



For Immediate Release
April 7, 2016

District Attorney Marc Bennett announces the completion of the review of the law enforcement use of deadly force resulting in the death of John Paul Quintero, a 23 year old Hispanic male. The incident occurred on the night of January 3, 2015, at 554 North Oliver, in Wichita, Sedgwick County, Kansas.

The Office of the District Attorney has reviewed the results of the investigation conducted by the Kansas Bureau of Investigation, Wichita Police Department, and Investigators from the District Attorney's Office.

SCOPE OF REPORT

This report details the findings and conclusions related solely to the criminal investigation into the death of John Paul Quintero. The only question addressed by this report is whether sufficient evidence exists to establish beyond a reasonable doubt that the criminal laws of the State of Kansas were violated.

The Office of the District Attorney has no administrative or civil authority regarding use of force investigations. Therefore, this report does not address any administrative review that may be conducted by the Wichita Police Department or the City of Wichita and does not provide any assessment of policy considerations, or address questions of possible civil action where a lesser burden of proof would apply.

Questions as to whether the use of force in any particular case could have been avoided or de-escalated if the officer(s) or citizen(s) had behaved differently in the moments leading up to the fatal use-of-force are not the subject of a criminal investigation.

FACTUAL SUMMARY

On Saturday, January 3, 2015, at approximately 18:43 hours (6:43 p.m.), the Wichita Police Department responded to two successive 911 calls.

At 6:43:25 p.m., the first caller reported that his son and another man were fighting one another with knives at a home in the 500 block of North Oliver, Wichita, Sedgwick County, Kansas. The caller reported the two men had "*knives in their hands,*" and stated "*they don't want to quit.*" The caller reported there were three adults in the home as well as several children. He repeated that both men "have knives." The caller then said he had to go and added, "*he's coming*" before hanging up.

*Note throughout this report that *italicized* words reflect direct quotes taken from transcripts of witness interviews

A second call was received by dispatch from a caller inside the same residence on North Oliver. The caller told the dispatcher that a male was drunk and had “hit” her “*cousin’s kid.*” The female caller later added, “*he’s kicking the door and he’s got a knife.*” The caller said the name of the male about whom she was calling was “John Paul” and describes his clothing as a “*blue . . . jersey.*” The caller said John Paul’s “*dad*” had arrived and that John Paul had held “*a knife up to his dad.*”

This second caller said John Paul had exited the home and was outside the residence. She added that he was “*wasted,*” and described that he had consumed a bottle of “*Kentucky Deluxe.*” She then added that he was back at the door to the residence, kicking the door to get back in.

A third call was received from a caller who reported she was at a different location but was on a separate line with a relative inside the home on North Oliver. This third caller reported that police had just shot her nephew in front of the home on North Oliver.

That evening, in an effort to put fewer patrol cars on the road, two officers with the Wichita Police Department were riding in a single patrol unit due to heavy snow fall. The two officers responded to the first two 911 calls. When the officers approached the area, several minutes had passed between dispatches. As the officers arrived, the dispatcher reported there was very little “*new information,*” other than a “*drunk man with a knife*” had been fighting another man who also had a knife and at least one of the men had been trying to get back into the residence.

Officer 1, a four and ½ year veteran of the Wichita Police Department, later relayed that she stopped the patrol vehicle west, across the street from the house on Oliver and parked. In route to that location, Officer 1 stated she had discussed the approach with Officer 2 and decided to utilize her service rifle because of the report that an armed individual had attempted to force entry into the house. Officer 1 thought they would need “*adequate firepower to keep distance*” from the armed individual or individuals.

The officers arrived on scene at 6:51:56 p.m. (note times were recorded by dispatchers after officers checked out on scene). The two officers approached the house on foot and saw two cars parked in the driveway, one behind the other. They first walked to a Chevy Tahoe parked closest to the street. Officer 1 walked to the passenger side and Officer 2 walked to the driver’s side, intending to clear the vehicle. Officer 1 saw a male seated in the front passenger seat. Approaching from the passenger side, she ordered him out of the car while her partner ordered an older male occupant from the driver’s seat.

Officer 1 later described the younger male as verbally argumentative and only intermittently responsive to her commands. The male passenger stepped from the car and began to walk toward the back of the vehicle, putting his hands up to shoulder level one moment and then dropping them to his waist the next. This physical movement was repeated—hands up to shoulder level, then down to the waist—several times.

Officer 1 said the male passenger began to tell her he would “*twerk you*,” or “*work you*,” or “*work out on you*.” Officer 1 reported she was not clear what he meant, but understood from his tone that he intended to convey his words in a threatening manner.

Officer 2 had removed the older male occupant of the Tahoe from the driver’s seat. That man (Witness 1) was compliant, exited the car as directed and placed his hands on the driver’s side of the vehicle. Officer 2 heard verbal commands from Officer 1 and could tell from the “*escalating*” tone of Officer 1’s voice that the passenger was not compliant. Officer 2 moved west, toward the rear of the vehicle, where he could maintain visual contact with the driver (Witness 1) while placing himself in a position to better assist Officer 1.

Officer 2 told the passenger to comply or he would be “*tased*.” Officer 2 holstered his firearm and retrieved his Taser. A subsequent analysis of the Taser assigned to Officer 2 revealed that the Taser was manually “armed.”

At 6:57:02 pm, Officer 1 relayed over her radio that she had “one at gunpoint” and requested backup officers. Officer 2 told the passenger to put his hands on the Tahoe, which the passenger initially did. The passenger then turned back toward Officer 1. Officer 2 told the passenger to turn back around and put his hands back on the vehicle. The passenger lowered his hands and “clenched” his fist instead. Officer 2 again warned he would use the Taser. When the passenger did not raise his hands, Officer 2 used his Taser. An analysis of Officer 2’s Taser showed it deployed for 5 seconds. The passenger, who was facing northwest, “crouched” in response; his hands went “lower” toward his “waist”; and he took a “small step” forward. At 6:58:28 pm, Officer 1 fired her service rifle twice striking the passenger in his lower left hip and buttock.

The passenger went to the ground. The officers continued to issue verbal commands. The passenger laid on his side and rocked back and forth but did not react to the commands. Officer 2 deployed his Taser a second time for 1 second before a third officer arrived and secured the passenger.

The two officers involved in the incident were removed from the area. The weapon utilized by Officer 1, the officer who fired the only shots, was secured. Crime Scene Investigators from the Wichita Police Department processed the scene. Officers with the Wichita Police Department administered first aid until EMS and Fire arrived. The passenger, later identified as John Paul Quintero, was removed by EMS and taken to the hospital. Medical intervention was unsuccessful in saving his life. Mr. Quintero was pronounced dead at 12:55 a.m., January 4, 2015. The body of John Paul Quintero was subsequently transported to the Sedgwick County Regional Forensic Science Center for autopsy.

Two bullets and two shell casings were recovered and submitted to the Sedgwick County Forensic Science Center for examination.

The two officers directly involved in the incident gave voluntary, recorded statements to investigators, as did several civilian witnesses.

REVIEW OF THE INVESTIGATION

Interviews were conducted with the civilian witnesses and the officers involved in the incident. Transcripts of those interviews, reports of the officers and detectives involved in the investigation, reports of the examination of the scene, physical evidence recovered, the results of the forensic testing and the autopsy report were all reviewed.

CIVILIAN WITNESS STATEMENTS

Investigators and officers interviewed several civilian witnesses on scene and later at Wichita Police headquarters.

SCENE WITNESSES

Witness 1 is a resident of Wichita, Kansas. On the afternoon of January 3, 2015, he was called by family members living at 554 North Oliver to come get John Paul Quintero and remove him from the house. Witness 1 later drove to the home. A tape recorded interview of Witness 1 was subsequently conducted by a detective in a patrol car at the scene at 8:15 p.m., on January 3, 2015.

Witness 1 explained that John Paul had come to Wichita from San Antonio, Texas approximately 6 weeks prior. Witness 1 had obtained employment for John Paul who then stayed at the home of Witness 1's niece at 554 North Oliver. Prior to January 3, 2015, he believed John Paul's living arrangement had been amicable.

