



IRON COUNTY ATTORNEY'S OFFICE

CHAD E. DOTSON

IRON COUNTY ATTORNEY

SHANE A. KLENK
SAM E. WOODALL
TRAJAN W. EVANS
CHASE D. TROUTNER

October 26, 2021

BY HAND DELIVERY

Chief Darin M. Adams
Cedar City Police Chief
10 N Main Street
Cedar City, UT 84720

RE: Investigation of Sgt. Timothy Bonzo's Use of Force
Case No. CI21-0003
Incident Date: September 30, 2021
Incident Location: 4254 West 375 North, Cedar City, Utah

Dear Chief Adams:

Pursuant to Utah Code Section 17-18a-401, I am charged and authorized to "conduct, on behalf of the state, all prosecutions for a public offense committed with [the] county." Additionally, pursuant to the Iron/Garfield/Beaver Critical Incident Task Force Protocol (hereinafter referred to as the "Protocol"), after completion of the Protocol investigation, I will "analyze the facts and the Incident as well as relevant law to determine if violations of criminal law exist." *Protocol Section (8)(a)(2)*

After independently reviewing the Iron/Garfield/Beaver Critical Incident Task Force (CITF) reports, the Iron County Attorney's Office has completed its review regarding Cedar City Police Sgt. Timothy Bonzo's use of deadly force against Brian Rush Peters (hereinafter referred to as "the suspect") on September 30, 2021, in Cedar City, Utah.

The opinions and conclusions set forth in this letter are based upon the following facts obtained from the investigation conducted by the CITF. Should additional or different materials or facts subsequently come to light, the opinions and conclusions contained herein may be materially different.

STATEMENT OF MATERIAL FACTS

On September 30th, 2021, Officers from the Patrol Division of the Cedar City Police Department responded to a call regarding shots fired at 4254 W 375 N in Cedar City. Officers from several different local agencies also responded to this incident.

The initial caller for this incident, later identified as Brian Rush Peters, stated that he had a firearm and had "attempted murder," and that he had tried to shoot his father, but that he missed. The suspect stated that his father took that gun away from him, but he had another gun now. The suspect also told the dispatcher that he has more weapons and that he is not "going down like a little bitch". He said he has been drinking and that he was pouring another drink as they spoke. He also stated that the dispatcher needed to "send SWAT." The suspect then told the dispatcher that there was going to be "a lot of gunfire" when the SWAT officers arrive on scene.

Police officers began to arrive on scene and take up positions around the home. The suspect's father approached these officers and began to assist by providing information to them. Officers later found that the suspect is a combat veteran of the U.S. Army and that he served two tours of duty in Iraq. As the officers were responding to his home, the suspect told the dispatcher that if the officers try to enter his home, he will shoot them. He stated that he "backs the blue" and he respects officers but that he will shoot the officers if they come in after him. He also said that he can hear some of the sirens in the background.

Sgt. Tim Bonzo was the first officer on scene, and he asked dispatch to page SWAT and have them respond to the scene. Sgt. Bonzo began to knock on the nearby neighbors' doors to have them evacuated. A message was sent out to other residents in the area to "shelter in place," and a message was sent out to place Iron Springs Elementary School in lockdown. Sgt. Bonzo then took up a position in front of the residence.

At this time, other officers began to arrive on scene. Officer Hill and Officer Coons responded to the residence. The suspect's home is part of a duplex with another residence attached to it on the north side. Officer Hill and Officer Tyler Coons responded to the backyard of the attached residence to the north. At this point the suspect exited into his back yard briefly. Officer Hill began to shout commands to him. The suspect did not reply, but instead went back into the home. The dispatcher also commented on this in the phone call as she could hear the officer giving commands in the background of the phone conversation. Officer Taylor from the Enoch City Police Department arrived on scene and took up a position behind the home to the west on Highway 56. The back of this home faces toward highway 56. Due to the traffic on this highway, Officer Taylor was positioned on the highway to help direct the traffic.

While the dispatcher was talking to the suspect, the dispatcher heard a loud pop in the background of the phone call with the suspect. She asked about this, and the suspect told her it was a gunshot. He stated that he had fired at a vehicle that was parked on the side of the road on Highway 56. The vehicle that the suspect fired at belonged to Officer Taylor. Officer Taylor reported this shot fired at him as well. He stated that he saw the suspect at the back sliding glass door and that he saw the suspect raise his arm towards him and he heard the pop of the shot being fired. He also stated that he heard a "whistle" as the round went near him. Sgt. Bonzo heard this gunshot and heard Officer Taylor call over the radio, "Hey, [the suspect] just shot at me from the back of the house."

