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Re: Officer Involved Death

On July 2, 2020, Officer Bryan Pray of the Sheboygan Police Department used deadly force during an incident with Kevan Odell Ruffin, Jr, a 32 year old male. The incident was investigated by multiple agents from the Wisconsin Department of Justice – Division of Criminal Investigations (DCI) along with assistance from the Wisconsin State Patrol Technical Reconstruction Unit (WSP-TRU). Agents took 181 images of the scene. A member of DCI also obtained aerial video of the scene. A Wisconsin Department of Justice – Division of Criminal Investigations Digital Forensics Unit Analyst assisted in obtaining body camera footage from Officer Pray's body camera. Special agents interviewed Officer Pray as well as many others.

I have been asked to evaluate the evidence and render a conclusion about whether Officer Pray's use of deadly force was reasonable or if he should face criminal charges for his actions. Force intended or likely to cause death or great bodily harm may be used if the person using this force believed there was an actual or imminent unlawful interference with his or her person or that of a third person, believed that the amount of force used or threatened was necessary to prevent imminent death or great bodily harm to himself/herself or the third person, and both of these beliefs were reasonable. A belief may be reasonable even though mistaken. After a review of the evidence, including surveillance video from a nearby business that captured the entirety of Officer Pray's interaction with Mr. Ruffin, and Officer Pray's body camera footage, I find that Officer Pray's use of deadly force was reasonable and no charges should be issued against him.

To reach this conclusion, I made a number of findings of fact. I based these findings on surveillance video, Officer Pray's body camera footage, forensic mapping of the scene, photos, DCI reports and information made available to me by DCI. Based on this material, the following events took place on July 2, 2020.

At 5:50:32 AM, the Sheboygan County Dispatch Center received a 911 call reporting a disturbance involving weapons near S. 15th Street and Illinois Avenue in the City of Sheboygan. Video surveillance from the nearby business showed that prior to Officer Pray's arrival there appeared to have been a disturbance between two people to the west of S. 15th Street between Illinois Avenue and Indiana Avenue. The disturbance was at approximately 5:50 AM according to the video, although the time stamp on the video surveillance was reported to be 30 seconds fast. There was some pushing before one person ran towards a building and the other person, later identified as Mr. Ruffin, walked eastbound down an alley while holding onto something in each of his hands. Mr. Ruffin walked North on S. 15th Street and sat on the curb line of S. 15th Street and Illinois Avenue, just within video surveillance range.

At 5:52 AM, a Sheboygan Police Department squad car operated by Officer Pray pulled up next to a silver car at the intersection of Indiana Avenue and S. 15th Street. The squad car remained for approximately 24 seconds before traveling northbound on S. 15th Street and pulling up next to a business approximately mid-block on S. 15th Street. As soon as the squad car traveled down S. 15th Street, Mr. Ruffin started to walk towards the squad car, although he was on the opposite side of the road.

Officer Pray's body camera recorded him exiting his squad car and then saying, "How you doin' Ruffin?" and "Are you fine this morning?" He later said, "Can you just have a seat for me?" Mr. Ruffin was looking at Officer Pray but walking along the curb line on the opposite side of the road. Officer Pray took approximately 2 to 3 steps toward Mr. Ruffin. Mr. Ruffin began to walk towards Officer Pray. Officer Pray said, "Ah, ah, ah can you just have a seat for me?" He drew his Electronic Control Device (ECD), commonly referred to as a taser, and activated it. Video surveillance from the business showed Officer Pray exit his squad car, hold his hand out and begin to quickly walk backwards. Officer Pray was wearing his official Sheboygan Police Department uniform, which included patches on each shoulder area and included a metal badge and a metal nameplate on the front.

The video surveillance showed Mr. Ruffin begin to walk at a faster pace toward Officer Pray. Officer Pray, as seen on the video surveillance, drew his taser as he was backing up. Mr. Ruffin began to run quickly at Officer Pray.

Officer Pray's body camera recorded him saying, "step back, you're going to get tased bro, step back, you will get tased" and then yelling, "step back" while pointing the taser at Mr. Ruffin. Officer Pray was retreating backwards, away from Mr. Ruffin. The body camera footage showed Mr. Ruffin advanced toward Officer Pray at a faster pace. Mr. Ruffin was mumbling something that was inaudible. He was also holding a Sai in his right hand, which was pointed towards Officer Pray, and another Sai in his left hand, which was pointed away from Officer Pray.