Witness 1 said he was at home earlier when he received a call from his niece (Witness 3) who told him, "*Pauley had been drinking all day 'cause it was his birthday.*" She explained that John Paul and her own boyfriend (Witness 2) had gotten into an argument which escalated into a fight. The niece wanted Witness 1 to come to the house to assist in dealing with John Paul. After finishing an indeterminate number of errands he had already committed to, Witness 1 later drove to the house on Oliver.

When he arrived, Witness 1 found John Paul outside the residence. Witness 1 told John Paul he was "*supposed to behave and help . . . out*" at the house. When John Paul explained that he had not done anything, Witness 1 observed, "*well you got a gash in your head*" in reference to a visible cut that Witness 1 attributed to the earlier confrontation in the house. John Paul responded by saying, "*Motherfuckers,*" and walking back into the residence. Witness 1 "*followed him [John Paul] inside. And when I get up in there, [John Paul's] got a knife.*" Witness 1 further described it as a "*carving knife.*"

Witness 1 reported that his niece's boyfriend (Witness 2) was in the house when he (Witness 1) went inside. The boyfriend said to John Paul, "*that's my knife.*" Witness 1 saw that the niece's boyfriend had "*a knife in his hand, too.*" Witness 1 tried to talk to John Paul but John Paul responded, "*No, . . . he did it. I'm 'gonna fuck him up.*" Witness 1 demanded that John Paul put the knife down and grabbed at John Paul. Witness 1 said that John Paul said, "*get off me.*" Witness 1 then described the following interaction between he and John Paul:

“[he] points a knife at me and pushes me. I said, ‘really?’ He said – he said, ‘you’ve never been there all my life and now you ‘wanna act like dad?’ I said, ‘So, this is the way it is then? Is that the way you want it?’ So I stepped outside. ‘Fuck you. Tend to your business.’ So I stepped out . . . And that’s when I stepped out. I called the police. I said, I need help.”

Witness 1 called 911. He later told the detective that he explained to the 911 operator that the two men *“both got knives,”* and were inside the house. He then saw John Paul walk outside the residence. As a result, Witness 1 hung up with 911.

After hanging up the phone, Witness 1 and John Paul spoke outside. John Paul apologized to Witness 1 and the two got into Witness 1’s vehicle, the Tahoe parked in the driveway. When Witness 1 asked John Paul where the knife was, John Paul told him that he (John Paul) had left the knife inside the house. Witness 1 did not call 911 again.

Witness 1 told John Paul they were going to *“sit here in this truck and we’re ‘gonna wait for the police officers to get here. What we’re ‘gonna do peacefully – you’re ‘gonna get your clothes from inside . . . and you’re ‘gonna come back and then we’re ‘gonna bring all this shit in my truck and we’re driving over to my house . . .”* When officers arrived, Witness 1 told John Paul, *“they’re here. . . get out of the truck.”*

Witness 1 said two police officers ordered Witness 1 and John Paul out of the vehicle. Witness 1 complied, put his hands up and then placed his hands on an exterior window of the vehicle. John Paul began speaking to the officer on the passenger side of the vehicle. Witness 1 described John Paul’s statements: *“[he] says, ‘chargin’ me \$5000 here.’ I don’t know what the heck – how much they learn in prison ‘cause he used to be in prison. And he’s, you know, drunk.”* According to Witness 1, John Paul continued: *“You can’t do this, you can’t do this. . . said something about . . . some shit law he learned about.”* Witness 1 later added that John Paul told the officer, *“Arrest me, I can sue you for \$5000.00.”*

Witness 1 did not understand what John Paul was trying to say to the female officer. Witness 1 tried to get John Paul’s attention, *“I said, ‘Pauley, put your fuckin’ hands up, man”* He then added, *“I –I –I yelled, ‘He has no weapons.’”* And again to John Paul, *“And then Pauley, put your fuckin’ hands up.”*

Witness 1 heard the officers tell John Paul to get his hands up. They warned him they would *“tase”* him if he did not. Witness 1 saw the male officer put his gun away *“and then he took out his Taser.”*

Witness 1 then heard the Taser *“deploy.”* Witness 1 could see through the rear driver’s side window of the vehicle that John Paul initially had *“his hands up on the window and as he turned around, the police officer tased him . . . and as he tased him, pow-pow, two shots.”* Witness 1 added, *“As soon [as] he’s goin’ down, ‘cause I see his hands ‘goin down like this. And all I hear is a pow-pow.”*

Witness 1 heard Officer 1 tell Officer 2, “. . . *it looked like he was reaching for something.*”

Witness 2 is a 21-year-old male resident of 554 North Oliver and is in a relationship with Witness 3 who is a family member of John Paul Quintero. John Paul came to live at the home of Witness 2 and Witness 3 at the end of November or early December, 2014 after arriving from Texas. John Paul’s father, (Witness1), who is the uncle of Witness 3, asked them to let John Paul stay at their house.

Witness 2 said that John Paul had been at the house all day the day of the shooting. Witness 2 said John Paul had “*been drinking since, yes, since last night, probably about 6 o’clock, 5 o’clock, 6 o’clock in the evening.*”

January 2 was John Paul’s birthday. Witness 2 said that, to celebrate, John Paul purchased a case of beer and a large “*jug*” of Kentucky Deluxe Whiskey and began drinking the day prior to the shooting. When Witness 2 woke up the morning of the shooting, John Paul was still asleep. Witness 2 saw the bottle of whiskey and placed it on top of the refrigerator in the kitchen at approximately 10:15 a.m. When John Paul woke, Witness 2 described his demeanor as relaxed, “*chillin’ there, just watching TV.*”

John Paul later retrieved the liquor from the kitchen and then, throughout the day, began to drink, the whiskey “*and beer, too.*”

Witness 2 took his girlfriend (Witness 3) to work that day at approximately noon. At about 3:00 p.m., he went to pick Witness 3 up from work. John Paul and Witness 4 remained at the house with the sleeping children of Witness 2 and Witness 3.

After they returned, Witness 2 and Witness 3 fed the children then sat in the living room while the children played. At approximately 6:00 p.m., Witness 2 heard John Paul in the kitchen cursing: “. . . *we’re sitting and all I hear is just, fuck, you know, fuckin’, fuck, fuck, fuck, like every other word.*” Witness 2 goes back to the kitchen and finds John Paul “*wobbling,*” trying to unlock the back door. Witness 2’s three year old son was standing close by. Witness 2 asks John Paul where he is going. John Paul responded that he wasn’t going anywhere.

Witness 2 told his child to come with him. According to Witness 2, John Paul “*walks over and he pushes – like tries to push – doesn’t push him aggressive, but pushes [the child]*” and must have lost his balance because he then “*fell, like his whole body landed on top of*” the child. When later asked by the detective if John Paul was drunk, Witness 2 agreed that he was.

Witness 2 picked John Paul up off of the child and “*tossed him away.*” Witness 3 then entered the kitchen and retrieved the child. Witness 2 said John Paul then “*squares up*” with Witness 2. Witness 2 told John Paul he needed to go to sleep and John Paul then “*hits*” Witness 2 above his eyebrow. Later that evening during the interview, the detectives noted that the area over Witness 2’s eye appeared swollen.

Witness 2 then described an intermittent physical altercation where he pushed John Paul against the wall and told him to “*go in there and go to sleep.*” John Paul threatened Witness 2 that he would, “*fuck you up.*” Witness 2 pushed John Paul who then followed him “*around the house, trying to, trying to, you know, fight me.*” At one point, John Paul threw a bottle of root beer in the kitchen and it splashed onto Witness 2. This caused Witness 2 to change his own clothes.

Witness 2 told Witness 3 that John Paul “*needs to go.*” Witness 2 believed that later, Witness 3 called John Paul’s father to come get him. At one point, John Paul left the house through the back door. Witness 2 then went and locked all the doors so John Paul could not come back in. Witness 2 later left the house himself to “*calm down.*” When he returned a short time later, Witness 2 saw John Paul on the porch walking in and then back out of the house. Witness 2 called Witness 3 to ask if John Paul’s father was coming and was assured he was on the way. Witness 2 re-entered the home. A short time later, John Paul walked into the house and retrieved a beer and sat down without speaking.