At this point Sgt. Bonzo was still in the front of the suspect's residence. The first SWAT MRAP arrived on scene. As the MRAP was parking, Sgt. Bonzo reported over the radio that he saw some movement in a front window. A very short time later he stated that the front door to the

residence opened, and he saw the suspect in the doorway. Sgt. Bonzo began to shout commands at the suspect to "drop it," "come out show me your hands," and "do it now."

Sgt. Bonzo stated that when the suspect was in the doorway of the residence, he raised a handgun to a firing position and was pointing it towards him. Sgt. Bonzo then fired his patrol rifle at the suspect. Sgt. Bonzo later stated that he felt he had no other option to protect himself as well as the SWAT team members exiting the MRAP behind him.

The suspect was struck, went back into his home, and a very short time later came back outside without a firearm. The suspect then fell to the ground and the SWAT team members were able to safely approach him and take him into custody. They also began immediate first aid. Deputy Lauritzen of the Iron County Sheriff's Office was one of the first officers to reach the suspect. Deputy Lauritzen is a trained paramedic, and he was able to instantly begin rendering first aid to the suspect. SWAT Dr. Allen was also on scene from the Cedar City Hospital Emergency Department. Dr. Allen also began immediate first aid, as did the EMTs and Paramedics from the Gold Cross Ambulance Service.

The suspect was transported to the emergency department at the Cedar City Hospital and then transported via life-flight to the trauma center at the Dixie Regional Medical Center in St. George, Utah.

A search of the suspect's residence was conducted. A loaded .45 Smith & Wesson handgun was located with a round in the chamber. Bullet holes were located in a wall within the home office where the suspect's father was sitting. These holes are consistent with accounts given regarding the attempted homicide of the suspect's father, Kim Peters.

RELEVANTLAW

The relevant Utah Law is found in Utah Code Ann. § 76-2-404, which states in part:

"A peace officer, or any person acting by his command in his aid and assistance, 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."

Additionally, Utah Code § 76-2-402 states, in part:

"An individual is justified in threatening or using force against another individual when and to the extent that the individual reasonably believes that force or a threat of force is necessary to defend the individual or another individual against the imminent use of unlawful force . . .

In determining imminence or reasonableness, the trier of fact may consider:

- (a) the nature of the danger;
- (b) the immediacy of the danger;

- (c) the probability that the unlawful force would result in death or serious bodily injury;
- (d) the other individual's prior violent acts or violent propensities;
- (e) any patterns of abuse or violence in the parties' relationship; and
- (f) any other relevant factors.”

This reasonable belief standard is compatible with cases examined by the United States Supreme Court. The Court stated “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene. . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgment – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” Graham v. Connor, 490 U.S. 386, 396-397 (1989).

ANALYSIS

In this instance, Sgt. Bonzo responded to a call of shots fired where the information delivered was that an attempted homicide had taken place. Sgt. Bonzo responded to a situation with an armed and dangerous suspect. Upon arrival, Sgt. Bonzo made efforts to evacuate the neighborhood and make sure that the nearby school was on lockdown to prevent others from being placed in harm’s way.

These initial actions clearly show that Sgt. Bonzo was aware of the nature and immediacy of the danger posed by the suspect. While on scene, Sgt. Bonzo heard the suspect fire a gun and heard Officer Taylor call over the radio, “Hey, [the suspect] just shot at me from the back of the house.” Clearly, the danger was increasing and the suspect was showing violent propensities. When the suspect came outside and stood in his front doorway, Sgt. Bonzo began to shout commands, which the suspect did not follow. Instead, the suspect raised a handgun to a firing position, pointing it directly at Sgt. Bonzo.

The nature of the threat posed by the suspect was grave and immediate. Not only did the suspect display escalating violent behaviors, including firing a gun at his father and another police officer, but the suspect also showed himself to be an imminent threat when he raised his handgun towards Sgt. Bonzo. These actions posed a threat of death or serious bodily injury. Sgt. Bonzo’s use of deadly force was, therefore, reasonable and justified based on the multiple shots fired previously and the raising of a firearm directly at Sgt. Bonzo.

If you have any questions or concerns regarding the foregoing, please contact me for further discussion.

Respectfully,

A handwritten signature in blue ink, appearing to read "C. Bonzo", is written over a horizontal line.