



OFFICE OF THE GARFIELD COUNTY ATTORNEY
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March 19, 2021

Chief Darin Adams
Cedar City Police Department
10 North Main
Cedar City, UT 84720

RE: Investigation of Use of Force by Officers Adams, Demasters, Daynes, and Crofts.
CCPD Case No. CI21-0001
Incident Date: February 14, 2021
Incident Location: 400 West 2400 North, Utah 84721

Dear Chief Adams:

As a member of the Iron/Beaver/Garfield County Critical Incident Task Force (CITF), I conducted an independent review of this incident. I have examined the evidence of this thorough investigation, including maps, dash cam videos, body cam videos, interviews of Mr. Larry Tessier, and interviews of multiple law enforcement officers, including but not limited to Officers Adams, Demasters, Daynes, and Crofts. The investigation was transparent and the officers fully cooperated. 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 Valentine's Day, February 14, 2021, at approximately 8:00 p.m., Cedar City Communications received a 911 call of an aggravated assault in progress at 3025 North 175 East, Cedar City, Utah. This information was relayed to law enforcement officers. As is typical, when more information was obtained during the call, the additional information was relayed to officers. In this case, and in particular, officers were notified that a suspect had left the scene, was armed with a knife, was driving a very loud, blue Ford SUV towards I-15 and had cut the hand of one of the reporting parties.

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Cedar City Police Officers Demasters and Adams were traveling north on Main Street to the location of the reported assault in separate marked patrol vehicles. They saw a vehicle partially matching the description of the suspect vehicle at the intersection of Main Street and Canyon Ranch Drive which was traveling the opposite direction and away from the scene.

Officers Demasters and Adams turned around and initiated a traffic stop. Officer Demasters and Adams turned on the red and blue emergency lights and the suspect vehicle came to a stop on the right shoulder of the road. Officer Demasters recognized the vehicle and recognized the driver as Mr. Larry Tessier, having interacted with him in the past, and having some knowledge of his criminal history, and seeing Mr. Tessier frequently at a residence next to Officer Demasters' home. In accordance with his training and experience in responding to calls of a violent nature, Officer Demasters removed his service firearm from its holster and directed Mr. Tessier to exit the vehicle and to show his hands. Mr. Tessier reached out of the vehicle, put his left hand out of the window, later put his right hand partially out of the window, then back inside the vehicle. Officer Demasters could see blood on Mr. Tessier's hands. Officer Demasters approached the vehicle and continued to give commands to the driver to show his hands and exit the vehicle. Officer Adams approached the vehicle from the passenger side and also had his firearm drawn. Officer Demasters opened the driver's door, and Officer Adams opened the front passenger side door. The driver did not follow the directions. Mr. Tessier then reached with one hand to the center console area. While doing so, Mr. Tessier stated that was where the knife was. Mr. Tessier also made some statements regarding self-defense, apparently referring to the prior assault involving a knife the officers were responding to. Mr. Tessier continued to disregard directions of Officer Demasters to keep his hands visible and exit the vehicle. Mr. Tessier shifted the vehicle into drive and started to drive away. As he fled the scene, Officers Demasters and Adams ran back to their separate patrol vehicles and followed Mr. Tessier south on Main Street. Officer Crofts, also driving a marked patrol vehicle with red and blue emergency lights flashing, joined the pursuit shortly thereafter.

The suspect vehicle made a right hand turn and passed Canyon View High School. Officer Demasters communicated with his supervising officer regarding permission to "PIT" (pursuit intervention technique) the suspect vehicle. Approximately three minutes into the pursuit, and after receiving authorization, Officer Demasters attempted to position his vehicle where he could safely conduct a PIT maneuver. As he did so, the driver of the suspect vehicle suddenly swerved his vehicle into Officer Demasters' patrol vehicle, striking in the front passenger fender area. After stalling for a couple of seconds, the suspect vehicle continued driving to a residential area, nearly striking a parked travel trailer on the side of the road. By this time, Officer Daynes had responded to the area of the pursuit. She attempted to end the stop by blocking the roadway with her patrol vehicle. However, Mr. Tessier drove around her, onto the sidewalk, striking Officer Daynes' vehicle in the process. Mr. Tessier then maneuvered between oncoming traffic and law enforcement officers, continuing to flee. Mr. Tessier didn't slow down as he drove through a number of stop signs and started significantly increasing his speed beyond the posted speed limit. Officer Demasters asked other officers about attempting another PIT maneuver, but it was determined that it would not be safe because Mr. Tessier was driving too

fast.

