



For Immediate Release  
October 9, 2015

District Attorney Marc Bennett announces completion of the review of the law enforcement use of deadly force resulting in the death of Jeffrey D. Holden. The incident occurred on the morning of October 26, 2014, at 3100 block of West Douglas, 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 Jeffrey D. Holden. 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, provide any assessment of policy considerations, or address questions of possible civil actions 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 properly addressed in a criminal investigation.

## FACTUAL SUMMARY

On Sunday, October 26, 2014 at approximately 6:39 a.m., Wichita Police officers responded to a 911 call of shots fired in the area of Douglas and Mt. Carmel in west Wichita. The 911 caller said a white male, later identified as Jeffrey Holden, had a gun in his hand and was walking in the area. It appeared to the citizen who called 911 that Mr. Holden was walking with a limp. An officer from the Wichita Police Department responded to the call and arrived in the area at approximately 6:44 a.m.

The responding officer observed a white male lying down on the southwest corner of Douglas and Mt. Carmel. The white male sat up and began firing at the officer with a dark colored handgun. The officer immediately took evasive action and drove his patrol vehicle into the parking lot of an

apartment complex directly to the north. The officer exited the patrol vehicle and took cover behind a parking garage and an electrical box on the northeast corner of the intersection. The suspect continued to fire at the officer who reported to 911 he was pinned down. The suspect moved behind vehicles parked in a driveway in the 3100 block of W. Douglas.

At approximately 6:48 a.m. the officer reported to 911 that it sounded like the suspect was reloading a firearm. At 6:49 the officer reported the suspect was continuing to fire at him and had now moved into a yard in the 3100 block of W. Douglas. The officer returned fire at the white male. Two more Wichita Police Department officer's arrived from the west on Douglas Street and parked their marked patrol vehicles in the street. The suspect yelled and fired his weapon at the two officers who took cover behind their patrol vehicles.

All three Wichita Police Department officers advanced on the suspect who was in the front yard of 3107 W. Douglas while the subject continued to fire at the officers. The three officers returned gunfire at the suspect who was shot and fell to the ground at approximately 6:52 a.m. Fire and EMS personnel arrived on scene and attempted life-saving procedures. Mr. Holden was pronounced dead on scene at approximately 7:01 a.m. A .380 semi auto pistol was recovered next to Mr. Holden. A .22 revolver was recovered by the vehicles that Holden had taken cover behind earlier.

The subsequent investigation revealed that these two firearms recovered near Mr. Holden had been taken earlier that morning by Mr. Holden from an acquaintance in the 400 block of N. Richmond. After discovering the firearms missing, the acquaintance and two others got into a vehicle and went looking for Mr. Holden. They found Mr. Holden walking in the area of Newell and Mt. Carmel. The acquaintance confronted Mr. Holden, who acknowledged that he had the firearms, but then ran. Mr. Holden fired at the occupied vehicle as he was running away. These individuals did not report this initial encounter to the police. 911 did receive a call from a citizen in that area who complained of hearing shots fired around 4:50 a.m. Later, a .380 shell casing was located in the 500 block of N. Mt. Carmel by a crime scene investigator. The initial responding officer (Officer 1) to the call at Douglas and Mt. Carmel had also responded earlier to the call in the 500 block of N. Mt. Carmel.

The three officers involved in the incident were removed from the area. The weapons of the officers involved in the shooting were secured. Crime Scene Investigators from the Wichita Police Department processed the scene. The body of Jeffrey Holden was transported to the Sedgwick County Regional Forensic Science Center for autopsy.

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

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

## REVIEW OF THE INVESTIGATION

Interviews were conducted with the civilian witnesses and 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 the 3100 block of West Douglas. This witness heard the sound of gunshots from the front “west” of his residence. Witness 1 has a surveillance system with a black and white monitor displaying the images captured by multiple cameras focused outside Witness 1’s residence.

