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1600 West Towne Center Dr.
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December 22, 2014

RE: *South Jordan Police Sgt. Larimie Lancaster's Use of
Deadly Force*

Incident Location: 11368 Brook N Lance Ln, South Jordan, Utah
Incident Date: November 22, 2014
SJPD Case No.: 14F014278
Our Case No.: 2014-2640

Dear Chief Shepherd:

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, the use of deadly force in the above referenced OICI was "justified." As outlined more fully below, the D.A.'s Office determined Sgt. Lancaster's use of deadly force was "justified" under Utah State law.

On November 22, 2014, South Jordan Police Department ("SJPD") Sgt. Larimie Lancaster responded on trespass/mental health subject call. As outlined in more detail below, Sgt. Lancaster encountered Ty Elvin Worthington who pointed a firearm and shot at Sgt. Lancaster. Sgt. Lancaster fired at Worthington, killing him.

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.

Use of Deadly Force and “Justification as Defense” in Utah

Reviewing a use of deadly force that results in a person’s death falls within the statutory obligation imposed on the District Attorney to determine whether a decedent died by unlawful means.¹ The District Attorney also determines whether acts causing a person’s death warrant prosecution. A District Attorney determination considers whether a person who caused the death of another nevertheless has a legal defense to prosecution. If a person who caused the death of another has a legal defense to ostensible criminal charges related thereto, no charges can be brought against that person.

One legal defense to potential criminal charges available to police officers who used deadly force and caused the death of a person is the legal defense of “justification.” This legal defense is found in Utah State Code set forth above and operates in conjunction with other legal authority.

A person’s use of deadly force (including but not limited to use of deadly force by peace officers) is “justified” when the use of deadly force conformed to the statutes referenced above. Persons may lawfully defend themselves under circumstances outlined by law, and are afforded the legal defense of “justification” for the lawful use of deadly force in accordance with statutes. 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 felony².” *Id.*

In addition to the use of deadly force in defense of self or others, a peace officer’s use of deadly force is “justified” 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

¹ **U.C.A. 26-4-21. Authority of county attorney or district attorney to subpoena witnesses and compel testimony--Determination if decedent died by unlawful means.**

...

(2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

² **U.C.A. 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.”

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 by individuals or peace officers) turns on similar elements. Use of deadly force by *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). Use of deadly force by *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. A peace officer’s use of deadly force is “justified” when that the officer “reasonably believes” that the use of deadly force is “necessary to prevent” the threat of “death or serious bodily injury.”

This OICI investigation and our review that followed was conducted in accordance with an OICI investigation protocol previously established. The OICI investigation protocol strives to establish an investigation methodology and process that provides the District Attorney with the evidence needed to determine whether a police officer’s use of deadly force conformed to the above referenced statutes. If the use of deadly force conformed to the statutes, the use of deadly force is “justified,” and the legal defense of “justification” is available to the officer such that criminal charges cannot be filed against the officer and the criminal investigation into the actions of the officer is concluded.

If the use of deadly force does not conform to the statutes above, the use of deadly force may not be “justified,” and the legal defense of “justification” may not be available to the officer. In other words, if the use of deadly force failed to conform to the statutes, the law does not afford the officer the legal defense of “justification.” Further investigation may be needed to determine whether, and if so which criminal charges can and should be filed against the officer if any. Just because the legal defense of “justification” may not be available (because the use of deadly force did not conform to the statutes) does not therefore necessarily mean that criminal charges should be filed against the officer. For instance, the evidence available to the District Attorney may not support criminal charges, the case may not have a reasonable likelihood of success at trial, or other reasons may preclude a prosecution. Again, further investigation and consideration may be required to determine whether the use of deadly force warrants criminal charges.

As laid out in more detail below, because we conclude that Sgt. Lancaster’s use of deadly force conformed to the relevant statutes outlined above, we therefore conclude that the legal defense of “justification” applies to the facts set forth herein.

