



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

FOR IMMEDIATE RELEASE

FROM: District Attorney Steve Howe
RE: Olathe Officer Involved Shooting October 10, 2023
DATE: April 12, 2024

SYNOPSIS

On October 10, 2023, Olathe Police Officers were called to a disturbance between neighbors. While at the scene one of the neighbors, identified as Dane Laing, was shot by an Olathe Officer while Laing was armed with a firearm and in the process of committing an armed home invasion.

Neighborhood quarrel leads to police service call

On Tuesday, October 10, 2023, at around 5:00 p.m., Olathe police received a call for service from a citizen living in the 23000 block of 126th Terrace located in Olathe Kansas.

Officer A arrived first and spoke with the complainant. He reported that their next-door neighbor, later identified as Dane Laing, had threatened his little brother by making a 'gun gesture' toward him with his hand. He also reported there had been several previous incidents including one where Laing tried to strike him. Officer A then asked for a backup officer and Officer B eventually arrived to assist.

Officers A and B saw Laing walking on his elevated back deck. Laing's house is separated in the backyard from the reporting party by a fence. The officers went to the yard in between the houses and began to talk with Laing.

The entire interaction was recorded on the officer's body cameras. The conversation was lengthy. They discussed the allegations with Laing, and he responded by complaining that his neighbors had parked on his freshly seeded grass near the street. That is why he confronted his neighbors.

During the conversation, Laing's wife came home. As she did, Laing instructed her to show the officers where the neighbor had parked their car. She did so, loudly announcing where the tires had been, but at the same time whispering under her breath that she needed help and had been staying in a hotel for the past four days. However, she never said anything that gave the officers probable cause to arrest Laing for domestic violence. At one point, she went to the neighbor's house with Officer A and apologized for Laing's behavior.

While this was going on, Officer B stayed in between the houses and engaged Laing in conversation.

Officer A went to his police car and contacted a sergeant to get some guidance. They decided to issue Dane Laing a municipal court "Notice to Appear" (a citation) for a charge of misdemeanor assault, and separately establish a safety plan for his wife.

Officer A then went back between the houses and told Laing, who was still on the deck, that he would be receiving a ticket for assault. Officer A then went back to his police car to complete paperwork for the citation.

Attempted home invasion leads to police shooting

While Officer A worked on the Notice to Appear (NTA) in his police car, Officer B remained between the houses and continued having conversations with Laing who was still standing on his back deck.

Laing eventually went inside his house, then came outside having changed into shorts, instead of the jeans he was previously wearing. His wife then went inside the house using the front door. Laing then went inside the house again.

Approximately two minutes later, Officer B saw Laing running through the front yard, from Laing's house to his neighbor's house, carrying a handgun. He yelled to stop several times. Officer B ran to the driveway area of neighbor's house and saw Laing, gun in hand, kick the door to his neighbor's house open.

As this was happening Officer B began firing his handgun at Laing.

Laing made it inside the house. Officer B heard a gunshot inside the house. Officer B, now in the driveway using a car for cover, fired multiple times at Laing. He then saw Laing fall to the ground.

Seven family members left the house after the shooting. Emergency personnel eventually entered the house and confirmed that Laing was deceased.

Crime Scene/Evidence/Lab/Ballistics

The Johnson County Criminalistics Laboratory processed the scene and were present during the autopsy. They recovered and identified several pieces of evidence including:

- Officer B's Glock 9mm service handgun;
- A Glock magazine with live 9mm rounds (outside near the driveway);
- Eight fired Hornaday 9mm cartridge cases (outside);
- The body of Dane Laing (in the living room of the house);
- Taurus model PT 1911 .45 caliber handgun with spent Federal 45 Auto cartridge case "in the chamber" found near the body of Dane Laing;
- Two full magazines removed from Laing's shorts;
- Multiple bullet defects on the exterior door;
- Multiple bullet defects inside the house/living room;
- Damage to the front door frame;
- Two fired bullets from the foyer floor at the base of the stairs and from the living room floor near the TV;
- Numerous bullet fragments from the front porch, foyer and living room.
- Bullet fragments recovered from the body of Dane Laing