After hearing the shots, the resident looked at a monitor inside the residence and observed a white male outside of the witness’s residence with a handgun in his hand. The male subject moved to different locations around Witness 1’s home. The witness observed the male sitting on the ground at one point. It appeared to Witness 1 that the individual was limping from some type of injury to the leg: “It looked like he had been shot in the leg or something, cause I seen [sic] a spot, you know, right there on his leg,” and noticed “he was limpin’ a little bit.” The witness called law enforcement.

The witness heard more gunfire and “ducked” in response. He later observed the male kneeling down in the driveway of Witness 1’s residence next to a vehicle. Witness 1 tried to play back the recording from his surveillance system when he heard “rapid fire of gunfire.” Witness 1 was on the phone with dispatch advising officers of the current movement of the subject.

Through the surveillance monitor, Witness 1 observed what he took to be officers approaching with lights. Witness 1 could not hear whether verbal communication took place between the officers and the subject. The surveillance system did not contain audio. Witness 1 was able to see the subject walk into a neighbor’s yard to the west with his arms and hands extended upward. The witness could not see whether the male was armed at this point: “I don’t know if he had a weapon or what.”

Witness 1 could see the subject walk out in the direction of the officers but Witness 1 could not tell at this point whether the subject fired at officer's "[be]'cause the lights from their vehicles was [sic], right in front of the camera." The officers shot at this point. Witness 1 speculated that the suspect "could have been firing" when the officers shot, but was clear that he (Witness 1) could not see due to the glare of the lights of the patrol vehicles in his surveillance monitor.

**Witness 2** is a family member of Witness 1 and also lives in the 3100 block of West Douglas. Witness 2 was woken by a family member who said they had heard gunshots. Witness 2 looked at the surveillance system monitor inside the residence and observed a male outside the residence with a handgun in his hand, "plain as day." The male subject appeared to walk with a limp and had what appeared to be "a big blood stain on his left leg or in his jeans – leg . . . like he was already shot before this."

At one point, Witness 2 saw the male kneel down behind a vehicle in the driveway of the residence and could hear shots being fired from what sounded like the male subject. "You can hear the bang, bang, you know? It was, you know, you could feel the vibration." Witness 2 retreated into the interior of the house. Witness 2 then crawled to the monitor and was on the phone with police describing the male subject's movements as seen looking up from the floor at the monitor on the desk.

Witness 2 thought that roughly 30 seconds passed and then the male moved toward the street with his arms and hands extended up. Witness 2 could not tell if the male subject was still holding a gun in his hand. The male then "cut" or ran west and south. At this point, Witness 2 heard several shots and saw the male fall to the ground. The witness observed these events on the camera system monitor inside their residence.

**Witness 3** lives in the 3100 block of West Douglas and was awoken by a family member who ran to call 911 saying they heard gunshots outside. Witness 3 stepped outside and saw two police cars with red lights on Douglas Street near Sheridan and others nearby.

Witness 3 heard "four or five" gunshots "probably." The shots seemed to be coming from the area of an apartment complex. The witness then observed a white male running to the south across the street. The witness lost sight of the male and then observed him come from between houses directly east of Witness 3's residence.

The male walked out between the curb and sidewalk holding a silver colored handgun, extended his right arm out and fired two or three times "at police cars and officers." The officers were behind the two police cars to the witness's west on Douglas Street. "They were pinned down 'cause he was shooting directly at those two cars."

Witness 3 heard at least one officer return fire and believed that the white male was struck. The male “turned quick like he’d been struck,” then “halfway stumbled” and eventually fell to the ground. The witness observed several officers moving toward the suspect.

Witness 3 thought three of the officers approaching the male fired at the male as he lay on the ground moving back and forth, but Witness 3 “couldn’t tell which way he was moving.” Witness 3 never saw the male’s hands come up. The witness could not see if the male was still armed when he (the male) was on the ground. When asked whether the male suspect still had a gun in his hand, Witness 3 could only speculate, “I assume he did.”

When the shooting began, Witness 3 obtained a firearm in order to defend himself in the event the white male suspect made an attempt to enter Witness 3’s residence.