The Sais were collected at the scene. One of them had a black leather and gold twine handle with three rounded edge prongs extending from the handle area. The prongs consisted of two shorter length edge prongs on the outside and a longer rounded edge prong in-between them. The Sai located near where Mr. Ruffin came to lay had black leather wrapped around its handle and again had two shorter length edge prongs extending from the handle with a third

prong in-between that was longer than the edge prongs. The weapons were the same size. One of them was measured with the handle to tip of the middle prong measuring 21 inches in length.

Based on body camera footage, it appeared that Mr. Ruffin began to advance quicker towards Officer Pray. Officer Pray deployed his taser and began sprinting away from Mr. Ruffin. Mr. Ruffin was running at a fast pace towards Officer Pray.

Evidence of the taser being deployed was found at the scene. In addition, a taser probe was found stuck in Mr. Ruffin's t-shirt material near his right shoulder. The wire was still attached to the probe. At autopsy, a taser mark was found on his right upper shoulder. A second probe was found at the scene. The second probe was bent slightly and stained with a red substance.

Officer Pray's body camera showed that he sprinted to the opposite side of the street and turned to see Mr. Ruffin sprinting towards him. Mr. Ruffin was still holding a Sai in each hand. Five seconds after deploying his taser, Officer Pray drew his duty weapon and pointed it at Mr. Ruffin. Within Officer Pray's body camera he is heard yelling, "Step back, you will get shot." Mr. Ruffin continued to run towards Officer Pray.

The body camera footage showed that Officer Pray continued to run backwards and fired 3 rounds toward Mr. Ruffin, who was still running towards Officer Pray with a Sai in each hand. Officer Pray began to sprint back toward the opposite side of the road and fired 3 more rounds while running away and 1 additional shot as he turned back around. After the 6 shots were fired, Mr. Ruffin was still running at Officer Pray, which is when the seventh round was fired. Officer Pray radioed dispatch, "shots fired, shots fired" and "send all units."

The video surveillance showed the same interaction. Specifically, it showed Officer Pray begin to run in a circular motion toward the opposite side of the road. At 5:53 AM in the surveillance video, Officer Pray threw his taser to the ground and drew his hand gun. Officer Pray turned facing Mr. Ruffin, still moving backwards as Mr. Ruffin advanced. Officer Pray fired his hand gun. Officer Pray continued to run in a circular motion to the opposite side of the road while Mr. Ruffin followed. As Mr. Ruffin came back around towards the west side of the road he fell to the ground.

Video surveillance showed a second officer arrive on scene at what video surveillance showed to be 5:54 AM. Officer Pray and the backup officer approached Mr. Ruffin at 5:55 AM. Cardio-Pulmonary Resuscitation (CPR) was attempted, but Mr. Ruffin was later declared deceased at the scene. The preliminary autopsy revealed that Mr. Ruffin was struck by 4 bullets. Each bullet struck the front of his body and had a trajectory that was right to left and downward. The bullets entered his front left shoulder, mid-chest, right upper-chest and right shoulder.

Officer Pray's body camera continued recording even after the assisting officer arrived on scene. Officer Pray was heard on his body camera to say to the assisting officer, "He chased me man with these knives, bro, he chased me man." Officer Pray radioed to dispatch, "Can we get EMS to stage, can we get EMS to stage Illinois and 15th."

Later, the same assisting officer approached Officer Pray who said, as captured on his body camera, "He charged me man, I almost fell." He also told the officer, "I tased him first and I told him." As the assisting officer approached Mr. Ruffin, she pulled one of his Sais away and threw it aside. Officer Pray was heard on his body camera to be out of breath and at one point he was heard beginning to cry. Later, again captured on his body camera, Officer Pray said,

He charged me man, I tased him first, he still came at me, I almost fell, he came at me with those fucking knives. I got out of the car he was across the street, I said Ruffin are you ok, I said have a seat. He started walking towards me, I took my taser out, he came closer, I said I'm going to tase you and he said 'What are you going to do with that.' I tased him, then he ran towards me, I almost fell over that right there, and I took my gun out and fired.

A lieutenant with the Sheboygan Police Department arrived on scene and also spoke with Officer Pray. Officer Pray's body camera recorded the conversation. Officer Pray recounted the incident by saying,

It's on my body cam man. I pulled up right there and there was a female screaming that this guy attacked her. I saw him right there, I saw him, I said I know this guy. He got up, I kept my distance, I said have a seat for me and he started walking towards me and got real aggressive. I pulled my taser and said I am going to tase you if you don't stop, something along those lines like that, he said "what you going to do with that," he walked quickly towards me more, then I fired my taser at him, then he ran at me, and I almost stumbled. Then I had no choice.

