



**STATE OF KANSAS  
Tenth Judicial District  
Steve Howe, District Attorney**

**FOR IMMEDIATE RELEASE**

**FROM:** District Attorney Steve Howe  
**RE:** Olathe Officer Involved Shooting June 3, 2023  
**DATE:** August 29, 2023

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**SYNOPSIS**

On June 3, 2023, two Olathe Police Officers encountered David R. Sweet during a traffic stop involving another citizen. During this encounter Mr. Sweet moved towards the two Olathe Officers with a knife in his hand. After disobeying multiple commands to stop and drop the weapon the two Olathe Officers fired their handguns to stop Mr. Sweet. He was struck and killed by this gunfire.

**Traffic Stop on a Saturday evening**

On Saturday, June 3, 2023, at around 5:43 p.m., Olathe police officer #1 stopped a vehicle in downtown Olathe for a tag violation. Officer #1 was in full police uniform driving a black and white Olathe Police SUV with emergency lights. Officer #1 activated his lights on Santa Fe and both the subject vehicle and Officer #1's police SUV pulled into the southbound lanes of Water Street just south of Santa Fe and stopped. This was a routine traffic stop; the driver and his passenger were cooperative with Officer #1.

After contacting the driver, Officer #1 went back to the police vehicle to prepare the citations which can be filled out and printed inside the vehicle. The printer had problems, so Officer #1 was in the vehicle longer than anticipated.

Around 5:59 p.m., as Officer #1 tried to print out the citations, a grey Ford Fusion on northbound Water St. stopped next to Officer #1's vehicle. Video showed the driver, later identified as David R. Sweet, was saying something, or at least mouthing some words. Approximately 10 seconds later, Mr. Sweet backed the Fusion up, then turned the wheels and drove forward until he was inches away from Officer #1's vehicle.

As Officer #1 began to get out the patrol vehicle, the Fusion then drove off northbound on Water St. away from the traffic stop and onto Santa Fe. Officer #1 did not know or recognize Mr. Sweet. Because of this strange behavior Officer #1 radioed for a backing officer and continued to work on the citations.

Two minutes after the first contact, Mr. Sweet again drove the Fusion northbound on Water, this time stopping approximately halfway between Officer #1's police vehicle and the traffic stop vehicle.

Officer #1 got out of the police vehicle to tell the driver of the traffic stop vehicle, that it would be a couple more minutes before their ticket could be printed. Officer #1 saw the Fusion with Mr. Sweet stopped in the street. Officer #1 thought the driver might be lost or otherwise in need of some help. Officer #1 stepped toward the Fusion. David Sweet rolled the driver's door window down as Officer #1 approached. Officer #1 asked, "Can I help you with anything?" Mr. Sweet said "yeah" and displayed a knife.

Once Officer #1 saw the knife and immediately backed up. Officer #1 also drew a service weapon and radioed for help, telling the dispatcher that a subject with a knife had approached Officer #1. Officer #1 backed up and ordered Mr. Sweet to drop the knife and remain in his car.

While this was occurring Officer #2 arrived at the scene. Officer #2 was wearing the same type of uniform and was driving a marked Olathe police vehicle. Officer #2 had parked behind Officer #1's vehicle and a civilian vehicle who had stopped behind Officer #1's vehicle. Officer #2 heard the radio traffic from Officer #1 regarding the knife. Officer #2 immediately approached the front driver's side of Officer #1's police car. While this was occurring Officer #1 continued to back up and was near the sidewalk by the front passenger side of the patrol vehicle.

Mr. Sweet then got out of his vehicle still holding the knife. Officer #1 and #2 shouted multiple commands for him to stop and drop the knife. Mr. Sweet began walking towards both officers. As he advanced, they continued to shout similar commands. Both Officers felt their lives were in danger as Mr. Sweet walked straight towards Officer #1. They were also concerned about the civilians who were in the immediate area. This led to both officers firing their weapons multiple times until Mr. Sweet fell to the ground. Emergency measures were conducted however Mr. Sweet died of his injuries at the scene.

During the subsequent autopsy it was determined that Mr. Sweet had eight gunshot wounds. He died as a result of these wounds. Two bullets were recovered from his body. Toxicology revealed aminoclonazepam (a benzodiazepine) in his system. It was determined that Officer #1 fired his weapon four times. Officer #2 fired his weapon five times.

The Johnson County crime lab recovered the shell casings from the officers' weapons. They also recovered a folding knife found next to the body of David Sweet.