Shortly thereafter, Witness 3, who was on the phone, told John Paul that he needed to step outside because his father had arrived. John Paul expressed some irritation but did walk outside. Witness 2 locked the door behind him and saw John Paul standing next to his father’s truck talking. Witness 2 then heard “*boom, boom, boom, boom, boom,*” on the door. Witness 3 let John Paul and his father back into the house.

Witness 2 then heard his girlfriend, Witness 3, say “*he got the knife, he got the knife.*” Witness 2 looked and saw John Paul “*and he got the knife to [witness 3’s] throat.*” Witness 2 said John Paul was saying, “*I’m gonna kill that motherfucker, I’m part of the cartel, I can put a hit on him. Blah, blah. Just being drunk, you know, talking stupid shit.*” According to Witness 2, John Paul let Witness 3 go and then tried to “*run after*” Witness 2. John Paul was stopped by his father (Witness 1) who argued with John Paul to stop. John Paul then “*puts the knife to his dad’s throat.*”

Witness 2 saw the knife in John Paul’s hand. Witness 2 recognized it as his own knife. He described it as a “*single blade*” knife that “*flip . . . out.*” He said it was shaped “*like a raptor claw.*”

Witness 2 and Witness 3 moved into the kitchen and waited. When they did not hear any further disturbance, they looked and saw John Paul had gone outside with his father. Witness 2 told his own cousin, Witness 4, to call the police. Witness 3 was also on the phone with her own mother, who was, herself, talking to the police at the same time. They shut and locked the front door again. Witness 2 added that Witness 4 had videotaped John Paul “*trying to stab me and saying he’s ‘gonna kill me and all that.’*”

Witness 2 later heard banging on the front door again and said John Paul was “*trying to yell through the door to me.*” Witness 2 told Witness 3 not to open the door and to ignore the banging. Witness 2 said that “*a couple of minutes later,*” he heard “*screaming outside.*” He looked and saw “*the police have his guns on him and he—I guess he had the knife. They’re telling him, you know, ‘drop the knife, drop the knife!’*” Witness 2 says the next thing he heard was “*boom, boom.*” He explained, “*I heard two*

gunshots.” Witness 2 opened the door and ran outside. He clarified that he did not see the shooting but instead, “*heard it.*”

Witness 2 added that when he looked out the kitchen window, he saw John Paul up against “*the back side*” of the Tahoe and Witness 1 (John Paul’s father) “*up against . . . the side of the car.*” After he heard the yelling, he stepped back from the window prior to the shooting. Witness 2 thought he saw two male officers and 1 female officer interacting with John Paul and Witness 1.

Later in the interview, Witness 2 acknowledged he had retrieved a single blade, wood handled knife himself earlier in the altercation with John Paul. Witness 2 insisted that he (witness 2) never brandished the knife, but rather kept it “next to” his side. Witness 2 said he obtained the knife after John Paul came back into the house, after the arrival of John Paul’s father—the period of time when Witness 2 said John Paul had threatened Witness 3 and John Paul’s father (Witness 1) while wielding the knife.

Witness 3 is a 21-year-old family member of John Paul Quintero and lives in the home at 554 North Oliver with her boyfriend, Witness 2, and their young children. John Paul had been living in the home with Witness 3 and Witness 2 for a period of weeks.

January 2 was John Paul’s birthday. John Paul purchased a case of beer, a bottle of brandy and a bottle of whiskey to celebrate and began drinking around noon that day. According to Witness 3, John Paul continued drinking all day and was “*still up*” when Witness 2 and Witness 3 went to bed around 11:30 p.m. that evening. She said John Paul did not seem that drunk to her because when he gets drunk he talks about “*this world, that we’re going to die . . . crazy stuff that I don’t care about.*” Because he had not brought up these subjects on January 2, she believed he was not drunk.

When she woke up on January 3, around 10:00 a.m., John Paul was awake and “*he’s already drinking . . .*” but was not drunk. She went to work around noon and when she arrived home that afternoon, John Paul was “*drunk as a skunk.*” She described him as “*slurring his words,*” and “*falling.*” He was talking about “*his ‘world order’ stuff,*” but she said he was not acting angry.

Later, John Paul nodded off while sitting on the couch. Witness 2 and Witness 3 suggested he go lay down and sleep in another, back room. In response, John Paul announced he was “*tired of people telling me what the fuck to do.*” John Paul got up from the couch and walked to the kitchen past the boiler and tried to open the back door. He began to say, “*fuck, fuck this, fuck that, fuck, fuck, fuck.*” She assumed he was trying to go outside.

Witness 3’s three year old child had followed John Paul into the kitchen and asked John Paul if he was leaving. Witness 3 said John Paul shoved the child: “*Pauley like, shoved him. . . shoved him back and when he turned he, like falls on top of*” or “*stumbles*” onto the child. Witness 2 reacted by yelling, “[g]et the fuck off my son!” Witness 2 pulled John Paul off of the child and “*throws*” him to the door. In response, Witness 3 said John Paul “*squares up*” and “*sucker punches*” Witness 2. In response,

Witness 2 put John Paul in a “bearhug.” John Paul threatened Witness 2: “*let go, motherfucker or I’m going to kill you and your whole family. You fucked up. I’m cartel.*”

Witness 3 said that when the two physically separated from one another, John Paul followed Witness 2 around the house verbally challenging him to fight. John Paul threw a 2 liter bottle of root beer at Witness 3 which “*exploded.*” John Paul slipped in the soda and fell to the floor which Witness 3 said reopened stitches in the back of his head he had previously received as a result of an earlier, unrelated physical altercation with his (John Paul’s) brother. In response to the root beer being thrown, Witness 2 again grabbed John Paul and physically restrained him. Witness 2 told Witness 3 that John Paul had to leave. In response, Witness 3 used her cell phone to contact John Paul’s father to come get him: “*I’m like, ‘Pauley’s leaking blood. His head is busted open. I think he needs to go to the hospital.’ I was like, ‘it’s a constant fight. He won’t stop.’*” She later showed the investigators the text message she sent to John Paul’s father: “*You need to call me ASAP.*” Her cell phone recorded this text as having been sent at 4:50 p.m. Her phone later showed that she followed up the text with a call to John Paul’s father at 5:06 p.m., to tell him to come get John Paul.

Witness 2 then showered to “*rinse all that pop off him,*” and John Paul leaves the house on foot. Later John Paul came back and knocked on the door saying, “*its cold out here, can I come back in?*” Witness 3 let him sit in the back of the house but told him to stay away from Witness 2.

Later, John Paul’s father arrived at the house and Witness 3 told John Paul to wait outside with his dad. Witness 3 said that “*before he went outside, he was sitting at the table with the knife that he had, that – he was sitting at the table with that black knife.*” She described that he was making a motion with the blade, “*like if he’s stabbing someone with it and he’s like [saying] ‘one, two.’*” She recognized the knife as one that belonged to her boyfriend, Witness 2.

After John Paul had been outside with his father for a period of time, Witness 3 heard “*boom, boom, boom, boom, boom, boom, boom on [her] door,*” kicking the door to the house. Witness 3 was on the phone with her own mother (John Paul’s Aunt) who suggested Witness 3 only open the door if John Paul’s father was with him, to allow the two to get John Paul’s clothes and leave:

“Well, I open the door and all I see is Pauley with this knife in his hand. I swear to God I have never been so scared in my life. I seen [sic] Pauley with this knife in his hand and he goes, he’s like ‘I’m going to kill you, motherfucker.’ . . . [Witness 2 is] at the door. I’m at the door. [John Paul] is like, ‘I’m going to kill that motherfucker,’ and rushes into the house.”

Witness 3 said she tried to grab John Paul “*with all my might,*” and he reacted by gesturing at her with the knife. She let him “*go at that point, I’m like, this is not worth my life.*” She was still on the phone with her mother, crying. She asked her mother to call 911.

John Paul's father tried to physically restrain John Paul to prevent him from coming closer to Witness 2 who had, himself, picked up a knife saying, "*if you come at me with that fucking knife . . . I'm going to stab you back.*" Witness 3's mother tells her on the phone that police are on their way.

