arnold said he heard what he believed was four to six shots from the gun and saw Kammeyer go down. Officer Arnold said he saw numerous officers enter the lobby and take Kammeyer into custody.

Michelle Vaughn

West Valley Police civilian employee Michelle Vaughn was interviewed by the OICI investigation team. Ms. Vaughn said Kammeyer came into the police station lobby and asked to speak with a police detective. Ms. Vaughn said she referred Kammeyer to Officer Arnold who was on the phone working next to her at the counter.

Ms. Vaughn said she saw Kammeyer "pacing" and "wandering around" the lobby while waiting to talk to Officer Arnold. She said Officer Arnold went to go speak with Kammeyer and mentioned that there seemed to be "something off" with Kammeyer.

Ms. Vaughn said that when Officer Arnold opened the door to the lobby, she saw Kammeyer point his gun directly at Officer Arnold and then directly at her. She said she hid behind the counter separating her from Kammeyer. She said she feared for her life.

She said she heard five or six gunshots. She said police personnel assisted her from behind the counter and upstairs to interview rooms where she provided a statement.

Sgt. Jeff Conger

Sgt. Conger said that he was doing administrative work at the West Valley Police Station during the morning hours of April 29, 2013. He said he heard Officer Arnold on the radio say that there was a man with a gun in the lobby. Sgt. Conger said he ran down the stairwell that leads to the lobby.

Sgt. Conger said he opened the door to the lobby slightly and saw Kammeyer in the lobby, about ten feet away from him. Sgt. Conger said he saw Kammeyer pointing a gun towards the front desk area. Sgt. Conger said Kammeyer then pointed the weapon at Sgt. Conger. Sgt. Conger said that it appeared that Kammeyer was going to shoot Sgt. Conger; he said that Kammeyer was pointing the weapon at Sgt. Conger's head.

Sgt. Conger said he fired his gun at Kammeyer while trying to duck back into the stairwell. When Sgt. Conger looked again, he saw Kammeyer on the ground. Sgt. Conger said that police personnel took Kammeyer into custody.

Sgt. Chad Evans

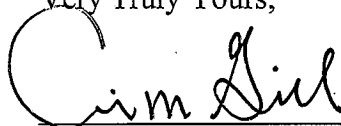
Sgt. Evans said that he was chatting with Sgt. Conger when they heard Officer Arnold on the radio state that there was a man with a gun in the lobby of the police department. Sgt. Evans said he followed Sgt. Conger down the stairwell to the door that leads to the lobby.

Sgt. Evans said that, initially, he could only see Kammeyer in the reflection of glass windows in the lobby area, but could tell that Kammeyer had his hands extended out from his body holding a handgun. Sgt. Evans said that he observed Sgt. Conger fire his weapon several times; he said immediately after the firing stopped, he and Sgt. Conger entered the lobby area and saw Kammeyer on the ground.

OICI CONCLUSIONS

James Ramsey Kammeyer, Jr. unlawfully presented deadly force (a firearm) against Officer Arnold, Michelle Vaughn, and Sergeants Conger and Evans. Sgt. Conger was justified in his use of deadly force against Kammeyer because Sgt. Conger reasonably believed that the use of deadly force was necessary to prevent death or serious bodily injury to himself, Sgt. Evans, Officer Arnold, Ms. Vaughn and/or another person, and because Sgt. Conger was effecting an arrest and Kammeyer committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury. Furthermore, Sgt. Conger had probable cause to believe Kammeyer posed a threat of death or serious bodily injury to the others if Kammeyer's apprehension was delayed. As such, Sgt. Conger's use of deadly force was justified under Utah law.

Very Truly Yours;

A handwritten signature in cursive script that reads "Sim Gill". The signature is written in black ink and is positioned above a horizontal line.

Sim Gill,
Salt Lake County District Attorney

SG/JWH/mh