



JEAN PETERS BAKER

Jackson County Prosecuting Attorney

April 14, 2015

Chief Darryl Forte
Kansas City Police Department
1125 Locust
Kansas City, MO 64106

**Re: Officer-involved shooting on September 27, 2014 at 39th Street and Cleveland,
Kansas City, Missouri, CRN 14-069733**

Chief Forte:

On April 6, 2015, the Jackson County Prosecutor's Office Use of Force committee reviewed the investigation of the death of Eugene Williams, Jr. in Kansas City occurring on September 27, 2014. This incident involved [REDACTED] of the Kansas City, Missouri Police Department, under KCPD case number 14-69733. Based on the investigation and our analysis, our committee concluded the evidence does not support the filing of criminal charges against [REDACTED]

Summary of Facts

On September 27, 2014, at approximately 5:40 p.m., officers were dispatched to the intersection of 39th Street and Cleveland in response to numerous 911 calls. A total of eleven 911 calls were made to police about this incident. The calls described a black male, later determined to be Eugene Williams, to be undressed or removing his clothing, walking in and out of traffic and attempting to engage in physical altercations with members of the public, striking passing cars and appearing to be high on "wet" or Phencyclidine (PCP).

Sgt. Cowdrey arrived first on the scene in an unmarked vehicle and observed Mr. Williams arguing with two individuals in the intersection. While awaiting a primary officer's arrival, Sgt. Cowdrey was approached by an unknown male who stated Mr. Williams had been "messing with him." Shortly thereafter, [REDACTED] approached in a marked police vehicle and activated his siren and lights, which activated his in car camera system.

According to [REDACTED] at that time, he observed Mr. Williams to be completely undressed and sitting on the street in the middle of the intersection of 39th Street and Cleveland. When Mr. Williams saw [REDACTED] marked vehicle, Mr. Williams got up and immediately approached [REDACTED] vehicle on the driver's side. [REDACTED] observed Mr. Williams approach in a forceful manner with his arm outstretched. [REDACTED] repeatedly ordered Mr. Williams to get down on the ground. When Mr. Williams did not follow [REDACTED] commands, he deployed his taser. Once tased, Mr. Williams fell to the ground. [REDACTED] saw Mr. Williams attempting to get up which caused [REDACTED] to deploy a three taser cycles as Mr. Williams continued to stand up. [Note: a subsequent review of the "Use of

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Taser Report" shows the taser was deployed a total of four separate, but continuous bursts of nine seconds, five seconds, five seconds and five seconds, respectively, which is more fully discussed in the "Conclusion" section below.]

██████████s in car camera captured portions of the incident. The video shows ██████████ arriving on the scene and Mr. Williams completely undressed and lying in the middle of the intersection. The video then shows Mr. Williams getting up and approaching ██████████ in an aggressive posture with his arm reaching forward. Once Mr. Williams' walked past the front of the patrol vehicle, he leaves the camera view. Though out of camera view, ██████████ can be heard saying "get on the ground" on two occasions.

According to Sgt. Cowdrey, he observed Mr. Williams advance toward ██████████. As Mr. Williams passed the front of ██████████ vehicle, Sgt. Cowdrey witnessed ██████████ tase him, causing Mr. Williams to fall to the ground. Sgt. Cowdrey's view was then obstructed due to standing on the passenger side of ██████████ vehicle. Sgt. Cowdrey then approached to place handcuffs on Mr. Williams. He observed Mr. Williams to be breathing at that time. When he rolled Mr. Williams over, he observed a fresh, but not bleeding, laceration on his neck.

EMS was immediately called to the scene, arriving approximately five minutes after the call. EMS determined that Mr. Williams did not have a pulse and immediately began performing life saving measures. Mr. Williams was transported to St. Luke's Hospital where he was pronounced dead.

Officers spoke to witnesses at the scene. In a recorded audio statement Helen Hawkins described dropping off a neighbor in the area when she saw a man shouting and trying to get in a passing car. As the car drove off, the man fell to the ground and started rolling around. The male got up and began running to passing cars screaming "oh momma." He then removed his clothes and continued to yell "momma." A few minutes later he got up and aggressively approached a man at the bus stop. Ms. Hawkins described his behavior as "crazy" and as if the man was "wanting to fight." She observed the undressed man run directly up to a police vehicle as it arrived and the police say something like "freeze, hit the ground." The undressed man did not follow police commands. Ms. Hawkins, then, witnessed the police tase him one time. She stated she believed everyone in the area, including the police, were in danger due to the behavior of this man. It was later determined, Ms. Hawkins was one of the 911 callers to report the behavior of Mr. Williams. During the 911 call, Ms. Hawkins stated the "naked guy is trying to fight someone."

A second witness, Leo Johnson also provided a recorded audio statement where he describes observing an undressed black male hit about four or five cars as they were driving by. Mr. Johnson also describes this man hitting another man at the bus stop. He then describes the police arriving and tasing the man. He further stated he would have tased him because it looked like he was about to charge the police.

