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Unified Police Department
3365 South 900 West
Salt Lake City, Utah 84119

August 29, 2014

RE: *Unified Police Chief Tracy Wyant's Use of Deadly Force*
Incident Location: 5514 S Ridgecrest Dr. Taylorsville, Utah
Incident Date: August 1, 2014
UPD Case No.: CO14-117936
Our Case No.: 2014-1810

Dear Sheriff Winder:

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

On August 1, 2014, Unified Police Department (UPD) Chief Tracy Wyant arrived with other officers on a "man with a gun" and "shots fired" call and found Jared T. Roskelley with a gun. Chief Wyant fired his weapon at Roskelley, wounding 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.

FACTS

On August 1, 2014 Holly Seyboldt called 911 to report that her son, Jared T. Roskelley was on drugs, had a gun and had fired a shot outside towards the house. Ms. Seyboldt said that Roskelley was high on methamphetamines and heroin. She gave dispatchers Roskelley's physical description. Dispatchers sent officers to Seyboldt's home at 5514 S Ridgecrest Dr. Taylorsville, Utah. Dispatchers informed responding officers about the information they received from Ms. Seyboldt.

UPD Chief Tracy Wyant heard the radio traffic about the man with a gun and shots fired, and knew he was close to the address. He drove to the address and arrived at the house about the same time as UPD Officer Shane Chandler. Officer Chandler asked dispatchers to repeat Roskelley's physical description. After they did, he informed dispatchers that he could see Roskelley in front of the house.

Chief Wyant was wearing civilian clothing and his police badge. Officer Chandler was in his UPD uniform and was driving a marked police car. Chief Wyant got out of his car and announced himself as "Police!" As Chief Wyant and Officer Chandler walked toward Roskelley and the house, Roskelley yelled to Ms. Seyboldt (who was in the house): "You called the police?!?"

Chief Wyant and Officer Chandler saw Roskelley wearing a shoulder holster with a firearm in the holster. Both Chief Wyant and Officer Chandler commanded Roskelley to put his hands up several times. Roskelley replied: "Just shoot me." Then Roskelley reached for his gun, withdrew the gun from the holster and began to turn the gun toward the officers. Chief Wyant fired his weapon at Roskelley and Roskelley went down to the ground. Chief Wyant and Officer Chandler secured Roskelley's weapon. They, and other UPD officers rendered first aid until medical units arrived and transported Roskelley to the hospital. Roskelley was treated for his injuries and survived.

1. *Chief Wyant's Statement*

Chief Wyant provided a statement to OICI investigation team members. Chief Wyant said that when he arrived at the house, he saw a person who matched the suspect description dispatchers provided. Chief Wyant said the suspect was wearing a shoulder holster with what looked like a Glock pistol inside the holster. Chief Wyant said he shouted "Police" and ordered the suspect to keep his hands up and not to touch his gun. Chief Wyant said the suspect replied: "Fuck you," and said "Fucking shoot me."

Chief Wyant said that the suspect turned and started walking towards Officer Chandler who was also giving commands to the suspect. Chief Wyant said that the suspect reached for his gun and started to draw it from the holster. Chief Wyant said he yelled at the suspect to drop the gun, but the suspect continued to draw the firearm from the holster. Chief Wyant said the suspect brought the gun across his body towards the officers such that the suspect was about to point the weapon at the officers. Chief Wyant said he fired four shots at the suspect.

Chief Wyant said the suspect went down and dropped the gun. Chief Wyant said that after the suspect went down, it appeared to him the suspect was looking for his gun. Chief Wyant said he approached the suspect and kicked the gun away from the suspect.

2. *Officer Chandler's Statement*

OICI investigation team members interviewed UPD Officer Shane Chandler about the incident. Officer Chandler said he arrived at the house and saw Chief Wyant ahead of him giving verbal commands to the suspect. Officer Chandler said he saw the suspect was wearing a shoulder holster with a black handgun inside the holster.

Officer Chandler said he heard Chief Wyant ordering the suspect to keep his hands up and to keep his hands away from his gun. Officer Chandler said he also gave the same verbal commands to the suspect. Officer Chandler said the suspect replied: "just shoot me." Officer Chandler said he saw the suspect pull his gun from the holster and start to point it in the direction of Chief Wyant. Officer Chandler said he heard Chief Wyant's gunshots and saw the suspect go down.

3. *Jared T. Roskelley's Statements*

UPD Officer Nick Nelson was at the hospital while Roskelley was being treated at the hospital for his gunshot wounds, and overheard Roskelley say to medical staff: "I didn't want to hurt anyone. I just pointed the gun at them so they would shoot me." Roskelley made this same statement to Officer Nelson as Officer Nelson and a UPD detective were conferring in Roskelley's hospital room.

4. *Other Evidence*

A few neighbors who heard the incident were interviewed. At least one witness said she heard a gunshot several minutes before the police arrived. Many of the witnesses heard police officers yelling commands prior to hearing shots fired. None of the witnesses interviewed described anything inconsistent with the information obtained from Chief Wyant, Officer Chandler or the other witnesses.

OICI investigators recovered Roskelley's .40 caliber Glock semi-automatic handgun. The magazine was full with ten rounds and a .40 caliber round was chambered in the weapon. A subsequent search of Roskelley's bedroom discovered four more rounds of .40 caliber ammunition.

DISCUSSION

I. 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. 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 felony¹.” *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.”

¹ 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. *Chief Wyant Reasonably Believed Deadly Force was Necessary.*

Chief Wyant saw Roskelley's weapon holstered in Roskelley's shoulder holster as Chief Wyant and Officer Chandler arrived at the house. Several witnesses indicated that they heard the police identifying themselves. Chief Wyant and Officer Chandler both stated that Roskelley was noncompliant with their commands and instead of keeping his hands raised, drew his own weapon and began to point it towards the officers.

Chief Wyant reasonably believed that deadly force was necessary to prevent death or serious bodily injury to himself and/or Officer Chandler because it appeared that Roskelley would or could have used his gun against the officers. Roskelley presented an imminent threat of death or serious bodily injury, and so Chief Wyant's use of deadly force was "justified" under Utah law.

CONCLUSIONS

Chief Wyant was dispatched on a "man with a gun" and "shots fired" call. He arrived to find Jared T. Roskelley at the address with a holstered handgun. Rather than comply with Chief Wyant's lawful orders to keep his hands up and not touch his gun, Roskelley drew his handgun and was in the process of pointing it at Chief Wyant when Chief Wyant fired his weapon at Roskelley.

Chief Wyant reasonably believed that deadly force was necessary to defend himself and/or others because Roskelley unlawfully threatened him and others with death or serious bodily injury. As such, we conclude that Chief Wyant'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