FACTS

The following facts were developed from the OICI protocol investigation. Should additional or different facts subsequently come to light, the opinions and conclusions contained in this letter may likewise be different.

On November 21, 2014, Ty Elvin Worthington's mother, Edith, called SJPD. She told dispatchers that Ty was "high on drugs," and she feared "he might have overdosed," Edith asked SJPD to "come pick him up." She said she had driven Ty to a light rail train station and "asked him not to come back," but Ty had returned to the home. Edith said Ty was in the bathroom with the door locked.

SJPD and South Jordan Fire arrived at the Worthington home and found Ty not alert; he appeared to have taken heroin and Xanax. Ty was transported to the Lone Peak medical facility.

Several hours later, on November 22, 2014, Edith called police again and said that Ty had come back to the house and was on drugs. Edith said that Ty had just left the house. Edith told police that Ty took a pistol from the home. Edith told the call taker that the night before, police told Edith to call them if Ty came back to the house. Edith asked police to come.

SJPD dispatched Sgt. Laramie Lancaster to respond to the Worthington home. Once there, he spoke with several family members who told Sgt. Lancaster about Ty. Family members told Sgt. Lancaster that Ty had recently left the home and taken a .22 caliber pistol with him.

Ty's brother showed Sgt. Lancaster Ty's bedroom. Sgt. Lancaster saw what appeared to be bottles of prescription medicine, drug paraphernalia and .22 caliber ammunition in the room. As Sgt. Lancaster left Ty's bedroom, Edith told Sgt. Lancaster that a neighbor had seen Ty walking towards the house from the north end of Brook-n-Lance Lane. Sgt. Lancaster left the Worthington home to speak with Ty.

Sgt. Lancaster's Statement

Sgt. Lancaster was interviewed by OICI protocol investigators about the incident.

Sgt. Lancaster said he walked northbound away from the Worthington residence to meet Ty. Sgt. Lancaster said Ty walked southwest toward a horse corral next to a home at 11368 Brook N Lance Ln. Sgt. Lancaster reported on his radio that he could see Ty in the distance. Sgt. Lancaster lost sight of Ty as Ty continued to walk towards the horse corral.

Shortly thereafter, Sgt. Lancaster and Ty met each other in the horse corral. Sgt. Lancaster said he asked Ty to come over and talk to him. Sgt. Lancaster told Ty to keep his hands out where he could see them. Sgt. Lancaster said that Ty said "No." Sgt. Lancaster said Ty didn't come to him, but instead ran away from him to the northwest corner of the corral where a trailer and two boats (on trailers) were parked. Sgt. Lancaster said Ty went behind one

of the boats. Sgt. Lancaster said he could see Ty's legs and could see Ty "fishing around" in a backpack.

Sgt. Lancaster said that because he believed Ty was armed and may have been using drugs, Sgt. Lancaster drew his duty weapon and kept it at low ready. Sgt. Lancaster said he moved around to try and see Ty.

Sgt. Lancaster said as he looked under one of the boats, he could see Ty walking, coming around from behind the boat. Sgt. Lancaster said he realized he was out in the field of the corral without any cover or place to retreat to. Sgt. Lancaster said he again told Ty to come talk to him.

Sgt. Lancaster said that as Ty came out from behind the boat, the first thing Sgt. Lancaster saw was a gun in Ty's hand. Ty was moving towards Sgt. Lancaster. Sgt. Lancaster said he saw Ty move the gun up and towards Sgt. Lancaster's direction. Sgt. Lancaster said he fired several rounds at Ty. Sgt. Lancaster said he stopped firing to assess Ty's situation and he heard the "distinct sound of a .22 going off" and believed Ty fired his weapon.

