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April 8, 2021

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

Re: March 16, 2021, Officer-Involved Shooting

Dear Chief Excell:

The Washington County Attorney's Office has the legal responsibility to determine whether an officer's use of deadly force was lawful. The Washington County Critical Incident Task Force 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.

The Task Force has concluded its investigation into the use of deadly force by Hurricane City Police Officer [REDACTED] on March 16, 2021. I have carefully reviewed the results of the 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(1)(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." This code section also requires verbal warnings before the use of deadly force when feasible.

Description of the Incident

On the afternoon of March 16, 2021, Officer [REDACTED] participated, as a member of the Washington County Metro SWAT, in an incident involving [REDACTED]. Washington City Police initially responded to reports that someone was driving erratically and waving a firearm at people. They identified Mr. [REDACTED] as the suspect. Mr. [REDACTED] fled from the police and barricaded himself in his second-story apartment. It became clear that Mr. [REDACTED] had firearms in the apartment and made threats to both take his life and harm peace officers. The apartment complex was evacuated.

SWAT arrived on the scene and Officer Torres was assigned to take up a position that would allow him to look into the apartment windows from a safe distance. He is trained and was equipped with a long-range rifle.

For several hours SWAT tried to coax Mr. [REDACTED] to come into police custody. This included the use of a negotiation team having multiple conversations with Mr. [REDACTED] and the deployment of tear gas. The second time that tear gas was deployed multiple SWAT members were located on ground level in front of the apartment. Some were inside an armored vehicle and others were not. Immediately after the tear gas was used, multiple officers saw Mr. [REDACTED] come to a window and point a firearm in the direction of the officers on ground level. Officer [REDACTED] fired one shot from his rifle and struck Mr. [REDACTED] in the left side of the abdomen area. This knocked Mr. [REDACTED] away from the window, and he later voluntarily came into police custody. He was treated for the bullet wound at a local hospital and then booked into jail.

Conclusion

The use of deadly force was justified in this incident. It was reasonable for Officer [REDACTED] to conclude that other peace officers were at risk or death or serious bodily injury when he saw a firearm being pointed in their direction by an individual that had threatened to harm others throughout the events of the day. It was reasonable for him to fire his firearm in order to protect others. And it was reasonable that he did not give a verbal warning because it would not have been heard due to the distance between him and Mr. [REDACTED].

Sincerely,



Eric Clarke
Washington County Attorney

cc: Officer [REDACTED]