As Mr. Tessier headed south, Officer Demasters started to fear for the safety of his family. Mr. Tessier knew where Officer Demasters lived and the pursuit was heading in that direction. However, Mr. Tessier changed course and started driving in the direction of the scene of the original aggravated assault. During this time, officers communicated with each other regarding various concerns. Officer Adams notified other officers that there were no other occupants in Mr. Tessier's vehicle, that Mr. Tessier would not show his hands, was uncooperative and non-compliant, and that they were not sure if there were any other weapons in the vehicle. Mr. Tessier continued driving, with several law enforcement vehicles following, as their lights and sirens indicated their efforts to end the chase. Officer Demasters notified other officers that the interior light of Mr. Tessier's vehicle turned on and it looked as though Mr. Tessier was looking for something. Officer Adams notified other officers that the pursuit should continue due to the original call being an aggravated assault.

There was some communication between Officer Adams and dispatch regarding whether Enoch City Police should assist by using a spike strip to deflate the tires of Mr. Tessier's vehicle as he passed a location. Officer Adams stated Enoch Police could attempt the use of the spike strip, and provided Mr. Tessier's current location. Officer Adams also asked Cedar Communications to notify Enoch Police Officers to be careful because Mr. Tessier had previously rammed officers and drove onto a sidewalk.

Mr. Tessier entered the subdivision where the original assault took place and drove past the residence of the victim. He drove recklessly through this area, off paved roads through vacant lots and areas under construction, almost running over a ladder in the road and striking a large construction dumpster head-on. Mr. Tessier then exited the subdivision the way he entered and started heading back the way he had come. During the course of this portion of the pursuit, Officer Daynes was now the first car behind Mr. Tessier. Iron County Sheriff Deputy Lauritzen was waiting with a tire deflation device ready. Mr. Tessier drove over this device and the tires of his vehicle started to deflate.

Mr. Tessier continued to drive despite the fact his tires had deflated and were separating from the rims. Mr. Tessier's vehicle was louder as more engine power was utilized to keep the vehicle moving. At one point, it appears Mr. Tessier shifts the vehicle into 4-wheel drive to continue evading the officers. Officer Adams directed Officer Crofts to move up in the line of patrol vehicles in pursuit because he had a K-9 which is less lethal and could be used if necessary if Mr. Tessier eventually stopped his vehicle.

Mr. Tessier continued to drive, even though he was losing large chunks of his tire and was mostly driving on the rims. Mr. Tessier started driving off the left side of the road, then back in the middle of the road in complete disregard for the motoring public who were seen pulling over as the chase continued. Officer Demasters notified other officers by radio that Mr. Tessier had knives in the vehicle.

Officer Crofts talked to his K-9 multiple times to excite the dog and get him ready to be deployed. After successfully utilizing the spike strips, Deputy Lauritzen utilized a different route

to get ahead of the pursuit. He was waiting at the intersection of 2400 North and 400 West as Mr. Tessier approached, followed by CCPD patrol cars with their emergency lights flashing and sirens blaring. Mr. Tessier made a right hand turn to head south onto 400 W. Deputy Lauritzen followed directly behind Mr. Tessier and used a PIT maneuver to stop Mr. Tessier. Mr. Tessier's vehicle spun approximately 225 degrees. Mr. Tessier was now pointed in a north eastern direction on the right shoulder of the road. Officer Adams stopped his vehicle nearly perpendicular to Mr. Tessier. Officer Crofts vehicle approached and slowed. Mr. Tessier accelerated and collided head-on into Officer Croft's vehicle, causing Mr. Tessier's airbags to explode. Officer Daynes parked her patrol car between Officers Adams and Crofts. Officer Demasters stopped behind Officer Crofts.