According to Witness 3, John Paul's father had been struggling with John Paul until "*Pauley, [at] some point in time, put the knife up to his dad's throat and told him to leave him the fuck alone . . . Yeah, he put it up to his dad. I don't know if it was up to his throat, but I know he was like, 'leave me the fuck alone.'*" In response, John Paul's father left the residence and John Paul followed him outside. When John Paul got outside Witness 3 locked the doors. She then texted John Paul's father again: "*Take Pauley with you.*" Her cell phone recorded that text as having been sent at 6:38 p.m.

While they were still waiting for the police, John Paul did bang on the door again, to say "*I didn't mean for it to get to this,*" and "*I just want to get my things.*" Witness 2's cousin, (Witness 4), who is not related to John Paul or to Witness 3, had been inside the house as well that day witnessing the altercation. Witness 3 said, when John Paul knocked on the door again, Witness 4 said she had enough and was "*calling the cops.*"

When the officers arrived, Witness 3 heard them ordering John Paul to "*get down, get down.*" At least one time, she also heard an officer yell "*drop the knife.*" Witness 3 could see an officer with a Taser through her kitchen window but she could not see the officer with the gun. She believed she heard John Paul speak. She thought he was still in possession of the knife:

Witness 3: "*I-I don't hear Pauley . . . I – I can't hear Pauley... I just hear the police officer yelling and I hear Pauley one – I did hear Pauley say, you know, 'here's my hands' like, but I think at this point he still has a knife in his hands . . .*"

Investigator: "*Oh, he does have the knife in his hands?*"

Witness 3: "*. . .because, I believe . . .*"

Investigator: "*which hand was it?*"

Witness 3: "*I believe it was this one now, 'cause he had this hand up, and I didn't see nothing in it, so I'm guessing it was this one, but he's like 'you can see my hands,' or something and then from that moment . . .*"

Investigator: "*So he has a knife in his left hand?*"

Witness 3: "*Yeah . . .and all of the sudden I hear zzzztttt like the – the Taser sound and then pow, pow. I didn't hear where the shot come out from . . .*"

She later added she was "*assuming*" John Paul had the knife in the hand she could not see. She said, "*I didn't look away, maybe like 30 seconds – 45 seconds, you know, and that Tase and them shots went off.*"

She indicated she could see the right side of John Paul's body and thought he had gone to his knees behind the Tahoe at one point before being tased: "*I don't know if he got up, tried to get up, . . .*" Her view was impeded by the Tahoe at this point. "*. . . and I don't – I don't know what caused the officers*"

to tase him or shoot him but I heard the Taser and as soon as I heard the Taser, boom, boom, the shots went off.” She was sure John Paul’s father had remained seated in the driver’s side of the Tahoe until the shots were fired.

She said that the officer she could see was four to four and ½ feet away from John Paul when the shots were fired.

Witness 3 added that she felt John Paul was not himself that day. She said she’d known him since childhood and he had never before acted the way he had that day—when he threatened her and her family. She said on reflection he acted “*drugged*”:

“when he got angry with the knife, like that wasn’t him. Like, you know, he’s never did that to me before. So when he did, I was like, okay, you know, like who is this guy, you know? But honestly, I don’t know – weed doesn’t make him like that. I know it doesn’t. You know, I seen him on it. It doesn’t make him like that. Alcohol doesn’t make him like that, so I don’t know what could have made him like that. . .”

Witness 4 is the 29-year-old cousin of Witness 2. She is not related to John Paul Quintero. She was at the house at 554 block of North Oliver the day of the shooting. She told investigators she met John Paul for the first time the day before. It was his birthday so he went to the liquor store and purchased an “*18 pack of Bud Light, a bottle of Kentucky Deluxe and a bottle of E&J to drink.*”

She relayed that since then, John Paul had “*really just basically been drinking and he’s been drinking for, like, two days.*” She said John Paul had initially been “*alright*” but, that evening, something had happened out of her view and, as was later explained to her by her cousin (Witness 2), John Paul had fallen on “*the baby.*” This resulted in a confrontation between John Paul and Witness 2 during which John Paul “*just took it to a whole ‘nother—I don’t know if the liquor was speaking or what, but like he just took it to a whole ‘nother level.*”

As the confrontation escalated, the children began to cry so Witness 4 “*grabbed all the kids*” and took them to another room before the ensuing physical altercation. She later saw Witness 2’s “*black eye.*”

Witness 4 knew that John Paul left the residence after the fight when he “*calmed down,*” but she said John Paul later returned to the house. When he returned, the people in the house “*were just trying to avoid*” John Paul, however, he “*started talking and started yelling.*” Specifically, John Paul yelled and pointed in the “*face*” of Witness 3 and when Witness 3 reacted to this, John Paul “*basically, like, went off, talking about he was part of the cartel. He’s going to have a hit on [Witness 2].*”

Witness 4 heard Witness 3, John Paul’s cousin, call her own mother to ask that she to contact John Paul’s father to come get John Paul, saying: “*Come and get him. He’s drunk . . .*” While they waited for John Paul’s father to arrive, Witness 2 left for “*maybe three minutes . . .*” in order to “*cool down.*”

Witness 4 reported no additional problems while they waited inside for John Paul’s father. When the

man arrived, John Paul went outside and Witness 2 locked the door behind him. John Paul was outside “*maybe five, seven minutes,*” before he came back “*banging on the door.*” Witness 3 said that because John Paul was with her uncle, “*maybe they were just picking clothes up and he can just leave.*” When witness 3 opened the door, John Paul “*rushed through the door and he had a knife on him. And he was like, ‘I’m ready to stab everybody. ‘Gonna stab you.’*” Witness 4 saw the knife which she described as a “*pocket knife. It folded and it looked like a- a little sharp . . . like a sharp hook kind of.*”

Witness 4 said John Paul’s father tried to intervene and told John Paul, “*No, son. This is not the right place, right time. We’ve got kids here. Respect – respect your cousin, ‘cause you know you got babies around.*” John Paul reacted negatively to this, saying: “*Fuck . . . uh, so you’re not with me? You’re not even down with me? You ‘aint never been there. Now that I want you here, you aint – you can’t even do this?*” John Paul then held “*the knife up to his dad’s throat,*” later clarifying it might have been held to the father’s “*face or something.*” In response, the father said, “*So this is where we’re at now?*” and the knife came down and John Paul followed his father out the door.

Witness 4 later added that she “*thought*” John Paul had thrown the knife at Witness 2, because Witness 2 had told John Paul that the knife John Paul had was actually his (Witness 2’s). Witness 2 had also added, “*So, now you’re stealing from me?*” In response to that question she “*thought, [John Paul] threw the knife.*” Witness 3 called her own mother to ask the mother to call 911 and Witness 4 called 911 at that point herself.

Witness 4 later looked out the door and saw a portion of the final moments of the interaction with law enforcement: “*And he had – to me it looked like he had a knife, and I heard the cops say – it was a guy cop – say ‘Drop the knife.’ And after that, I came, uh, maybe like right there [indicating] and I just heard two gun shots.*”

She added, that she initially tried to look out the window but could not see, so Witness 2 opened the door. Witness 4 and heard Witness 3 say, “*They’re drawing guns on him.*” Witness 4 looked “*and then alls [sic] I see was uh [John Paul] – he was like this. And I swear but, I – I, for my perspective, I thought I seen the knife in there, ‘cause I heard him say, ‘Drop the knife.’*” She heard “*arguing*” between John Paul and the officers. She thought “*like maybe,*” John Paul said, “*All right. All right. All right.*” She then clarified “*I couldn’t really make it out what it was. But they did say something to each other, but I heard the officer say ‘Drop the knife.’*”

Witness 5 is a 19-year-old neighbor directly to the south of 544 North Oliver. On Saturday, January 3, 2015, she and her husband (Witness 6) woke up around noon and stayed in bed and watched TV most of the day.

That evening they were in bed and heard yelling and both she and her husband “*jumped out of bed and ran outside.*” They found a “*cop car sitting in front of [their] driveway.*” It sounded like fighting and they were concerned because of a prior “*altercation*” that had occurred on New Year’s Eve where her “*husband threatened to shoot*” someone who had pulled into their driveway.

At first, she stayed on her porch next to the residence where the incident took place. She heard yelling—*“put your hands up—stuff like that. And then I heard a Taser go off. I heard it but I didn’t see the Taser.”* She heard a female officer yelling, *“put your hands up”* two or three times.

