



# IRON COUNTY ATTORNEY'S OFFICE

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March 10, 2023

## **BY HAND DELIVERY**

Sheriff Ken Carpenter  
Iron County Sheriff

Chief Jackson Ames  
Enoch City Police Chief

RE: Investigation of Officer Devin Kwiatkowski's and Deputy Ryan Turk's Use of  
Deadly Force  
Case No. CI23-0001  
Incident Date: February 16, 2023  
Incident Location: 4680 North 4500 West in Iron County, Utah

Dear Sheriff Carpenter and Chief Ames:

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 within [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 County Critical Incident Task Force (CITF) reports, the Iron County Attorney's Office has completed its review regarding Enoch City Police Officer Devin Kwiatkowski's and Iron County Sheriff Deputy Ryan Turk's use of deadly force against Shawna Owens (hereinafter referred to as "the suspect") on February 16, 2023, in Iron County, 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 February 16, 2023, at approximately 5:35 PM, Iron County Sheriff's deputies and Enoch City police officers responded to the area of 4680 North 4500 West in Iron County to a report of a suspicious person in possession of a firearm.

The report stated that the suspicious person had pointed a firearm at a 19 year-old male. At about the same time that this report came in, another report was made regarding a suicidal subject who had been drinking alcohol. Officers were able to gather facts and determined that the two calls were related and that the suicidal subject and the suspicious person with the firearm were the same.

When officers arrived on scene, they observed a female (the suspect) sitting in a white Chrysler minivan. The suspect was holding a gun and, at different moments, waived the gun around or pointed it at her head. Officers drew their weapons and gave commands for the suspect to drop her firearm. Officer Kwiatkowski used the PA system in his patrol truck to give audible commands. Officer Kwiatkowski asked the suspect to "please" put the gun down. However, the suspect did not comply with officer's commands and began to point the firearm at them.

Deputy Ryan Turk warned officers that the suspect was pointing her gun at them. Deputy Turk can be heard on bodycam stating, *"she's pointing at Devin, pointing gun at us...she's pointing gun at Devin."* Approximately fifteen seconds after Deputy Turk makes this statement, the suspect rolls down the passenger side window of the van, extends her arm, and again points the firearm at Officer Kwiatkowski.

Officer Kwiatkowski states in his interview that the suspect, *"went back over and was kinda flopping the gun around again. Um, she started messing with the windows again and she rolled the passenger window down and then she just leaned over and pointed [the gun], and that's when I started shooting."*

Deputy Turk states in his interview that, *"I called it out, 'Hey, she's pointing the gun at Devin.' I told Andy 'hey I am taking my safety off.' Then she rolled the window down, the passenger window and then stuck the pistol through the window area."*

Officer Kwiatkowski and Deputy Turk both fired their weapons at the suspect. The suspect was struck multiple times and eventually fell out of the vehicle onto the ground. Once there was no longer a threat posed by the suspect, officers immediately began to render first aid and perform lifesaving care.

A search of the suspect's Chrysler minivan was conducted. Officers found the suspect's .22 handgun with a round jammed in the slide, as well as empty shell casings from rounds that were fired.

## RELEVANT LAW

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, Officer Kwiatkowski and Deputy Turk responded to a call involving an armed and dangerous suspect who was reported to have pointed a gun at another individual in a threatening manner. The suspect was also reported to be suicidal and under the influence of alcohol. Upon arrival, Officer Kwiatkowski made multiple requests of the suspect to “please” drop her weapon and to comply with officer’s commands.

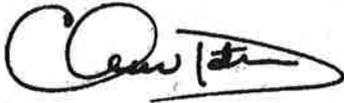
Rather than comply, the suspect, at different moments, waived the gun around, pointed it at her head, and toward officers. The situation and circumstances that both Officer Kwiatkowski and Deputy Turk were in was “tense, uncertain, and rapidly evolving” Graham v. Connor, 490 U.S. 386, 396-397 (1989).

Deputy Ryan Turk warned officers that the suspect was pointing her gun at them. Deputy Turk can be heard on bodycam stating, "she's pointing at Devin, pointing gun at us...she's pointing gun at Devin." As the situation continued to evolve and the danger increased, the suspect rolled down the passenger side window of her vehicle, extended her arm, and pointed her firearm directly at Officer Kwiatkowski.

The nature of the threat in the moment the window was rolled down and the suspect extended her arm and firearm to aim at Officer Kwiatkowski was grave and immediate. Reports had indicated that the suspect had already acted in a violent and threatening manner when she pointed her gun at a 19 year-old civilian male. Now, she was refusing to comply, and was engaging in this same conduct towards law enforcement officers. The suspect's actions posed an immediate threat of death or serious bodily injury. Therefore, Officer Kwiatkowski's and Deputy Turk's use of deadly force was reasonable and justified to "prevent death or serious bodily injury to the officer or another person" (Utah Code Ann. § 76-2-404).

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

Respectfully,

A handwritten signature in black ink, appearing to read "Chad E. Dotson", written over a horizontal line.

Chad E. Dotson  
Iron County Attorney