



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

FOR IMMEDIATE RELEASE

FROM: District Attorney Steve Howe

RE: Olathe Officer Involved Shooting August 6, 2023

DATE: December 18, 2023

SYNOPSIS

On August 6, 2023, at a QuikTrip (QT) convenience store in Mission, Johnson County, Kansas. Shannon Marshall fired a shot that hit Fairway Officer Jonah Oswald in the head, leading to his death the next day. In response to these actions Kansas Highway Patrol (KHP) Trooper Kyser shot and killed Shannon Marshall. During the incident, Mission Officer Eddings also fired shots at Marshall.

Johnson County District Attorney Steve Howe announces that his office has completed a review of this event. It is the determination of the District Attorney that the two officers' use of force was justified under Kansas law. Therefore, no criminal charges will be filed against either officer.

SUMMARY OF FACTS AND FINDINGS

Jeep Grand Cherokee stolen at Lenexa QT.

Early on Sunday morning, August 6, 2023, a citizen went to the QuikTrip (QT) convenience store located on 95th Street just off I-35 highway in Lenexa, Johnson County, Kansas. He parked his 2016 Jeep Grand Cherokee (Cherokee) vehicle in front of the main doors to the QT. He then went inside. He had left his car running but told investigators that he locked the door and kept his key fob with him.

QT video later showed that Shannon Marshall and Andrea Cothran were outside the QT that morning, and Marshall stole the Cherokee.

The owner of the Cherokee came back outside the QT and saw his vehicle was missing and then looked around and saw it driving away. He went inside QT and called 911. He went back outside and saw his Cherokee being driven around the parking lot of the nearby Radisson hotel. He ran to his Cherokee and saw that an adult female (later identified as Andrea Cothran) was driving. The owner of the vehicle asked Cothran to stop and at least let him get his dog out of the car. Cothran said “I’m sorry, I can’t go to jail” and continued driving.

Lenexa Police response leads to chase.

Lenexa police responded to the 911 call. They quickly found the Cherokee and began a low-speed “pursuit” through the parking lots of various businesses near the I-35 exit. The sequence of events is complicated and difficult to put into writing. Most of this event was captured by both in-car and body-worn police cameras. Pertinent to this investigation, these things happened during the “Lenexa” phase of this event:

- Cothran picked up Shannon Marshall from the Radisson parking lot and he became her passenger.
- Cothran rammed a Lenexa police car, elevating this to a battery on a law enforcement officer case.
- Cothran was able to drive onto I-35 northbound and drove away at high speeds.
- Because Cothran had committed a person felony, Lenexa was permitted to chase Cothran as she fled.

High-speed chase on I-35 NB.

Andrea Cothran was able to evade numerous Lenexa officers and drive onto the on-ramp to I-35 northbound from 95th street. Cothran then passed Lenexa Officer Decker, who then began to chase the Cherokee in her marked patrol vehicle.

Several other Lenexa police cars joined the chase. The driver of the Cherokee was driving recklessly and reached speeds up to 120 miles per hour. As Lenexa Officers drove northbound, a marked Kansas Highway Patrol vehicle driven by Trooper Kyser joined the chase and offered to be the lead vehicle.

By this point, the Cherokee had been driven out of sight of the police vehicles that were pursuing it. A wreck was later reported on the exit ramp to Lamar from I-35 north. Other officers identified the wrecked vehicle as a blue Jeep Grand Cherokee. There were no people in or around the Cherokee.

Officers Descend on Mission QuikTrip.

Officer Decker took the Lamar exit and drove to QuikTrip, which was located up the hill to the south of the exit ramp. She suspected that the two individuals they were chasing may go there and try to steal another car. Officer Decker was the first officer to enter the store. Upon entry she saw two people entering the bathrooms, located down a hallway on the side of the store. Those two individuals were later identified as Cothran and Marshall.