After Witness 5 heard the *“sizzle”* sound of the Taser, she walked toward where her husband (Witness 6) was standing west of the porch. *“And it was shortly, not very long after the Taser went off that I saw a female officer fire two shots at the suspect.”*

When she got to the edge of her house, she stood behind her husband and said she could see the *“suspect”* being tased: *“And the subject was not, like, complying, wasn’t – like the Taser didn’t seem to affect him.”* When asked what the man was doing, she said: *“He was still standing there and I don’t know if he was talking or what but he wasn’t putting his hands up like they told him to.”*

Witness 5 said it felt like less than 30 seconds (she later clarified 25 to 45 seconds) *“after the Taser went off, that [she] saw a female officer fire two shots at him with a – I don’t know if it’s a rifle or a shotgun, but it was a big gun. It wasn’t her handgun.”*

Witness 6 is a 28-year-old resident of the duplex he shares with his wife, Witness 5, just south of 554 North Oliver.

Witness 6 said he and his wife, Witness 5, were in bed that evening when they heard a *“yelling commotion.”* They got up to check and brought their cell phones in case they needed to call 911, thinking it may have been people that had threatened him earlier that week. When they got outside, they heard additional *“screamin”* so he walked to the west edge of his house, *“and uh, I saw the officers have a guy – a guy at gunpoint.”*

Initially, he was unable to hear the words being said and could only discern *“the muffle of the yell.”* He saw a patrol car parked on the street and a marked patrol Tahoe parked as well. Note that Officer 1 and 2 arrived in a marked Chevy Tahoe and Officer 3, the responding sergeant, responded in his marked patrol car (a Ford Crown Victoria) which he parked directly in front of the residence of Witness 5 and Witness 6. Officer 3 arrived at the scene at 6:57:59 p.m. The shooting occurred at 6:58:28 p.m.

Witness 6 saw a female officer with what he thought looked like a rifle, and a male officer holding a Taser *“probably about 3 to 4 feet from the guy they had at gunpoint.”* He heard the female officer *“telling the guy to get on the ground”* multiple times.

When the male subject did not respond to the commands, the *“male officer”* deployed his Taser. It looked to Witness 6 that the male subject *“went down”* and attempted to *“get back up.”*

When describing the male subject’s response to the use of the Taser, Witness 6 said, *“I don’t know if he turned around and he got tased in the back or front. I know he was in the middle of trying to move around with his arms out to his side.”*

Witness 6 added, that in response to the female officer's commands, the male subject *"was moving around. I mean, he was facing towards the Tahoe. Then he kept looking at the female officer then back at the Tahoe. He kept moving."*

When asked specifically if he saw a weapon in the male subject's hands, Witness 6 responded,

"I don't know if he had a weapon or not, but I noticed that he kept reaching to his side. So I don't know if he had anything on him. That, I'm not too sure. . . .Uh, he kept going like this with his one arm, but I don't know if he was reaching to his side or if he was putting his arms down. I don't know. I mean, all, this is the first time I've ever seen anything like this."

Witness 6 heard the *"clack, clack"* of the Taser and saw the male subject getting up. *"And he was standing up when Taser was still going."* He added, *". . . the officers kept telling him to get back on the ground. And I don't know what was said or what he did because I was freaked out and trying to comfort my wife. Um, but when turned back around, that's when I saw and heard the shots."* Witness 6 later added that the male subject had been standing up *"longer than . . . a little bit, yeah, just before he was shot."*

Witness 6 said he hear the Taser when the gun was shot. *"But after it was shot, I didn't hear it no more."* After the shooting, the female officer did not move at first. The male officer *"hurried up, went to check on - cuff him, whatever they had to do. Then he hurried up and called for backup or whatever. Then uh, called for EMS and like, maybe a minute and a half later, they all showed up."*

Note that on January 4, a local Wichita television station attributed the following quotes to Witness 6: *"They said that he was threatening the officers, I don't believe he was . . . He was trying to talk to the male officer with compliance trying to tell him, I don't know what all he was saying, but he wasn't resisting or nothing like that from what I could see";* and *"He had his arms up until he got tased, his arms went down to his side."*

Witness 7 was driving a car southbound in the inside lane (east lane) in the 500 block of North Oliver prior to the shooting. This witness later contacted a local media station and reported that as he drove south on Oliver past the scene, he looked to his left (east) and saw a young man standing with his hands up with a Wichita Police officer pointing a gun at the young man.

Witness 7 was contacted January 6, 2015 by Detectives with the Wichita Police Department and interviewed on tape.

Witness 7 stated that on the evening of the shooting, he was driving home from work, the same route he drives every day. He recalled the traffic *"wasn't very busy due to the snow just really coming down."*

He said as he drove south in the inside lane of Oliver past the house on Oliver, *“I saw the younger man in the driveway behind the SUV. Um the female officer was standing at the edge of the driveway or in the grass. Um, and the other officer was more behind him, um but I didn’t get a good look at him . . .”* He was *“pretty certain”* the young man had a *“blue jersey”* on. Due to the weather, he thought he was driving 12-15 miles per hour.

Witness 7 saw the female officer *“did have the rifle up to her chest and that’s what caught my attention. And when I drove past, I did see the subject . . . or suspect or whatever, um, was making this gesture.”* The detective then asked him to clarify for the recording the *“gesture”* he was physically showing the detective. Witness 6 repeated, *“he did have his hands like this.”* The detective asked, *“Okay, up and the way you’re demonstrating is about as high as your shoulders?”* Witness 7 responded, *“yes.”*

Witness 7 had the impression the young man was looking or *“focusing his attention between the two officers. But it was—he was facing more towards the female officer.”* He then clarified for the detective that the young man was between the two officers who *“had strategic views of him.”* He added that the female officer was *“no more than eight feet”* away from the young man, *“but it looked like about six feet to me.”* He also thought he remembered seeing an older male civilian closer to the house.

Witness 7 did not hear any shots. He continued to drive south on Oliver. A *“couple of minutes”* after he passed by the scene, approximately a block south of Central Avenue, near either First Street or Second Street, he encountered *“probably at least six to ten other police officers that were - all had their lights on heading that way. But that’s all I saw.”* Witness 7 said his view of the scene was brief: *“Um, maybe it was less than two seconds of a view. For all I know, like I said he could have just been making – making a gesture. Um, and I just saw the freeze frame.”*

The next morning when he went to work around 7:00 a.m., the scene was still secure, so he checked a local news website and read about the shooting.

LAW ENFORCEMENT OFFICER STATEMENTS

The police officers on scene at the time of the shooting of John Paul Quintero each gave recorded, voluntary statements.

Officer 1: The Wichita Police officer who fired the weapon in this shooting was a 4 ½ year veteran of the Wichita Police Department. The officer was assigned to third shift and was driving a fully marked Wichita Police vehicle, and was dressed in an authorized Wichita Police uniform.

The officer told investigators she and Officer 2 were parked in the parking lot of Southeast High School after having responded to another, unrelated call when she heard a 911 dispatch of a disturbance at a home in the 500 block of North Oliver.

The dispatch was “*really vague. It didn’t have a lot of information for us.*” The calling party said that a “*man with a knife*” was at the home of the caller’s daughter. The two officers obtained several names of parties at the house, but “*all Dispatch knew at that point was that she was calling saying that the man was there with a knife.*” The only available description of the suspect was that he was a “*22 year old Hispanic male*” wearing a “*blue jersey.*” The dispatch did add that he was intoxicated.

Given the limited information, Officer 2 began trying to run names of the calling parties through the WPD computer database while Officer 1 drove toward the scene. Officer 2 was unable to find any information associated with the names of the calling parties.

As they arrived at the area of the 500 block of North Oliver, 911 dispatched that an additional 911 call had come from the same residence from another caller. This caller reported that “*the male with the knife was trying to kick in the door to the house and that he might be fighting with another person with the knife.*”

Officer 1, who been recently qualified with a service rifle believed the uncertain nature of the call warranted use of the rifle: “*I, due to the knife and trying, them trying to break into the house, I wanted to make sure that we had adequate firepower, adequate cover, um, to maintain some distance while we, while we tried to contact this guy, ‘cause we didn’t know what was going on.*”

Officer 1 parked the patrol vehicle on Dellrose, “*short of Elm*” street and the two officers began to walk toward the house where they found two cars parked in the driveway. Dispatch had told the officers that a Gray Tahoe was “*involved, related to somebody in this disturbance,*” but Officer 1 was not sure how.

