

OFFICE OF THE WASHINGTON COUNTY ATTORNEY

ERIC CLARKE | WASHINGTON COUNTY ATTORNEY

TELEPHONE: 435-634-5723

33 NORTH 100 WEST | SUITE 200 | ST. GEORGE, UTAH 84770

WWW.WASHCO.UTAH.GOV/DEPARTMENTS/ATTORNEY



December 17, 2021

Chief Lynn Excell
Hurricane City Police Department
90 South 700 West
Hurricane, UT 84737

Re: October 6, 2021 Critical Incident Involving Officer [REDACTED]

Dear Chief Excell:

The Task Force has concluded its investigation into the use of deadly force by Hurricane City Police Officer [REDACTED] on October 6, 2021. I have carefully reviewed the investigation report as well as the officer interviews and the pertinent body camera footage. I have also discussed the incident with the Washington County Critical Incident Task Force (CITF) Incident Supervisor Sargent Terry Taylor and CITF Chair Chief Barry Golding (aka Undersheriff Golding as of last week).

The Washington County Attorney's Office has the legal responsibility to determine whether an officer's use of deadly force was lawful. The CITF assists our office in this responsibility. The Task Force is chaired by the County Attorney Investigations Chief and is comprised of experienced investigators from multiple law enforcement agencies who act under the direction of the County Attorney's Office to conduct an independent investigation.

Use of Deadly Force Standard

To determine whether the officer's use of deadly force was legally authorized, his actions must be examined in light of Utah law, specifically Utah Code Section 76-2-404(2)(c), which states that a peace officer is justified in using deadly force when "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."

Description of the Incident

On the afternoon of October 6, 2021, the Hurricane City Police Department (HPD) received a report of a driver brandishing a firearm during a road-rage incident. The driver was identified as [REDACTED] (age 55) who has a lengthy criminal history in other states and has spent several years in prison. Within five minutes, [REDACTED] of HPD located Mr. [REDACTED]'s vehicle in Hurricane and conducted a traffic stop. During the stop, Mr. [REDACTED] refused to exit his vehicle and then drove off, traveling east on State Route 9 / State Street at a high rate of speed.

Officer [REDACTED] initiated a vehicle pursuit and was soon joined in the pursuit by one other HPD officer. Mr. [REDACTED] drove at a speed exceeding 100 mph from Hurricane to Rockville on State Route 9. The pursuit lasted fifteen minutes and ended on State Route 9 / Main Street in Rockville.

During the pursuit, Mr. [REDACTED] fired a handgun through his open window at passing vehicles. His bullets struck fifteen vehicles and many bullets passed within inches (or less) of drivers and passengers, but none of the thirty-one people in the vehicles were injured except that some were scratched from broken glass striking them.

Two officers from the Springdale Police Department (SPD) positioned themselves to the side of State Route 9 away from any towns or people. One officer successfully spiked one of [REDACTED]'s tires, and the other attempted to shoot him using a department-issued AR-15 rifle. While all three shots hit [REDACTED]'s vehicle, none struck his person or impeded the vehicle.


With one tire spiked, [REDACTED] drove into Rockville and stopped his truck in the highway. He exited his vehicle, and, as he fled on foot, exchanged gunfire with Officer [REDACTED] and the other HPD officer that previously joined the pursuit. The officers used their department-issued AR-15 rifles and were approximately 55 yards from [REDACTED] when they shot at him. No one was struck with a bullet. [REDACTED] fled into a neighborhood and the officers lost sight of him.

Those in Rockville Town were asked to shelter in place as law enforcement officers from multiple agencies searched the area. Over two hours after he abandoned his vehicle [REDACTED] was located in the back yard of a residence. While he was still alive, he had clearly suffered a severe injury from a self-inflicted gunshot to his right temple. Officer [REDACTED] exhibited great professionalism by identifying [REDACTED] as the suspect and being the first person to administer first aid to [REDACTED]'s head wound. [REDACTED] was transported to the local hospital where he soon died from his injury. The death was a suicide.

Conclusion

The use of deadly force was clearly justified in this incident. It was reasonable for Officer [REDACTED] to conclude that individuals in the area, other peace officers, and himself were at risk of death or serious bodily injury when Mr. [REDACTED] exited his vehicle holding and firing a firearm at [REDACTED] and the other officer. Furthermore, it was reasonable for [REDACTED] to assume that [REDACTED] would continue to shoot randomly at anyone he encountered. It was reasonable for him to fire his firearm in order to protect himself and others. And it was reasonable that he did not give a verbal warning because he believed Mr. [REDACTED] was in the act of shooting at himself and the other officer.

Sincerely,



Eric Clarke
Washington County Attorney

cc: Officer [REDACTED]