Trooper Kyser also responded to the Lamar QuikTrip. In the QT parking lot, he asked a citizen, "where are they" a citizen told him "They're inside, it's a older couple, they look rough" Trooper Kyser went inside and saw Officer Decker near the restrooms. Officer Decker informed Trooper Kyser that there was a suspect in the men's bathroom. Trooper Kyser took a position at the men's door and began addressing that person, who was later identified as Shannon Marshall.

Mission Officers Eddings and Wilmon arrived. Officer Eddings entered the women's restroom where the Lenexa Officer Decker arrested Andrea Cothran. Cothran was handcuffed and taken into the hallway outside the women's restroom.

Trooper Kyser could see Marshall's reflection in the men's restroom mirror. At one point, Marshall showed Trooper Kyser his hands. He ordered Marshall to surrender. Marshall refused. Simultaneously, a second Lenexa Officer, two Mission Officers and a Fairway Officer had arrived in the hallway outside the men's restroom.

Entry into the men's restroom leads to Officer Oswald's murder.

After Andrea Cothran was placed into handcuffs by Lenexa Officer Decker, the other officers gathered outside of the men's restroom.

All the participating officers had their body-worn cameras recording, except Trooper Kyser who had no body-worn camera. A discussion occurred between the officers and a decision was made to go into the bathroom and arrest Marshall. The officers briefly discussed assignments. Trooper Kyser indicated he had 'lethal' (his gun), Mission Officer Eddings indicated he had 'less lethal' (Taser), and Fairway Officer Oswald indicated he had 'hands,' and began putting gloves on. Mission Officer Willmon and Lenexa Officer Mahon were also present to assist.

What happened next was captured on multiple cameras:

Trooper Kyser led the other officers into the men's restroom. Several officers ordered Marshall to surrender, or he would be 'tased.'

Trooper Kyser attempted to kick the stall door open but was met with resistance. Trooper Kyser, who had gun in hand, backed into the handicapped stall at the back of the restroom to let the other officers try to open the stall door.

Fairway Officer Oswald put his body against the stall door that was partially open. Shannon Marshall stuck his hand, which now held a pistol, through the opening and shot Officer Oswald in the head. Officer Oswald fell to the floor, mortally wounded.

Trooper Kyser remained in the handicapped stall as the other officers retreated from the men's restroom to take cover. Marshall remained in the first stall.

Gunfight leads to Shannon Marshall's death.

During a brief few seconds, Mission Officer Eddings opened the men's restroom door from the hallway and exchanged gunfire with Marshall.

Trooper Kyser exchanged gunfire with Marshall around the partition between the toilet stalls. Trooper Kyser realized that he was alone in the bathroom with a gunman who had shot a police officer. He also realized that the gunman would likely kill any officer that came into the bathroom.

In the space of seconds, the Trooper elevated himself above the partition between the stalls, and saw Marshall, gun in hand. Trooper Kyser shot down multiple times and saw Marshall slowly slide down to the floor.

Trooper Kyser then went into the stall Marshall occupied and pointed his gun at the now- motionless Marshall. He shouted for Marshall to show him his hands. There was no response.

The two Mission Officers returned to the men's restroom. Mission Officer Eddings took the mortally wounded Officer Oswald out of the bathroom to a more secure place on the property to begin first aid.

Shannon Marshall was dead at the scene.

Officer Oswald died at the hospital the next day.

Crime Scene/Evidence

The Johnson County Criminalistics Laboratory processed the Lamar QuikTrip scene on August 6, 2023. Numerous items of evidence were collected from the men's restroom and other areas of the store.

Among the notable items collected:

- Three Hornaday 9mm cartridge cases outside the bathroom;
- One Barnes 9mm cartridge case in the bathroom;
- One N CCI R 9mm cartridge case in the bathroom;
- Eight Hornaday 9mm cartridge cases in the bathroom;
- Numerous bullet fragments in and outside the bathroom;
- One fired bullet on the bathroom floor;
- Two bullets from the east stall wall;

- One Taurus 9mm handgun (which was moved from the floor of the bathroom near Marshall and placed on the sink by Lenexa Officer Clark);
- Numerous bloodstains;
- Numerous bullet defects from the bathroom wall, floor, doors, ceiling;
- The body of Shannon Marshall;

The scene was scanned.