The officers did not see anyone in the yard, so Officer 1 told Officer 2 that they ought to clear the cars before further approaching the house. Officer 2 approached the Tahoe—the car nearest to Oliver street—on the North/ driver’s side of the vehicle. Officer 1 approached the Tahoe from the South/ passenger’s side.

As Officer 1 approached the passenger side of the truck, she turned on the light on her rifle to try to see into the vehicle and, while she could not see into the rear passenger compartment, did see the arm of a man seated in the front passenger seat. She told the passenger to get out of the car and show his hands. When the man stepped out, she could see his hands were “*down by his waist . . . not grabbing anything, he’s just holding them down.*” Officer 1 repeated the verbal command: “*Put your hands up.*” The passenger, John Paul Quintero, did not comply.

Officer 1 described John Paul as “*motioning towards*” her saying something “*about how angry*” he was that the officer was “*pointing the gun at him.*” In response, she said she began to back up toward the west, toward Oliver Street and directed John Paul to put his hands up again. Officer 1 described his reaction to her commands: “*He’s not doing it. Um once in [a] while he puts his hands, ‘kinda – he raises them a little bit, but then he goes right back down and he’s-he’s back at his waist, you know, he’s clearly not doing what I’m telling him to.*” John Paul took “*three to five steps towards*” her while she continued to back up

approximately 10 feet. He matched the description of the suspect in the dispatch: *“I immediately saw him, like oh, well, that’s, that’s the guy we’re looking for.”*

Officer 1 was unaware of what was happening with the driver because she was *“focused on”* the passenger. The passenger continued to verbally express his anger:

“He says, um, like, ‘I’m ‘gonna put a twerk out on you.’ And he started saying something – I hear him say, ‘\$500.00,’ and I hear him say like ‘I’ll, ‘I’ll shoot you.’ Like I thought he was saying ‘for \$500 bucks I’ll shoot you.’ It was broken up by traffic driving by. I couldn’t hear everything he said and I had no idea what he meant by ‘twerk.’ But it – the way he was looking at me and the way he was – he was gesturing towards me, he like he was yelling, his voice was loud and angry. Um, I took it as a threat, like, he was – he was threatening me somehow. He, uh he made some mention of – of doing something later, like – like he was- which I took to mean like he was ‘gonna try and shoot me later, like he was ‘gonna come back for me or something like – like that was what he was trying to get across.”

Before Officer 2 had stepped away from the driver’s side of the truck, Officer 1 asked for emergency traffic because she felt *“we need more than two of us to – to deal with this.”* Officer 2 stepped to the back of the Tahoe and began to give verbal commands as well: *“he gets [John Paul] to stand against the SUV with his back towards [Officer 2], with his hands up on the SUV.”*

From that position, John Paul continued to turn his attention back to Officer 1: *“He keeps – he keeps like turn-he turns his head towards me and says, says again, I’m like, ‘I’m ‘gonna put a twerk out on you.” He turned “all the way around to [Officer 2] and he’s – he’s looking at [Officer 2] and like ‘kinda points to me, he said, ‘I’m not ‘gonna do anything as long as—as long as you’re pointing that gun at me.”*

John Paul turned around and faced the SUV for *“several seconds,”* then came *“right back off.”* He turned again *“and puts one hand down at his waistband and it looks to me like he was dipping to grab something.”* Officer 1 said she *“thought he was reaching for something and I thought about shooting him then. I didn’t because I – I thought that [Officer 2] had a much better vantage point than I did and since [Officer 2] wasn’t shooting him, I didn’t feel like it would be right for me to shoot if [Officer 2] has a much better view. He can see if he’s pulling something out or not.”*

Officer 1 had taken the rifle off safety around the time he was *“dipping”* but then she thought to herself *“wait a sec, like I shouldn’t be off safe right now because he’s not, I mean we’re not at that point yet. So I should be, I put it back on safe and I still covered him with it, I still aimed it at him, but I put it back on safe ‘cause I didn’t feel like we were quite to that threshold yet.”*

Officer 1 heard Officer 2 warn John Paul that if he did not comply he would be *“tased.”* She heard Officer 2 *“transitioning to a Taser,”* and *“saw the Taser out.”* Given John Paul’s continued noncompliance, Officer 1 prepared herself for the inevitable *“pop”* of the taser: *“I thought to myself, okay if- you know, be*

prepared for [Officer 2] to tase this guy. If you hear a pop, it's [Officer 2] tasing him, not him [Officer 2] shooting him, cause I didn't want to overreact or anything."

John Paul was *"still turned toward"* Officer 2 with his left side facing Officer 1. John Paul was *"still not complying . . . not putting his hands up, putting his hands down around his waist."* She heard the *"clacking of the Taser"* and saw that John Paul,

"kinda moves forward a little bit. And I see him, again, reach toward his waist band. [Officer 2] was probably 4 to 5 feet away from him. I thought her was 'gonna pull a knife or a gun out on [Officer 2] and he was so close there wouldn't have been anything to be able to stop it, so I disengaged the safety and I sh -- I fired two shots at . . . I wasn't aiming at a specific point, I was aiming at his body and I -- I think it ended up being the pelvic girdle area."

Officer 1 remembered telling Officer 2 *"I thought he was reaching for something, I thought he had like a weapon or a gun or a knife in his waist band."* John Paul was wearing a large loose jersey.

She explained that she did not believe the Taser had an effect of John Paul: *"It didn't look like the tasing worked to me. Uh, I mentioned that to [Officer 2] 'cause it seemed like, you know, when you get tased you 'kinda lock up. He was -- I mean the motion he made was a reflex to a Taser. It was a definitive reach, uh, so I didn't think the Taser was working, um, so I felt I had to take other action."*

She confirmed that she had used her Taser in the past, sometimes *"successfully"* and sometimes not. She noted that when the deployment is successful the recipients typically *"lock up and go down,"* and John Paul *"was not doing that."*

She reiterated, *"I thought -- I thought he was going -- anything really that's because of the call text, a knife, is what . . . was in my mind. Um I thought he was going for a knife and within you know, that short distance, he was -- he was very close to [Officer 2]. Um, and that [Taser] cycle was 'gonna end at some point. I didn't want the cycle to end and him to be charging [Officer 2]."*

Officer 2: The second Wichita Police officer involved in the incident was a 3 year veteran of the Wichita Police Department. The officer was assigned to third shift. To keep as few cars on the road that night as possible due to slick road conditions from snow fall, Officer 2 was a passenger that evening in the fully marked Wichita Police vehicle driven by Officer 1. Officer 2 was dressed in an authorized Wichita Police uniform.

According to Officer 2, he and Officer 1 had been parked in the parking lot of Southeast High School for a few minutes after leaving a call of a disturbance where they had backed other officers. While parked at that location, they received a dispatch of a *"disturbance with a knife"* with multiple calling parties.

Officer 2 attempted to run the names of the calling parties through the local database but *“wasn’t able to locate anything.”* Dispatch told the officers that *“they were having trouble getting information.”* As Officer 1 drove to the address described on North Oliver, Officer 2 looked up the address and could find *“no good place to park on Oliver”* that would allow them to approach the house in a *“tactically sound”* manner with adequate *“cover.”* As they continued to drive toward the residence, the only updated information dispatch was able to relay was that there was *“fighting with knives”* taking place at the residence.

Officer 1 parked the patrol vehicle (a Chevy Tahoe) and the two officers approached on foot. Officer 1, who was certified to carry a service rifle, made the decision to carry the rifle. Walking to the house, they could not see anyone outside, or hear any signs of the disturbance. What Officer 2 described as a *“gold”* Tahoe was parked in the driveway. Unable to see inside the Tahoe, Officer 2 approached from the North toward the driver’s door while Officer 1 approached from the south, passenger side of the vehicle. The officers used flashlights due to the time of day and the dim lighting in the area.

