



MEDIA FACT SHEET- OFFICER INVOLVED SHOOTING

From: Steve Howe
(Olathe, KS)

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Johnson County District Attorney Steve Howe announces that his office has completed a review of the March 31, 2019 officer involved shooting that occurred near Trenton and 130th Terrace in Olathe, Kansas. It is the determination of the District Attorney that the Officer's use of force was justified under Kansas law. Therefore, no criminal charges will be filed against that Officer.

SUMMARY OF FACTS AND FINDINGS

Attempted Carjacking in Olathe

On March 31, 2019, around 1:30 p.m., the Olathe Police Department began to receive reports of an armed disturbance near 127th Street and Brougham. Police learned that a male suspect had attempted to take a victim's car keys at gunpoint. When the victim ran away, the suspect shot at him. Police began broadcasting descriptions of the suspect, and numerous patrol units responded to the area. Police began a methodical search of the area south of the crime scene, which was the direction that the suspect had headed on foot.

The involved Officer was among those who responded to the call. The following set of facts were confirmed through witness statements, statements of the involved Officer, and evidence recovered including his dash camera and body camera.

The Officer drove his marked Chevrolet SUV patrol vehicle into the neighborhood south of the crime scene. His radio continually broadcasted updated information, reiterating that the suspect was wearing a grey hoodie and a backpack.

The Officer drove south on Trenton Street approaching 130th Terrace. The Officer saw a man wearing a grey hoodie and a backpack walking on the east side of the street. The following facts were captured on the Officer's in-car and body camera.

The Officer slowed down, opened his door, and said “stop” to the man. The man looked over his right shoulder at the Officer’s police car, and immediately pointed a handgun at the Officer and began shooting. Nearly simultaneously, the Officer drew his own handgun and fired several times from inside and outside his vehicle and through his windshield. The suspect continued to point his handgun at the Officer as he ran away.

This series of events—from when the Officer saw the suspect until he was engaged in a gunfight—took *seconds*.

The suspect ran a short distance, and then went down on the ground. He shouted that he was dying. Officers took him into custody shortly thereafter.

The Officer was unhurt. The suspect suffered what appeared to be a shrapnel wound to his wrist that was not bleeding. He was identified as Matthew Bibee. The arresting officers recognized him as a person of interest in a homicide that had taken place on Friday, March 29, 2019.

As Bibee was being led to a police car, he shouted: “Fuck you for shooting me, bitch. I was trying to take your life first. I was trying to take that fucking top off your dome, that’s what I was trying to do. See you soon, buddy.”

Bibee made several other comments, which clearly indicated his intent to kill the Officer. The police car had damage to its front from three incoming bullets.

Analysis

Police had authority to detain or arrest Matthew Bibee

An identified witness gave police the description of a man who had just tried to shoot him during an attempted robbery. Police had this description, and a direction of travel for the suspect. Matthew Bibee matched this description. Police had legal authority—reasonable suspicion or probable cause—to detain/seize Matthew Bibee when they saw that he matched the description given by the victim within a few blocks of the attempted robbery.

The use of deadly force was clearly justified in this instance

The resolution of this incident is governed by *K.S.A. 21-5227*,

Use of Force; Law Enforcement Officer Making Arrest.:

A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably

believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

An officer who is making a lawful arrest has no “duty to retreat.” He or she may use any force which is reasonably necessary to complete the arrest. An officer may use *deadly force* when he or she reasonably believes that it is necessary to prevent death or great bodily harm to his or her self or another. The involved Officer had reasonable suspicion to detain –arrest- Matthew Bibee. When Bibee wheeled, aimed and fired, the Officer had authority to use deadly force to defend himself and to prevent Bibee from escaping by using a deadly weapon.

The Officer told OISIT investigators that he was in fear for his life: “...that’s why I reacted as quickly as I, as I could, just to try to survive.”

Damage to the Officer’s car and Bibee’s statements clearly established that Bibee was trying to kill the Officer.

Under the totality of the circumstances, it was reasonable for the Officer to conclude that it was necessary to shoot Matthew Bibee in order to stop an imminent threat to the Officer’s life by Bibee’s actions. This use of deadly force was consistent with the actions of reasonable police officers.

Therefore, it is my conclusion that the use of deadly force by the Olathe Police Officer was justified as defense of self or others under Kansas law, K.S.A. 21-5227.