### ***Applicable Law***

*K.S.A. 21-5222, Defense of a Person* states, in part:

*(a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force.*

*(b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.*

*(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.*

*Graham v. Connor*, 109 S. Ct. 1865 (1989), demands a "totality of the circumstances" approach to an officer's use of force. It also defines what "reasonableness" should mean:

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation."

### **Analysis**

#### **Law Enforcement Training and Education**

Both officers attended the Johnson County Regional Police Academy. Both described being trained on how to deal with edged weapons. The Johnson County Regional Police academy trained them on defensive tactics, which included a lecture entitled *Edged Weapons Awareness*.

## ***Defending against edged weapons***

Both officers were primarily concerned that Mr. Sweet got out of his car and walked toward them while he brandished a knife.

Defending against the use of edged weapons is a well-established feature of law enforcement training. The basic concept is that an officer should at all times be aware of the amount of time it takes to react to a threat. The officer should maintain a sufficient “reactionary gap” between themselves and the threat; a distance between the officer and the subject sufficient to allow the officer to react to any threat the subject presents.

Much has been written about the *21-foot Rule*, which has morphed from a training exercise into a theory of the appropriate reactionary gap between an officer and a person armed with an edged weapon. OICIT has previously provided our office with training materials and links to *Force Science Institute* articles which explain the ideas and misconceptions about this so-called rule.

Our office obtained a copy of the PowerPoint presentation associated with *Edged Weapons Awareness*. Here are some quotes from those slides:

“This is a serious issue. We are discussing material that can be the difference between life and death.” It includes the following information. “The average suspect with an edged weapon in traditional ‘ice pick’ grip can cover 21 feet on a level unobstructed surface in 1.5-1.7 seconds.” Many Officers cannot react that quickly to defend themselves.

“Body armor provides limited ‘spike’ penetration cover. Double edged knives can penetrate body armor.”

“You will never be able to run faster backwards than another person can running normally (avoid backpedaling).”

Both Officers indicated in their interviews that they were very aware of these self-defense concepts and how easily you can kill someone with a knife and how quickly a person can close the gap.

## **David Sweet’s actions triggered self-defense by officers**

The officers’ actions were driven by a series of unprovoked *choices* by David Sweet.

Mr. Sweet *chose* to inject himself into Officer #1’s traffic stop when he drove close to the patrol car, then drove away. Mr. Sweet *chose* to drive back to the car stop and park his car in the street. Mr. Sweet *chose* to display a knife. Mr. Sweet *chose* to get out of his car with knife in hand. Mr. Sweet *chose* to ignore the officers’ repeated commands to stay in the car, stop approaching the Officers and drop his knife. Mr. Sweet *chose* to move towards both officers

brandishing a knife, which was unquestionably a deadly weapon. It is impossible to determine why Mr. Sweet chose to take these actions.

### **Use of deadly force was justified**

This was not a 'lawful arrest' situation, so it must be analyzed using basic self-defense law.

Kansas law requires a two-step analysis in any deadly-force self-defense claim. The claimant must have an *actual (subjective)* belief that using deadly force was necessary to prevent imminent death or great bodily harm to the claimant or someone else. That belief must be *reasonable (objective)*. See *State v. McCullough*, 293 Kan. 970, 270 P.3d 1142 (2015).

The standard is: what would a reasonable police officer do, if faced with the same facts and circumstances? Would a reasonable police officer believe that deadly force was needed?

Officer #1 and Officer #2 independently assessed that Sweet presented a deadly threat to each of them and the civilians in the area.

Police officers are trained that knives are deadly weapons, and that if a person armed with a knife gets too close to them, there may be little they can do to prevent harm to themselves.

Mr. Sweet brandished a weapon. In most circumstances, this would be the crime of aggravated assault: placing a person in reasonable apprehension of great bodily harm or death. Brandishing a knife is a clear, unmistakable threat even without words.

Mr. Sweet left his car, knife in hand, and began walking toward Officer #1. He was already less than 20 feet from both officers when they used deadly force.

Officer #1's belief that his life was in danger when he shot was a reasonable one, objectively supported by the facts.

Officer #2's belief that his life or Officer #1's life was in danger when he shot was a reasonable one, objectively supported by facts.

David Sweet's actions caused what was ultimately a predictable, reasonable reaction by well-trained officers.

## **Conclusion**

Olathe police officers #1 and #2 lawfully used deadly force On June 3, 2023, to defend themselves and others against an imminent and actual threat of death or great bodily harm and were justified in their actions under Kansas Law.

Therefore, this office will take no action against these two officers for their use of force during this incident.