Approaching the vehicle *“like a traffic stop”* Officer 2 was able to see someone in the driver’s side with hands up *“near the steering wheel.”* Officer 2 drew his service hand gun, *“based on the call context,”* and ordered the driver out of the car. The driver, who was compliant, stepped out of the car.

Officer 2 could hear Officer 1 speaking commands to the passenger on the other side of the car: *“show me your hands. Get your hands up”* and *“step out of the vehicle.”*

From having worked with Officer 1 previously, it sounded to Officer 2 like Officer 1’s voice was *“escalating.”* He thought this was an indication that the passenger was not compliant. Because of this, Officer 2 told the driver to place his hands on the side of the Tahoe, which the driver did. Officer 2 then walked to the West toward the sidewalk and Oliver Street so that he could see the South/passenger side of the Tahoe where Officer 1 was standing. This allowed him to assist Officer 1 and still *“keep an eye on”* the driver. Throughout the interaction, the driver remained compliant.

The passenger was out of the vehicle, near the bumper on the passenger side of the vehicle, facing Officer 1 when Officer 2 got to the back of the Tahoe. Officer 1 was *“yelling ‘Show me your hands,’”* and the passenger *“was raising them up and starting to bring them down.”* Officer 2 could not tell what the passenger was saying. Officer 2 also began to give verbal commands.

Officer 2 saw the passenger put his hands up and then *“lower”* them, without placing them in his pockets *“two or three”* times. At *“one point,”* the passenger *“put his hands up on the vehicle”* and faced the vehicle. Officer 2 noticed the passenger had what appeared to be dried blood from a laceration on the back of his head.

The passenger kept his hands on the car but was *“turning a lot”* to address Officer 1. The passenger, who appeared to be intoxicated, slurred his words and was difficult for Officer 2 to understand. Officer 2 did hear the passenger tell Officer 1, *“you have that pointed at me . . . I’ve got one for you,”* and *“I’ll get you.”*

Officer 2 perceived the passenger to be “*aggressive*” in his tone. The passenger’s hands were “*starting to move. He’s uh-there’s a lot of body movement going on.*” While trying to maintain cover on the driver and react to the passenger, Officer 2 called for backup.

Officer 2 heard the driver who remained “*compliant*” throughout the encounter began to yell at the passenger across the truck: “*Shut your mouth,*” and “*Do what they say.*” At this point, the passenger turned away from the vehicle and faced the officers with his hands “*mid body, out.*”

Both officers began to yell at the passenger to “*get your hands up, show us your hands.*” The passenger “*starts to lower them again,*” and says, “*get the gun off me.*” Knowing that Officer 1 had “*lethal cover,*” Officer 2 put his handgun away and “*switched over to Taser.*” He could see the passenger “*was starting to close his fist . . . you could just tell he was aggravated, irritated and we still didn’t know where the knife was in play. . . so I switched over to Taser to try to immobilize him.*”

The two officers had backed up but the snow covered the street, the curb and the yard, so Officer 2 could not tell where the street began. He felt they were out of room. At this point Officer 2 was standing five to seven feet to the north and west of the Tahoe, while Officer 1 was five to seven feet south and west of the southwest edge of the Tahoe where the passenger was standing. The two officers were approximately five to seven feet from each other.

Officer 2 told the passenger to turn back around and put his hands back on the vehicle. In response, the passenger lowered his arms “*closer to inside his body area,*” and both hands looked to be “*clenched*” into fists. Officer 2 said, “[g]et your hands up or I’ll tase you.” In response, the passenger “*doesn’t move them at all, they were continuing to stay down. Um, then I deployed the taser.*”

Having experienced Taser deployment in the past, Officer 2 perceived that the passenger did not react to the Taser. Instead of locking up or going to the ground, the passenger “*crouched down and his hands went lower, um, toward his pants region. Um, and then he had one step that went forward.*” The “*step*” the passenger took was a short “*motion*” or “*small step*” between the two officers. As the passenger took the step, Officer 2 heard two shots from Officer 1.

Officer 3: The third Wichita Police officer interviewed was a Sergeant and a 24 year veteran of the department. The Sgt. was driving a fully marked Wichita Police vehicle (Ford Crown Victoria), and was dressed in an authorized Wichita Police uniform.

Officer 3 was at the Eastside substation when he heard the dispatch of the call at 554 N. Oliver. Dispatch called for a supervisor and Officer 3 acknowledged the call. He put away some paperwork and began driving to the call. Officer 3 arrived at 6:57:59 pm. When he arrived, he parked his patrol car, “*where the driveway is, just to the south of where the incident occurred.*” He added, “*I just got my car in park and that’s when the two shots were fired.*” He later added that he had not heard any voices prior to the shooting and that the windows of his patrol car were still up at the time he stopped the car.

Officer 3 immediately got on his radio and “*told dispatch to start EMS.*” Officer 3 walked toward the male subject who had fallen to the ground and saw another man (Witness 2) come out of the house. Officer 3 interacted with this man briefly until other officers began to arrive and separate witnesses and keep them out of the scene. He later heard the man (Witness 2) say he had not seen the shooting. He and another officer offered medical assistance to the male subject until EMS arrived.

As he pulled up, he saw the “*suspect, he is standing . . . directly behind*” the Tahoe and the two officers are “*within a few feet.*” He was not able to see what if anything the suspect or the officers were doing before the shots were fired. The suspect did appear to be facing toward the male officer, Officer 2. Officer 3 was not initially sure which officer had fired their weapon.

CRIME SCENE INVESTIGATION

Wichita Police Department Crime Scene Investigators processed the scene of the shooting which was photographed and diagrammed. Scene Investigators located, photographed, and collected items of physical evidence.

A total of two 2 cartridge casings were recovered by crime scene investigators near the grass median on the east side of Oliver Street in front of the residence in the 500 block of North Oliver. Given the falling snow and ice, a metal detector was utilized to locate the 2 cartridge casings.

The M4 .223 carbine assigned to Officer 1 was collected and submitted for comparison.

Two bullets were collected from the body of John Paul Quintero by medical staff at the hospital. The two bullets were then turned over to law enforcement for submission into evidence and subsequent forensic/ballistic analysis.

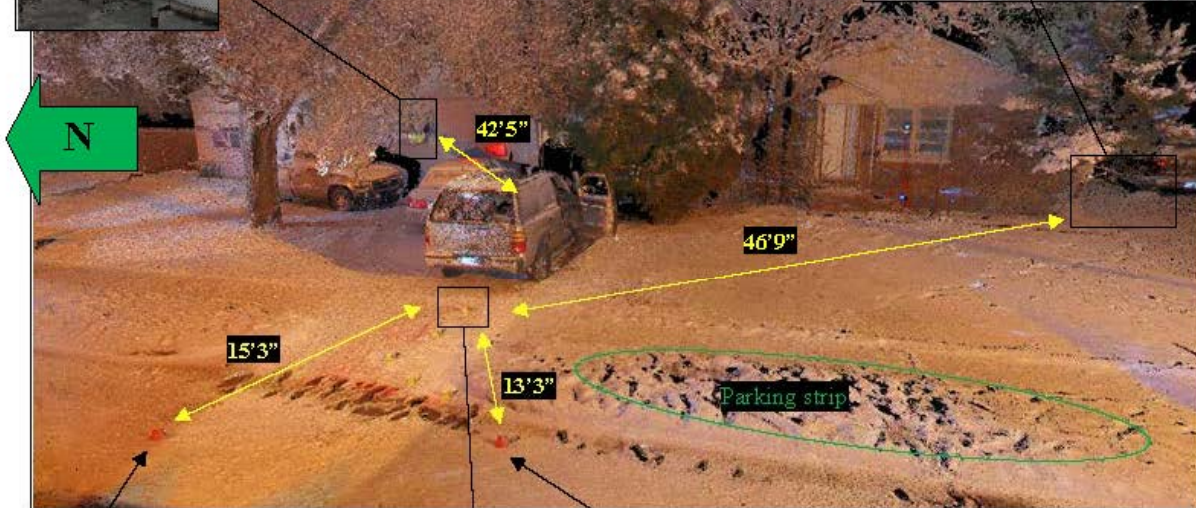
DIAGRAM(S)

554 N. Oliver Ave (Front/West Side)



It was reported that a witness in the kitchen observed the incident from the window. Photo was taken of view from kitchen (inside) to driveway outside (above). Distance from window to right rear quarter of vehicle is 42'5" (approximate).