Subsequent forensic testing of the items recovered determined the following:

- Dane Laing's DNA was found on the Taurus .45 caliber handgun;
- One bullet fragment from inside the living room was "consistent in physical design and construction with 45 caliber jacketed bullets.";
- Several bullet fragments from inside the home were identified to Officer B's service handgun;
- Two partial bullets were recovered from Laing's body and associated to Officer B's service handgun;
- Eight fired Hornaday 9mm cartridge cases and the Glock magazine (outside) were associated to Officer B's handgun.

Autopsy of Dane Laing

Dane Laing died of injuries to the lungs from an entrance wound of the upper left arm. He also had gunshot wounds to his right hip and right knee. As previously noted, two partial bullets were recovered from his body and associated to Officer B's handgun.

Toxicology analysis of his blood was negative for alcohol and drugs of abuse.

Statement of Dane Laing's spouse

Dane Laing's wife was interviewed by OICIIT. She stated that the morning of the shooting, Mr. Laing had taken her outside to look at a spot where the neighbor had allegedly parked his car on their grass. She asked him to calm down, but he did not calm down. She then went to work.

She came home early because she did not feel well. Laing was upset about something. She later left to get food to make dinner. Laing called her to tell her the police were at their front door. She went home and saw the officers talking to Laing. She spoke to one of the officers and asked him for help. She went to the neighbor's house and ended up apologizing on behalf of Laing.

She went back to her house and convinced Laing to come inside and talk with her. She told Laing he needed to apologize to the neighbors. She did not want Laing to go to jail.

She believed he was calming down and understanding her. Laing asked her if she wanted Laing to apologize to the neighbor. She said yes.

He kissed her on the lips and told her "I love you." She watched as Laing left the house and turned to head toward the neighbor's house. He walked on the grass, which was strange, and started walking faster. She then heard the shots ring out.

Statement of Officer A

Officer A was interviewed by OICIIT detectives. The initial call for service was a harassment: "a 10-year-old threatened with a gun gesture by hand." Officer A contacted the adult neighbor who told him the history of the relationship between the families that lived next to each other. The neighbor reported that they had a good relationship until recently. There was a series of minor incidents leading up to the date of the shooting. Including a recent incident where Laing tried to strike him. Laing's behavior towards his neighbors had become more hostile.

Officer A called for backup, and when Officer B arrived, he briefed him of what he had just learned. Officer B later advised him of Laing's wife's statements to Officer B, about being afraid of Laing. Officer A confirmed this during his conversations with her, but she was unwilling to divulge any further information.

Officer A walked over to his police car to make a phone call to his sergeant. "...I come to the conclusion that I'm pretty much not going to have the PC to arrest Laing. So, I go and have another conversation with Laing letting him know that he's gonna be cited and he's gonna have a mandatory court appearance." He then spoke with Laing, while he was on the back deck, and advised him of the assault citation.

Officer A went to his police car. He was working on a citation for Laing when the shooting took place. He heard shouting and saw Laing "running up the stairs to get into the home, and I see a firearm in his right hand."

He heard gunshots, which he assumed were from Officer B. This was captured on Officer As' body camera.

When he saw Laing running up the stairs, "I knew in his mind he was going to do bodily harm to the 21-year-old because that's who the incident was with the day before....in my heart I know Dane was going in there to do that kid bodily harm."

Later, Officer A was part of the team that entered the neighbor's house to secure Laing. He saw Laing lying on the living room floor with his head under a coffee table and a pistol lying near his hands with 'the chamber side up.' Officer A found three loaded magazines on Laing's person. He made the gun safe and moved it and the magazine away from Laing's body. This was captured on his body-worn and in-car camera.