Officer Crofts got out of his patrol car right after the collision stopped Mr. Tessier's forward progression. He stood behind the driver door and drew his firearm and began giving commands to Mr. Tessier to show his hands. Officer Adams also exited his vehicle, firearm drawn and pointing at Mr. Tessier. He yelled for Mr. Tessier to show his hands. Similarly, Officer Daynes exited her patrol car and was yelling for Mr. Tessier to show his hands with her firearm pointing at Mr. Tessier. Officer Demasters exited his patrol vehicle and approached the scene from the passenger side of Officer Croft's patrol vehicle, firearm drawn and pointing at Mr. Tessier.

Mr. Tessier did not follow the commands of officers. Rather, he revved the engine, shifted the vehicle and reversed, striking the front passenger side of Deputy Lauritzen's vehicle, going through a wire fence, and coming to a stop in a field on the side of the road. Officers Adams and Daynes started closing the distance between themselves and Mr. Tessier's vehicle. Mr. Tessier's vehicle was now pointed directly at Officers Adams and Daynes, who are outside their vehicles and without cover or an object between them and Mr. Tessier's vehicle. Mr. Tessier revved the engine again. Officer Demasters repeatedly yells, "watch out" to the other officers. Officer Crofts also yells to the other officers to "watch out." Mr. Tessier shifts his vehicle into drive and begins quickly moving towards Officers Adams and Daynes. Almost simultaneously, Officers Adams, Daynes, Crofts, and Demasters open fire. Also, at approximately the same time, Deputy Lauritzen, who had reentered his patrol truck, drives forward to stop Mr. Tessier's vehicle to stop him from hitting the CCPD officers. Mr. Tessier was struck in the face and body by the officer's bullets. Mr. Tessier eventually complied with the officer's commands and was taken out of his vehicle. Many of the officers involved assisted in first aid to Mr. Tessier who apologized, told them he "didn't mean any disrespect" and that he wanted them to "just let" him "die." He was transported to the hospital and later recovered from the shooting.

All officers involved were wearing department issued uniforms, operating clearly marked law enforcement vehicles, with emergency lights flashing. The shooting lasted approximately five or six seconds. Officer Adams fired 16 rounds, Officer Demasters fired 13, Officers Crofts and Daynes fired 5 each. These officers had recently all received training regarding the use of their patrol vehicles and proper protocol involving using their firearms. From the initial call until the time of the shooting approximately 25 minutes had passed.

PERCEPTION OF OFFICERS

Officers Adams, Daynes, Crofts, and Demasters were interviewed and provided insight regarding their perception at the time they fired their weapons.

Officer Adams stated the following:

- Regarding when Mr. Tessier hit Officer Crofts patrol vehicle - “that’s when I knew like everything had changed . . . he had disregard for everybody’s safety, my safety included, all of the officers’ safety, all the residential neighborhood’s safety . . . so when he hit that head on, . . . I was like this, this is bad, this is very dangerous, I mean he’s doing anything possible to get away . . . so when he hit head on, you would think that may have stopped him, but it didn’t.”
- “I’m like “wow, this went to a whole other, even more dangerous level that it’s already been”.
- Regarding Officer Adams’ perception after Mr. Tessier reversed into the field shortly before the shooting - “I remember knowing that he’s boxed in . . . he’s facing my car’s direction . . . the only way he can come forward is through us. . . I remember officers yelling . . . I was screaming at him to show me his hands, to stop, to get his hands up, and in my experience, most people at that point give up. I remember looking at his face, and I remember seeing his eyes. It wasn’t a person that was going to give up, he was going to do anything he could to get away . . . I remember him looking up at us . . . there’s nowhere for him to go but through us.”
- “[Tessier] got it into drive and he just punched the gas, and you could hear that loud exhaust of him just punching . . . when he did that . . . his only option was to come, the only way of that progression of that vehicle accelerating was going to be through us. For fear of myself, for the other officers, for the public knowing he had to be stopped, this was the moment where there was no other option but to stop him. I was forced to fire my weapon . . . I fired until the threat was stopped.”
- “When he hit that accelerator, he was coming through us.”
- “I was scared for my life and the lives of the other officers as well as the public. I mean we knew that we had to get him stopped right there, and I knew we had to – we had to stop him. We knew from this point on this was the end spot, it could not go on any further. . . He would have to come through us, he would have to come through our vehicles, and when he hit that accelerator . . . His intention was strictly to get through us.”