Sgt. Lancaster said he saw Ty recoil and move behind one of the boats and believed Ty was retreating. Sgt. Lancaster called dispatch and reported "shots fired," and asked for assistance. Sgt. Lancaster said he started to move towards the boat that Ty was behind. Sgt. Lancaster said he was looking under the boat for Ty's legs. Sgt. Lancaster said as he came around the boat, he could see Ty with the gun still in his hand. Sgt. Lancaster said he believed he needed to use deadly force to terminate the threat and he fired again at Ty. Sgt. Lancaster said he wasn't going to let Ty fire his weapon at Sgt. Lancaster again.

Sgt. Lancaster said he saw Ty's knees buckle and fell down on the ground. Sgt. Lancaster said Ty still had the revolver in his hand. Sgt. Lancaster said he approached Ty and kicked the gun away from Ty's hand. At about this time, SJPD Officer Houston arrived at the horse corral and assisted Sgt. Lancaster in securing Ty in handcuffs. Ty subsequently died from his injuries.

Physical Evidence

OICI protocol investigators recovered a Ruger .22 caliber single action revolver from the area next to Ty's body at the scene. Investigators determined that the weapon was the revolver the family told Sgt. Lancaster about. Investigators determined and documented that the revolver's cylinder contained two spent .22 cartridges and four live rounds. Investigators also recovered thirteen spent .40 caliber cartridges (consistent with rounds fired from Sgt. Lancaster's weapon) from the scene.

OICI protocol investigators and an armorer inspected the Ruger .22 revolver and determined it was a functioning firearm.

OICI protocol investigators inspected Sgt. Lancaster's weapon and found one cartridge still in the chamber and an empty magazine. Because Sgt. Lancaster said he often keeps his

fifteen-round magazines one round short of capacity, it is likely that Sgt. Lancaster was thirteen rounds down after the OICI.

Sgt. Lancaster was wearing a body camera. SJPD informed OICI protocol investigators that SJPD is in a testing and evaluation phase with body cameras, and therefore has not adopted policies and procedures regarding the operation of body cameras. Nor had SJPD implemented the use of body cameras at the time. As such, Sgt. Lancaster did not activate the camera prior to the incident and the camera did not record the shooting.

OICI protocol investigators and law enforcement personnel assisting with the investigation photographed and diagramed the scene and documented the location of physical evidence observed at and recovered from the scene.

DISCUSSION

Sgt. Lancaster Reasonably Believed Deadly Force was Necessary.

Sgt. Lancaster responded to a call that involved a trespassed person ostensibly using drugs. Sgt. Lancaster was informed that the person was armed with a pistol. When Sgt. Lancaster went to look for Ty, it was reasonable for Sgt. Lancaster to consider the probability that the person he would encounter would be armed and a danger to himself, a danger to others and to Sgt. Lancaster. When Ty produced a weapon and fired, Sgt. Lancaster had to address and react to circumstances Ty created of an imminent, unlawful threat of death and/or serious bodily injury to Sgt. Lancaster and others in the area.

Based upon the information provided to Sgt. Lancaster prior to the incident, he reasonably believed that Ty had a deadly weapon, and it reasonably appeared to Sgt. Lancaster that Ty was in fact using a gun as a deadly weapon. When Ty pointed the gun towards Sgt. Lancaster's direction, it was reasonable for Sgt. Lancaster to believe that Ty was using unlawful force against Sgt. Lancaster. And when Ty fired the weapon, it was reasonable for Sgt. Lancaster to believe that Ty was using unlawful force. It was also reasonable for Sgt. Lancaster to believe that deadly force was necessary to prevent Sgt. Lancaster's death or serious bodily injury as a result of Ty's imminent use of unlawful force against Sgt. Lancaster. As such, Sgt. Lancaster's use of deadly force was "justified" under Utah State law.

CONCLUSIONS

Sgt. Lancaster faced a situation in which he reasonably believed his life was in danger when Ty pointed a gun in his direction and when Ty fired it. Ty's imminent, unlawful threat of death or serious bodily injury to Sgt. Lancaster made Sgt. Lancaster's belief that deadly force was necessary to prevent his death or serious bodily injury reasonable. Accordingly, Sgt. Lancaster'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