The involved officers' firearms were collected.

DNA

The DNA of both Andrea Cothran and Shannon Marshall were found on the Taurus handgun that was recovered from the bathroom.

The DNA of both Andrea Cothran and Shannon Marshall were found on the stolen Jeep Grand Cherokee.

Latent Prints

The latent prints of Andrea Cothran and Shannon Marshall were found on the stolen Jeep Grand Cherokee.

Firearms

Seven of the Hornaday cartridge cases from inside the bathroom were fired by Trooper Kyser's Glock handgun.

Four of the Hornaday cartridge cases from QT (outside and inside the bathroom) were fired by Mission Officer Eddings Glock handgun.

The two off-brand cartridge cases found inside the bathroom were fired by the Taurus handgun recovered near Marshall's body. This handgun was discovered to have been stolen by Marshall and Cothran in Tennessee.

Two bullets were recovered from the body of Shannon Marshall during autopsy. These bullets have the same rifling characteristics as Trooper Kyser's Glock. The conclusion is that Trooper Kyser's shots killed Shannon Marshall.

Autopsies

The autopsy of Shannon Marshall was conducted on August 7, 2023.

The autopsy of Jonah Oswald was conducted on August 8, 2023.

Pertinent findings included:

Shannon Marshall

Eight wounds were caused by six bullet projectiles. One gunshot entered the base of Marshall's neck and traveled through the heart and came to rest in the liver. One gunshot entered through the right scapula and into the right rib cage. Both were recovered. Cause of death was multiple gunshot wounds. Of note: Dr. Peterson indicated that "death would have followed such injuries rapidly." Toxicology was positive for methamphetamine, amphetamine and norfentanyl.

Jonah Oswald

Died as a result of a gunshot wound to the head.

Analysis

Officers had authority to detain Cothran and Marshall

The key to whether the shooting of Shannon Marshall was lawful and justified begins and ends with whether Trooper Kyser had legal authority to order Marshall to do anything. Officer Eddings arrived on the scene after Trooper Kyser was addressing Marshall at gunpoint in the QT men's restroom.

Trooper Kyser joined the I-35 car chase miles north of 95th Street and never saw the driver or passenger of the stolen Cherokee. He did not see anyone enter the QuikTrip. He relied – lawfully – on the information provided to him by other officers via the law enforcement radio channels he monitored. This is known as the *fellow officer rule*.

When Officer Decker went into the Lamar QT, she saw a person's legs walking into the men's restroom. She also saw a white female in a white shirt walk into the women's restroom. Officer Decker knew she was looking for a "Code 1 and Code 2": a white male and a white female.

Officer Decker asked the QT clerk if anyone came "running in here," the answer was no. Officer Decker surmised that two people running from police might hide in the bathrooms, so she decided to check them. Officer Decker entered the women's restroom and saw someone standing in the first stall. She noticed that they were standing sideways, not as if they were using the toilet. Officer Decker left the women's restroom and asked a male QT employee to "check it" (the men's restroom). The employee knocked on the stall doors in view of Officer Decker and confirmed that it was occupied.

Trooper Kyser arrived, and Officer Decker immediately told him "There's one in this [men's] bathroom and there's one in the female bathroom" and went back to the women's restroom. Officer Decker believed that she had found the suspects who had

stolen the Cherokee. Officer Decker began loudly shouting commands at the suspect. Cothran began shouting back at her, claiming that she thought “he” had “bought” the vehicle. Officer Eddings came into the women’s restroom and assisted in making the arrest of Andrea Cothran.

Trooper Kyser, had driven to the Lamar QT in response to a radio call for assistance. Upon arrival a citizen told him that, “They’re inside, it’s a older couple, they look rough” Trooper Kyser went inside and found Officer Decker near the restrooms. As noted above, she told him where she believed the suspects were and asked him to cover the men’s restroom. He heard Officer Decker begin to shout commands at the female, and at that time saw a white male’s head “pop out” from the gap in the bathroom stall door. Trooper Kyser ordered this person to show his hands, which the person did. The person - identified as Marshall, refused to surrender.