When talking to the same lieutenant, Officer Pray, as recorded on his body camera, said, "Then almost fell on the street, then I immediately grabbed my gun, if I would have fallen...he had this look in his eyes. It's on my body cam."

The video surveillance in conjunction with Officer Pray's body camera footage and the measurements taken by the Total Station allowed law enforcement to identify distances between Mr. Ruffin and Officer Pray during the incident.

The distance between Officer Pray and Mr. Ruffin at the time Officer Pray deployed his taser was approximately 15 feet. The time the taser was deployed was approximately the same time that Mr. Ruffin transitioned from a walking movement to a running movement.

At the time Officer Pray fired the first shot from his hand gun, Mr. Ruffin was approximately 12 feet from him. Six shots were fired within a relatively short period of time. The video appeared to show Officer Pray stumbling while backing away from Mr. Ruffin. It was immediately after the stumble that the 6 shots were fired. Body camera footage showed a point when the hand gun's slide was in the back position cycling a discharged round. Corresponding video surveillance from the business showed that at the time the shot was fired Mr. Ruffin was approximately 9 feet from Officer Pray. During the subsequent crossing of the street, a measurement of 5 feet was obtained between Officer Pray and Mr. Ruffin, which was calculated using video from the surveillance camera. During much of the street crossing the

distance between Officer Pray and Mr. Ruffin fell between 5 and 6 feet. The distance was measured by foot positions, not centers of mass or limb placements.

Special agents spoke with Officer Pray about what happened during the incident. Officer Pray advised special agents involved in the investigation that he was aware that Mr. Ruffin's mother contacted the Sheboygan Police Department during the shift before his. This communication was on July 1, 2020, and included a message that Mr. Ruffin had not broken any laws. Officer Pray advised that Mr. Ruffin's mother reported that Mr. Ruffin was running around outside and screaming that he was, "God." The information was shared with officers for informational purposes so officers were aware that Mr. Ruffin was having a mental health episode. No law enforcement action occurred.

Officer Pray advised that on July 2, 2020, shortly before the incident, he was parked along S. 17th Street just past Indiana Avenue working on reports. He told special agents that at approximately 5:45 to 5:48 AM he received a notification from dispatch. He recalled the notification being, "All units, a cellular telephone report had just indicated a male attacked a female with knives." He said that the call was, according to dispatch, about a man with weapons who battered a female civilian who was unknown to the man. He recalled that according to the dispatch call, the "weapons" were either "swords" or "knives."

Officer Pray said that he responded because of his close proximity to the alleged incident location. He was attempting to make contact with the alleged victim and to safeguard any citizen from the alleged offender. He performed a U-turn and realized that he was approximately 2 blocks from the scene. Another officer radioed that the male subject indicated in the call was the "same guy" from last night and requested a data query on Mr. Ruffin.

Officer Pray recounted that as he got closer to the scene a female stopped him. He stopped in mid-traffic. According to Officer Pray, the female was hysterical and crying. He said that she told him that she encountered a man who possessed knives and that the man just attacked her. She reported, according to Officer Pray, that the man walked northbound on 15th Street. She looked down the street and exclaimed, "There he is" while pointing to an African American male. According to Officer Pray, the male was mid-block on the left side near an alley. He was later identified as Mr. Ruffin.

Officer Pray confirmed with the woman that the man, Mr. Ruffin, was the man who attacked her. Based on the allegation that the man physically attacked her, out of fear and safety for any other citizens and because of the report that the man possessed 2 knives, Officer Pray left the woman to make contact with Mr. Ruffin to protect any citizens from additional attacks and/or to safeguard Mr. Ruffin.

Officer Pray stated that after arriving mid-block on 15th Street, he parked his vehicle and immediately activated his body camera. He recognized Mr. Ruffin as the man involved.

Officer Pray recounted having 2 prior contacts with Mr. Ruffin. He said that he served as backup for the first encounter, at which time it was alleged that Mr. Ruffin had a weapon. He explained that the second call involved Mr. Ruffin having "episodes," retreating into his home

and officers leaving the scene. He was also said that he recalled hearing or knowing that Mr. Ruffin's mother previously warned that Mr. Ruffin could be aggressive.

Officer Pray recounted that Mr. Ruffin had been seated on the opposite curb of the street. Officer Pray observed knives in each of Mr. Ruffin's hands. Officer Pray stated that after he exited his squad car, Mr. Ruffin began walking towards him. He said that he addressed Mr. Ruffin and asked, "Hey Ruffin, how you doing?" He said that Mr. Ruffin was mumbling something. Officer Pray said that he immediately asked Mr. Ruffin to have a seat on the curb. He said that Mr. Ruffin stopped and immediately "fixated" or stared at him, Officer Pray.