Officer Daynes stated the following:

- “I honestly thought he was going to come at [Officer Adams] cause we’re standing in front of our cars, . . . [Tessier] couldn’t get out, except through me and [Officer Adams] . . .if he came at us, he would have hit [Officer Adams] first, and I hopefully could have got out of the way but I don’t know, because I was probably two or three feet behind [Officer Adams].”

Officer Crofts stated the following:

- “We’re screaming commands at him, he is not compliant. He starts revving the motor up. I start yelling at Daynes and Corporal Adams to watch out, like get out of the way, watch out. He starts to move towards Officer Daynes and Officer Adams and I shot to stop the threat.”
[Tessier] was facing them and could move towards them and moved towards them.”
“They were standing out in front of their vehicles with no protection between them and suspect vehicle.”

Officer Demasters stated the following:

- “[Officer Daynes] and Corporal Adams were in between the vehicles, in the open . . . that’s right in line where he was pointing. So then they were in the open and after he backed up I was yelling at them. I was worried about them. I was telling them ‘get out of the way’. I was trying to tell them to get out of the way.”
- “[Tessier] just looks at all our officers. He’s not showing us his hands, he’s not wanting to stop, you can still see, like he’s going all the way to the end. He doesn’t want to give up. He puts it in drive and that’s when I just, I hear the engine, start seeing he’s coming at us and I didn’t know where he was going and what he was doing. I was worried for Corporal Adams and Officer Daynes and then that’s when we all started shooting.”

FINDINGS OF THE CRITICAL TASK FORCE

The Critical Task Force investigated this incident and submitted the following findings for my benefit: “(b)y reviewing the statements provided by the Involved Officers, they all express their individual perception of an immediate threat of serious bodily injury or death to themselves and or each other. The totality of the threat they were faced with in approximately six to eight seconds is a motor vehicle described as a 2000 Ford Expedition with an average weight of 7,200 pounds and operated by Larry Tessier, who up to those last six to eight seconds had displayed by his own actions no regard for the safety and welfare of himself, others, and specifically officers. Larry Tessier had just been involved in an aggravated assault involving a knife.”

The Task Force described the human physiology of the officers: “(w)hen considering the time needed to retreat away from the threat and or to utilize deadly force one must understand the human factors that occur. There are unbiased scientific studies and research that have been performed specifically for (l)aw enforcement. The Force Science (i)nstitute, Ltd. (a)nd Dr. William Lewinski have provided to the public many articles explaining these human factors. The amount of time necessary to perceive and react to a threat and then to perceive and react to when the threat has ended. When combined the average may take as long as 3 seconds...(s)econd, the officer must translate the perception that a threat has been mitigated into action. The combined time for a person to perceive a threat and react to it is known as the perception-reaction time. It is, of course, longer than reaction time alone, and generally ranges from .7 seconds to 1.5 seconds.”