At this point, Trooper Kyser told Marshall he was under arrest.

Applicable law

Fellow officer rule

The rule for imputing knowledge from one officer to another is known variously as the collective-knowledge doctrine or the fellow-officer rule. Under the doctrine, one officer may stop, search, or arrest a suspect at the direction of another officer or police agency, even if the officer himself does not have firsthand knowledge of the facts that would provide the necessary level of suspicion to permit the given action. *United States v. Williams*, 627 F.3d 247, 252 (7th Cir.2010). *State v. Miller*, 49 Kan. App. 2d 491, 496–97, 308 P.3d 24, 29 (2013).

K.S.A. 22-2402, Stopping of suspect states, in part:

(1) Without making an arrest, a law enforcement officer may stop any person in a public place whom such officer reasonably suspects is committing, has committed or is about to commit a crime and may demand of the name, address of such suspect and an explanation of such suspect’s actions

K.S.A. 22-2401, Arrest by law enforcement officer states, in part:

A law enforcement officer may arrest a person under any of the following circumstances:

(c) The officer has probable cause to believe that the person is committing or has committed: (1) A felony;

Authority to detain Cothran and Marshall

Johnson County law enforcement officers all have access to a variety of radio networks which they monitor. When events began to unfold at the Lenexa QT, information was broadcasted. Officer Decker obtained both firsthand knowledge of what was unfolding, and “fellow officer” information from the radio. She knew what the Cherokee looked like because she saw it. She knew the driver had committed a person felony against another officer because it was broadcast. She knew that the suspects

were a white female and a white male because it was broadcasted. She saw with her own eyes that the Cherokee drove recklessly while being pursued by marked police vehicles (which is also a felony.)

The Kansas Highway Patrol dispatcher was obviously monitoring Lenexa radio traffic. Trooper Kyser told investigators that "...our dispatch center advised of Lenexa in pursuit of a vehicle that was stolen and advised that they had aggravated charges LEO on the suspect, and they were requesting assistance." When he took the Lamar exit, he heard a request for assistance at the QT. In the QT parking lot, a citizen advised him that a "couple" was inside. Once inside, Officer Decker asked him to "hold" the male.

Based on all these things, it was *reasonable* for Officer Decker to *suspect* that the male and female in the bathroom stalls were the persons that had committed a crime and fled from police.

Her police action was minimal: ordering the female in the stall to come out of the stall. Once the female refused and made comments related to the previous theft of the vehicle it removed any doubt that she was the subject police were looking for. Thus, Cothran was subject to arrest by Officer Decker.

Similarly, Trooper Kyser could justify his police action against Marshall based on Officer Decker's investigation and knowledge. His police action was similarly minimal: ordering the male to come out of the stall. The man's actions and refusal constituted both a crime and reason to believe that police had found one of the suspects they were searching for. Thus, he was subject to arrest or at least detention by Trooper Kyser.

Use of force

K.S.A. 21-5227 authorizes law enforcement officers to use force when "making a lawful arrest." They need not retreat or desist from making the arrest in the face of resistance by the arrestee. Officers may use deadly force **if they reasonably believe that such force is necessary to prevent death or great bodily harm to themselves or others.**

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."

The attempted arrest of Shannon Marshall

As noted above, the officers at QT had the authority to detain/arrest Shannon Marshall. They could do so using a reasonable amount of force. When he resisted, they were not required to retreat.

It is obvious that the officers did not know or suspect that Marshall was armed with a gun. It is also obvious that the officers intended to use non-deadly force to arrest Marshall: Trooper Kyser was the only officer brandishing a deadly weapon.

To quote *Graham v. Connor*, this attempt at a physical arrest became “tense, uncertain and rapidly evolving” in a split second. While Officer Oswald and others tried to force the bathroom stall door open, Marshall produced a handgun and shot Officer Oswald in the head, which immediately incapacitated him.