Statement of Officer B

Officer B was interviewed by OICIIT. On October 10th he was working in uniform driving a marked police car. He went to 126th Terrace to back Officer A on a "harassment call."

When Officer B arrived at the location, Officer A briefed him on the situation and "said we were going to go make contact with Laing." They found Laing "up on the second, on the deck behind his house. It's a second level deck." They spoke with Laing, but in Officer B's opinion, "Dane was actually staring at me and watching me as opposed to speaking with Officer A..." Laing told the officers about the incident where the next-door neighbor's son parked in his yard.

When Laing's wife came home, Laing asked her to show the police where the neighbor kids had parked in the yard. Officer B went with her. She asked, "Hey

Dane is it right over here?" And under her breath she said, "Help me, help my children." Officer B was able to talk to Officer A and let him know this might be a domestic violence situation. Officer B then "re-engaged" with Laing and began talking to him and stayed in the yard between the houses, while Officer A spoke with Laing's wife. Laing went inside his house briefly and changed from jeans to shorts.

Officer A eventually came back in between the houses, while Laing was back on the deck. Officer A told Laing that he would be receiving a citation for assault. Officer A left to work on the citation and Officer B continued to have "nonchalant conversation with him trying to keep his mind off what's going on..."

At some point thereafter, Laing went inside the house. Then:

"...all of a sudden, out of the corner of my eye, I see him walking up, running not walking, I'm sorry running at a full speed past me."

"I kind of look and I see that he has a gun in his hand as he's running past."

"I pull out, draw out and run towards him between the two houses and I see him going up the stairs toward the front door."

"I tell him to drop it and engage into him and start firing my firearm at him."

"I see him make entry into the house..."

"He's kind of standing in the front living room is what it looks like, and I see him pointing the gun and I continue to fire at him."

"He ends up just dropping straight down."

OICIIT detectives asked Officer B what he believed Laing was going to do:

"Kill the family. I had no doubt in my mind he was going over to handle everybody."

"I am one hundred percent believable that he was going to kill everybody inside the house."

Analysis

Applicable law

Officer B was not really in the act of arresting Dane Laing when he fired his handgun at him. Therefore, this case must be analyzed using basic self-defense principles.

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.*

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).

If one were to consider Officer B yelling at Laing to “stop!” as an attempt at an arrest, then the following statute applies.

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.”

Officer B was standing by assisting in an investigation, when Dane Laing, who was *not* under arrest, ran from his home to the next-door neighbor’s home, brandishing a handgun.

Officer B knew that Laing was involved in a dispute with his neighbors and knew that Laing had just been informed that he would receive a municipal court criminal citation based on actions he took toward those neighbors. Officer B knew that there were people inside the neighbor’s house.

In that instant, Officer B shouted “STOP! STOP!” An argument could be made that those command words constituted a seizure of Dane Laing, or even an arrest. But they were followed seconds later by gunfire.

Laing ran to his neighbor’s house, ran up the steps to the porch, and kicked in the closed front door. Despite a several rounds being shot by Officer B, Laing went into the house and was able to fire his .45 caliber pistol while inside the house.

Officer B witnessed what he believed to be a home invasion with deadly intent by Laing: “I am one hundred per cent believable that he was going to kill everybody inside the house.”

This was Officer B’s subjective, *actual* belief. If he did not use deadly force to stop the threat, the occupants of the house would have been killed by Laing.

This belief was objectively reasonable. His body camera captured video of an armed home invasion in progress. He was justified under Kansas law to defend the occupants of the house from Dane Laing’s imminent use of deadly force.

There were multiple unarmed family members inside the house, including an elderly couple.

I believe that Officer B’s quick reaction prevented injury or death to multiple people in this home.

Conclusion

Olathe police Officer B lawfully used deadly force to defend others against an imminent and actual threat of death or great bodily harm from Dane Laing. His use of deadly force was therefore lawful and justified under Kansas law. This Officer will not face any charges based on his actions that day.