It was reported during my investigation that a witness observed events from the SW corner of neighboring structure to south (distance to rear of vehicle is approximate).



Reported position of "taser" officer at time of my investigation (distance of initial position-orange marker- is approximate).

Reported position of "rifle" officer during initial investigation (distance of initial position-orange marker- is approximate). It was later determined that the officer was actually on the parking strip adjacent to the side walk (south of driveway) and approached the suspect/victim. It was unknown at the time of my investigation exactly where the officer stood upon firing their weapon.



A cell phone was observed on driveway behind parked SUV along with deployed taser wires.

CRIME SCENE INVESTIGATOR



View from 500 block of North Oliver, looking East. Chevy Tahoe in the driveway facing East with passenger door open.



Photo taken from 500 block of North Oliver facing North, Northeast where Witness 2 and Witness 3 lived. Chevy Tahoe driven to scene by Witness 1 is parked in the driveway.



Photo taken of from 500 block of North Oliver looking East, Southeast.
Residence of Witness 5 and Witness 6 is visible south of the Chevy Tahoe.



FORENSIC EVIDENCE AND AUTOPSY RESULTS

An autopsy was performed on the body of John Paul Quintero on January 5, 2015, at the Sedgwick County Regional Forensic Science Center.

Autopsy

The autopsy documented the following: A gunshot wound to the “upper medial left buttock.” The direction of the wound was “forward” and from “intermediate” range. A second gunshot wound to the lateral left buttock. The direction of the wound was “forward and to the right” and from an “indeterminate” range.

The coroner observed multiple abrasions to the head and neck, a contusion of the lower right eyelid, a laceration of the right parieto occipital scalp, subgaleal hemorrhages, abrasions of the back and abrasions and contusions to the extremities.

The autopsy determined the cause of John Paul Quintero’s death was “gunshot wounds to the trunk,” and the manner of his death was Homicide.

Toxicology

Toxicology analysis was conducted. The results are as follows:

Serum (Hospital 1/03/15)

Ethanol – 0.241 (blood alcohol level)

Blood (Hospital 1/03/15 1930 hrs):

Tetrahydrocannabinol [THCA] - 1.0 ng/mL;

Carboxytetrahydrocannabinol [THCA] – 46 ng/mL;

Amphetamine – Not detected;

Methamphetamine ~0.14 mg/L.

The Blood (Heart):

Amphetamine - Positive (≤ 0.10 mg/L)

Methamphetamine – 0.13 mg/L

Urine:

Amphetamine – Not detected

Methamphetamine – Positive

Methylenedioxymethamphetamine [MDMA] – not detected

Ballistics

The “Colt Defense 5.56 mm caliber carbine, Model: M4 Carbine” was secured at the scene of the shooting and was later submitted for examination at the Sedgwick County Regional Forensic Science Center. The rifle met the definition of a firearm and was functional.

Two Speer 14 224 Remington cartridge casings collected from the west edge of the property of the house located at 554 of North Oliver. “Based on the comparison of breech face marks and/or firing pin marks of the test fired cartridge case . . . with the [two] fired cartridge cases . . .” the firearms expert concluded the two cases “were identified as having been fired in” the M4 secured from Officer 1.

Two “bullets fragment(s)” were collected from the body of Mr. Quintero at the hospital, turned over to law enforcement and submitted into evidence. Based on the comparison of “class and individual characteristics of the test fired bullet . . . to the fired bullet fragments . . . were identified as having been fired from” the M4 Carbine secured from officer 1.

KANSAS LAW

In Kansas all persons including law enforcement officers are entitled to defend themselves and others against the use of unlawful force. **Kansas Statutes Annotated** 21-5220 (formerly 21-3211) states:

- (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 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 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.

The term “use of force” includes words or actions directed at or upon another person or thing that reasonably convey the threat of force, the presentation or display of the means of force or the application of physical force, including by a weapon. “Use of deadly force” means the application of any physical force which is likely to cause death or great bodily harm to a person.

The Kansas Supreme Court has made clear that the analysis of a self-defense claim presents a “two prong test”:

“The first is subjective and requires a showing that McCullough sincerely and honestly believed it was necessary to kill to defend herself or others. The second prong is an objective standard and requires a showing that a reasonable person in [the same] circumstances would have perceived the use of deadly force in self-defense as necessary.” State v. McCullough, 293 Kan. 970 (2012).

Kansas Statutes Annotated 21-5231 (formerly 21-3219), enacted in 2006, states that a person who is justified in the use of force in self-defense “is immune from criminal prosecution.”

A. Use of Force During Arrest

Kansas Statutes Annotated 21-5227 (formerly 21-3215), Use of Force; law enforcement officer making an arrest, States:

“A law enforcement officer, or any person whom such law enforcement 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.”

B. Application of Kansas Law

A person’s use of deadly force in self-defense is judged on a “case by case” basis. Only such force reasonably needed to defend against another’s imminent use of unlawful force is legally permissible under Kansas law.

CONCLUSION

On January 3, 2015, Officer 1 exercised deadly force resulting in the death of John Paul Quintero. The evidence uncovered during the course of the investigation found no credible evidence to establish beyond a reasonable doubt that the officer’s use-of-force in defense of herself or Officer 2 was unreasonable under the circumstances.

The investigation established that John Paul Quintero was intoxicated having spent the previous 24-30 hours drinking intermittently. The blood screen conducted from blood collected from Mr. Quintero’s body reflected his use of alcohol, marijuana and methamphetamines. Mr. Quintero had been increasingly agitated and violent in the hour leading up to the shooting, having engaged in a physical altercation with his cousin’s boyfriend and then later arming himself with a knife and subsequently threatening his cousin, her boyfriend, and his own father with this knife.

Officers arrived knowing only that two men had fought with knives; that one man was intoxicated; and that an intoxicated man with a knife had left the residence and had subsequently tried to gain access to the house again utilizing some degree of force.

When confronted by law enforcement officers, Mr. Quintero was intermittently compliant and, at turns, confrontational. It is clear from eye and ear witnesses and from the statements of the two officers, that the officers believed in that moment that Mr. Quintero still had a knife, and verbally warned him multiple times to “*drop the knife.*”

After being warned by the officers that he would be “*tased*” if he continued to be non-compliant, Mr. Quintero ignored the commands of the officers and ultimately turned from the Tahoe to face the officers. The Taser was subsequently deployed. The Taser seemed to Officer 1 to have had no deterrent effect on Mr. Quintero. Instead, he appeared to Officer 1 to be reaching toward his waist, where Officer 1 believed he still possessed the knife. Officer 2 observed that rather than going to the ground in reaction to the Taser, Mr. Quintero stayed on his feet, balled his fists and moved his hands in a downward motion toward his waist.

Officer 1 reported that she recognized Mr. Quintero was steps away from Officer 2 and saw that she and Officer 2 had retreated as far as they could in the snow with the barrier of Oliver Street immediately behind them to the West. Officer 1 knew that Officer 2 had transitioned from his handgun to his nonlethal Taser and was thus unable to meet lethal force with a lethal response. The Taser deployed by Officer 2 did not have the debilitating effect on Mr. Quintero that Officer 1 expected from prior experience. When Officer 1 perceived Mr. Quintero’s hands go back down to his waist band, she believed Officer 2 was in danger from what was previously reported as a knife in the possession of this suspect.

No knife was found on Mr. Quintero. In fact, the knife described by Witness 1, 2, 3 and 4 and video recorded by Witness 4 was not located by law enforcement either inside or outside the residence that night.

I find that, given the evidence provided to the officers by dispatch and Mr. Quintero’s ongoing behavior that night after the officer’s arrival, there is insufficient evidence to prove beyond a reasonable doubt that Officer 1 acted in an unreasonable manner in the defense of herself and Officer 2. Under Kansas law and the facts of this case, I conclude that no criminal charges will be filed against the officer.

District Attorney Marc Bennett
18th Judicial District of Kansas