Officer Pray stated that after he asked Mr. Ruffin to have a seat on the curb, Mr. Ruffin slowly began to walk at Officer Pray. Officer Pray said that he told Mr. Ruffin to drop the knives. He said that Mr. Ruffin had a "mean look" that resembled a "fuck you" look and/or attitude. Officer Pray drew his taser after Mr. Ruffin refused to drop the knives and continued walking toward Officer Pray. He said that he saw the light from the taser on the front of Mr. Ruffin's stomach. He began backing away from Mr. Ruffin in an attempt to retreat or create additional space between the two. However, Mr. Ruffin was able to quickly close the distance that Officer Pray tried to create. He recalled thinking that he was going to have to activate his taser because Mr. Ruffin was not stopping. He recalled Mr. Ruffin making a fast move towards him, at which time Officer Pray activated his taser. He heard the "pop" of the taser deployment. He also recalled Mr. Ruffin "explode" towards him. He recalled that Mr. Ruffin said something to Officer Pray while he began charging at him, which Officer Pray thought was consistent with, "You ain't going to do shit to me." Officer Pray recalled Mr. Ruffin continuing to charge at him and chase him. He said that he turned sideways and almost stumbled and fell.

At some point during the chase, according to Office Pray, he drew his service hand gun. He described to the special agents being afraid for his personal safety and his life. As a result, he discharged his hand gun at Mr. Ruffin in an attempt to stop Mr. Ruffin from charging at him with the knives. He recounted hearing the "bangs" of his gunshots, but realized that Mr. Ruffin continued to chase him. He also recalled seeing at least the first bullet strike Mr. Ruffin's chest. Officer Pray recalled wondering if his gun shots missed Mr. Ruffin as he continued chasing Officer Pray. He eventually observed Mr. Ruffin slow and fall to the ground.

Officer Pray described being scared of Mr. Ruffin killing him. He described the knives that Mr. Ruffin was carrying. He said that Mr. Ruffin's arms were "out" and that he had an "aggressive" stance when he faced Officer Pray. He said that Mr. Ruffin was a "big guy" who moved very fast towards him. It should be noted that according to law enforcement records, Mr. Ruffin was 6 feet 1 inch tall and weighed approximately 269 pounds. Officer Pray said that he believed Mr. Ruffin was attempting to inflict harm on him and that as soon as Mr. Ruffin refused to drop the knives and began running at him, he perceived Mr. Ruffin as an "imminent threat" that had to be stopped so Officer Pray would not be injured. He indicated that he was scared he would not be going home and became frightened that he could have been killed by Mr. Ruffin. He said that he became frightened when he nearly stumbled and fell because Mr. Ruffin was so close to him at that he thought at that time he was going to die. He recounted that at times during the foot chase Mr. Ruffin was so close that Mr. Ruffin could have touched him. Officer Pray indicated that he had no other option to do anything because he was aware that Mr. Ruffin already caused harm to a citizen. He said that he was aware that Mr. Ruffin could have

attacked another individual. He said that under the circumstances, he had no other options. He also explained that he had no other escape routes because his legs felt so "heavy" and he was unable to create distance or evade Mr. Ruffin.

Under the circumstances, Officer Pray's beliefs and actions were reasonable. Mr. Ruffin refused to comply with Officer Pray's communications, including to have a seat on the curb. Instead, Mr. Ruffin advanced toward Officer Pray, including advancing on him at an increasing pace, and did so with what appeared to be two large Sais. Officer Pray raised his hand and moved backwards. He tried to create distance between himself and Mr. Ruffin. He was unsuccessful based on Mr. Ruffin's continued advance. Officer Pray had the wherewithal to have his taser ready, warn that it would be used and deploy it. Unfortunately, it did not alter Mr. Ruffin's movements. In fact, from taser deployment to Officer Pray firing his first shot at Mr. Ruffin, the distance between the two decreased from 15 to 12 feet. This distance closed to approximately 9 feet when additional shots were fired and later to approximately 5 to 6 feet as Officer Pray continued to try and get way from Mr. Ruffin. Through the course of the taser deployment and firing, Officer Pray was moving away from Mr. Ruffin as best as he could under the circumstances. Officer Pray's actions were reasonable and unfortunately his use of deadly force was necessary.

Sincerely,



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