The Critical Task Force final factual findings state: “(o)n 2/14/2021 at approximately 20:21:38 Officers T. Crofts, H. Daynes, O. Demasters and Corporal Z. Adams witnesses in their

presence an aggravated assault on a police officer, when Larry Tessier intentionally drove his 7,200-pound motor vehicle into the front end of K-9 Officer T. Craft's patrol vehicle. Larry Tessier then continued his efforts to flee from this aggravated assault. While making a last attempt to advance his motor vehicle, Larry Tessier did advance his vehicle in the direction of officers that were pointing their (d)uty (i)ssued (f)irearms, at Larry Tessier and giving commands. At 20:22:00 (a)s the vehicle advanced in the (o)fficer's direction, each (o)fficer that fired their weapon stated they feared for their personal safety and the safety of the other officers in that moment. Officers determined the threat of the motor vehicle had ended at 22:22:06 equaling an estimated time when shots were fired to be less than 6 seconds to include perception and reaction time constraints."

RELEVANT LAW

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

- (1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when: . . .
 - (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.

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. Conner, 490 U.S. 386, 396-397 (1989)." While motor vehicles are not typically thought of as weapons, they obviously have that potential due to their weight and potential for speed. Motor vehicles are so dangerous that state law has many provisions regulating their use. Cross walks are placed on streets and traffic control devices are intended to allow pedestrians to cross into the road when motor vehicles have stopped. Persons wanting to drive vehicles have mandatory testing and mandatory renewals to obtain and to maintain a driver's license. When considering the potential danger motor vehicles create when used in a reckless, or even negligent manner, it is obvious that a motor vehicle could be intentionally used in that manner. Moreover, the 10th Circuit Court has analyzed this standard in the context of officers being threatened by an individual potentially using a motor vehicle as a weapon. That court explicitly found that a vehicle attempting to run over an officer can constitute a threat by a weapon justifying the use of deadly force. Thomas v. Durstanti, 607 F.3d 655, 664 (10th Cir. 2010). Several other circuit courts and federal district courts have considered similar situations, finding that officers were justified in using deadly force when reasonably perceiving an individual using a motor vehicle as a weapon against them.

However, the fact that officers perceived this threat is not enough to warrant the use of deadly threat. That perception must be reasonable, based upon the circumstances that confronted the officers at the time. Therefore, the statements regarding the officer's perception, and the audio/video recordings are vital in this analysis.

In examining all the evidence in this case, it is apparent that the law enforcement officers were very aware that Mr. Tessier was a threat to the officers. All law enforcement officers involved in the use of force in this case knew that that Mr. Tessier was the suspect in an aggravated assault in which he allegedly cut another individual with a knife. They knew Mr. Tessier did not comply with law enforcement when originally encountered and fled the scene of the traffic stop. They knew that Mr. Tessier failed to stop despite being followed by multiple marked patrol vehicles with lights flashing and sirens blaring. They knew Mr. Tessier was likely in possession of a knife, and as referenced above, he likely recently assaulted another individual with that knife. They knew that Mr. Tessier had rammed a number of marked police vehicles in his attempt to flee and was driving with disregard to the safety of other individuals. They knew that Mr. Tessier continued the attempt to escape even after losing his tires and being surrounded by law enforcement. They knew his large vehicle was pointing in the direction of law enforcement officers on foot, and that he was accelerating towards them. They knew that all the other less lethal methods of dealing with the situation had not stopped Mr. Tessier, and the only way for him to continue the attempt to escape was to drive through Officer Adams and Officer Daynes. In reviewing the multiple differing body cams, dash cams and reviewing the interviews, these officers had little choice but to act in the manner in which they did. It was reasonable for them to believe that the failure to act in that manner would result in death or serious bodily injury, especially to Officers Adams and Daynes.

These officers showed a high level of restraint in an extremely dangerous situation. The officers had attempted to end the pursuit with less force on multiple occasions. Mr. Tessier simply refused to comply. Once the suspect intentionally accelerated towards officers outside of their vehicles, they had no other less lethal options to protect themselves and other officers. Officers Adams and Daynes lawfully and reasonably perceived a threat of death or serious bodily injury. Officers Demasters and Crofts lawfully and reasonably perceived a threat of death or serious bodily injury to Officers Adams and Daynes. They had no choice but to use their firearms at that point. Therefore, these officers were justified in the use of deadly force.

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

Sincerely,


Barry Huntington
Garfield County Attorney