Officer’s use of deadly force justified.

Shannon Marshall chose not to surrender to police. He chose to shoot at the police officers who were trying to arrest him. Once he made that decision, this situation immediately escalated to a deadly force incident.

Trooper Kyser was interviewed by OICIIT on August 11, 2023. Trooper Kyser’s actions after Officer Oswald was shot were recorded by Officer Oswald’s body camera. Trooper Kyser found himself trapped in a handicapped bathroom stall. He told investigators how he decided to react after he witnessed Officer Oswald get shot in the head:

“...I saw a police officer with obvious head shot in his, got shot by a gun in his head.”

“...at that point I thought ‘oh crap this is a really bad spot to be in and I’m probably gonna die in this bathroom stall.’”

“I didn’t see that to be a viable way to get out because he just shot, what I thought, through the door at that point and killed an officer right in front of me. And I thought he would do the same to me if I tried to do that.”

“And the other option I thought was, well do I just sit in here in the stall and hope that he doesn’t know I’m in here.”

“...or do I push the threat hard and try to eliminate the threat of other people dying.” Trooper Kyser chose to engage Marshall and stop the threat that Marshall made when he shot Officer Oswald.

“I stuck my gun over into the stall and I fired two or three rounds. ...I wanted to assess those rounds and see if they were if they worked or not.”

“I could see a male inside standing. He had a black pistol in his hands.” “...the next person that touched that door would be dead and I knew that officers would be

responding to try to effect this arrest or to save this officer who just got killed and I knew that the next person who probably crossed through that door would die.”

“And so I fired three or four more rounds to stop the suspect from doing that.”

Mission Officer Tanner Eddings was interviewed by OICIIT investigators on August 11, 2023. His actions were depicted by his own body-worn camera and those of the other officers who attempted to arrest Marshall. He explained his actions after Ofc. Oswald was shot:

“...as we’re fighting over the door a gunshot rings out from him [Marshall] and it felt like it was right behind me...”

“...and then obviously I knew it was a gunshot and so we kind of split off. I, my trainee ran out. I ran out.”

“And as I was running out, I was yelling “shots fired” on the radio I heard more shots.” [Ofc. Eddings opened the bathroom door and saw a body on the floor.]

“When I opened that door I saw the suspect, like, looking out.”

“I could see, so I was holding the door open and I could see through the, like the reflection of the mirror I could see him.”

“And so I had my gun out and he was looking around and like I said I had just heard two shots and **I knew the trooper was stuck in there.**”

“I mean this guy, to me, made his choice...”

“...he’s gonna shoot that trooper, he’s gonna shoot me and I saw him looking around and I was like that’s what he’s going to do...”

“...so I opened the door a little bit and I shot...”

“...I aimed my weapon, my service weapon like right where I saw him peeking out of this door right here. And I shot four times, and at that same time that I was shooting I heard more shots. I thought he was shooting at me...”

Both Trooper Kyser and Officer Eddings believed that Shannon Marshall, who had just shot a police officer, was a continued threat to themselves, and other officers. This was a reasonable belief.

The facts of this tense, rapidly changing deadly situation support the conclusion that these officers reached. In other words, their subjective belief that this was a deadly force situation was supported by objective facts known to them at the time of their decision.

K.S.A. 21-5227 allows an officer to use deadly force to effect an arrest if the officer “reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person.” Additionally, the statute allows an officer to use deadly force to effect an arrest if the arrestee is attempting to escape by use of a deadly weapon.” Both conditions were met. The officers’ use of deadly force which resulted in the death of Shannon Marshall was justified and lawful under Kansas law.

Conclusion

Kansas Highway Patrol Trooper Derek Kyser and Mission Police Officer Tanner Eddings lawfully used deadly force to defend themselves and others against an imminent and actual threat of death or great bodily harm from Shannon Marshall. Their use of deadly force was therefore lawful and justified under Kansas law.

Because there is a pending criminal case against Ms. Cothran, we will not be conducting a press conference or answering questions related to these findings.