Other officers at the scene recovered Mr. Williams discarded clothing from the street and located a bottle of what appeared to be PCP in his pants pocket. This substance was tested at the Kansas City Crime Lab and was determined to be PCP.

Medical Examiner's Report

An autopsy of Mr. Eugene Williams was performed by Dr. Marius Tarau from the Jackson County Medical Examiner Office. As part of the autopsy examination, a toxicology analysis was completed finding Mr. Williams under the influence of Phencyclidine (PCP), a veterinary tranquilizer, at

the time of his death. His examination further revealed that Mr. Williams had an enlarged heart, which predisposed him to sudden death, especially in stressful situations or after physical effort. In Dr. Tarau's opinion, the death of Mr. Eugene Williams was due to a combination of acute PCP intoxication, an enlarged heart, conducted energy device use, physical exertion and stress. Due to the multiple factors that may have contributed to the death, the manner of death was classified as undetermined.

Defendant's Background

At the time of his death, Mr. Williams had an active case for Violation of a Protection Order pending in the Circuit Court of Jackson County, Case Number 1416-CR00022. A review of prior criminal cases in Jackson County revealed that in 2009, under Case Number 0916-CR03174, he plead guilty to Domestic Assault in Second Degree; in 2008, under Case Number 0816-CR05942, he plead guilty to Domestic Assault Third Degree, Domestic Assault Second Degree and Unlawful Use of a Weapon; in 2001, under Case Number 16CR01002433, he plead guilty to Stealing and Violation of Protection Order. [Note: under the laws of the State of Missouri, a victim's reputation for violence, turbulence and aggression may be admissible when a defendant asserts that his use of force was justified as defense of self or others].

Legal Analysis

Under Missouri law, there are two statutes applicable to the facts of this case -- Section 563.031, RSMo. (governing the use of force in defense of persons) and Section 563.046, RSMo (governing the use of force by police officers when effectuating an arrest). In pertinent part they provide that a person may... use physical force upon another person when and to the extent he or she reasonably believes such force to be necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force by such other person. Section 563.031, RSMo.

Further, under Section 563.046, RSMo., a law enforcement officer need not retreat or desist from efforts to effect an arrest, or from efforts to prevent an escape from custody, of a person he reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. Generally, a law enforcement officer is justified in the use of such physical force as he reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

Conclusion

The evidence and multiple witness statements in this case show that [REDACTED]'s use of force against Mr. Williams was reasonable under the unique facts and circumstances of this case. The investigation revealed Mr. Williams was acting in an aggressive and violent manner prior to [REDACTED] arriving on the scene. The multiple 911 calls described a black male in the middle of the street, completely undressed or removing his clothing, acting in an unpredictable manner, engaging others in an aggressive manner and striking passing cars. The callers also stated that he appeared to be high on "wet." The medical examiner's report corroborated the 911 callers' observation. [REDACTED]'s statement that Mr. Williams approached him in an aggressive manner is supported by Sgt. Cowdrey, independent witnesses and the in car video. The video supports [REDACTED] telling Mr. Williams to get on the ground and Mr. Williams failing to comply with his commands and continuing to approach [REDACTED]. The investigation also revealed that the laceration on Mr. William's neck most likely occurred at an unknown event prior to police interaction. Although it was a fresh laceration, it was not actively bleeding. No witnesses stated that Mr. Williams appeared to get cut on the neck or was otherwise injured during this

incident. This injury supports statements that Mr. Williams acted in an aggressive manner toward other individuals prior to [REDACTED]'s deployment of his taser.

[REDACTED]'s use of the taser was reasonable under the circumstances. Taser records show [REDACTED] deployed four separate but continuous bursts of the taser due to Mr. Williams continuing to get up. He stopped deploying once Mr. Williams remained on the ground. Once the trigger of a taser is pulled it has an automatic five second burst. Further, under the guidelines of the Kansas City Police Department, when dealing with an uncooperative individual who is under the influence, it is within their policy to use a taser to subdue the individual. The use of a taser is believed to be a non-lethal or less-lethal means to gain control of an uncooperative individual. In his formal interview, [REDACTED] stated his experience with individuals under the influence of PCP show them to be agitated, violent, they often take their clothing off and often refuse to follow orders.

As evidenced by statements from Sgt. Cowdrey, Helen Hawkins, Leo Johnson, witnesses at the scene who did not provide formal statements, 911 calls and the in car camera from [REDACTED] vehicle, Mr. Williams behavior was violent, unpredictable and aggressive. [REDACTED] use of the taser to subdue Mr. Williams was reasonable under the specific facts of this case. However, the death of Mr. Williams is a tragic end for our community and his family.

[Note: I have made multiple, but unsuccessful attempts to contact Mr. Williams' family to discuss our findings. We will make additional attempts to contact them].

Sincerely,



Jean Peters Baker
Prosecutor for Jackson County

Cc: [REDACTED] Virginia Murray, Legal Counsel for Kansas City, Missouri Police Department