**Witness 4** lives in an apartment in the 100 block of North Mt. Carmel and was awoken by the sound of gunshots. After getting up, Witness 4 heard at least two more series of gunshots. Initially, Witness 4 called Westar to inquire if anyone had reported power lines popping, thinking that was the source of the original sound. While on the line with Westar, Witness 4 heard more shots.

Witness 4 observed a police car arrive and a male subject yell “what’s real!” and the officer backed up and got out of the police car. The suspect yelled “what’s real niggers,” before the male “took a couple shots at the police officers.” Witness 4 later added, the male suspect began to fire at the first officer as the officer arrived: “that’s when he opened fire on the officer . . . it was damn near simultaneous.” He added, “[t]his cop did not pull up and just start shooting him, this guy started shooting at the cop.”

Witness 4 saw the male was limping and still firing at officers with what appeared to be a semi-auto pistol from what appeared to be his right hand. The suspect was “moving towards the officer. . . it looked like he started limping to me and like trying to get – I don’t know where he was trying to go, but he was trying to go close – closer towards the cops and still shooting.”

Witness 4 observed officers advance on the male firing and the male went down to the ground. Witness 4 saw the male on the ground still moving and officers firing at him. The witness couldn’t tell if the male was still holding the pistol at that point. The witness observed EMS arrive on scene shortly thereafter and medics attempting CPR on the male.

**Witness 5** lives in an apartment in the 3000 block of West Douglas. Witness 5 heard several gunshots and waited a period of time, not sure what the sound was. After hearing additional shots, Witness 5 got up and intended to call 911 but heard “sirens” and realized police were already on scene. Witness 5 then observed a police vehicle drive into the apartment complex.

A person Witness 5 recognized as an officer due to the officer's uniform exited the vehicle and started running after what she believed to be a "suspect." Because it was dark, Witness 5 could not see the suspect. Witness 5 did hear the officer yelling at someone to "drop the weapon" and "get on the ground." The suspect yelled something back at the officer but Witness 5 was not able to determine what was said.

At this point, Witness 5 put her children on the floor and barricaded herself in her apartment. Witness 5 then saw the officer running after what Witness 5 believed to be the suspect. Witness 5 heard the officer calling for backup. "Then the suspect – he started just shooting out of nowhere." Witness 5 then heard more police cars and then more gunshots. Witness 5 saw the officer run around the corner and then heard more shots. Witness 5 did not see the final exchange of gunfire.

**Witness 6** lives in the 3100 block of West Douglas and was awoken to the sound of popping like fireworks outside. Witness 6 got up and looked outside the front door and observed a male on or near the sidewalk with a handgun in his hand. Witness 6 saw "the blue and red lights" from the police cars.

Witness 6 then saw the suspect "pull his hand up," and saw "fire come out of the end" of his gun as he began firing at the police vehicles parked on West Douglas: "When then, like I say, I saw this man standing there and I didn't realize what he had in his hand until I saw him fire and he fired at the cars that were to the left of the street."

Witness 6 could hear what sounded like officers returning fire. The suspect began to walk and then increased his "pace": "He was calm. He just walked from here to there and he was firing . . . I think he was on a mission."

Witness 6 heard officers shooting and observed the male fall to the ground. Witness 6 believed the suspect continued to fire as he went to the ground. Witness 6 could hear officers telling the male to stay on the ground and roll over. Witness 6 observed medics attempting CPR on the male almost "immediately" after he was shot.

#### **FRIENDS/ASSOCIATES OF MR.HOLDEN**

**Witness 7** had known Mr. Holden for about five weeks. Witness 7 and Mr. Holden went to a residence in the 400 block of N. Richmond to visit friends. In the early morning hours prior to the shooting incident on Douglas Street, Mr. Holden was looking at a picture of his daughter and crying. Witness 7 said Holden had been sad lately because he was unable to be with his daughter.

Mr. Holden left the residence and said he was going to smoke a cigarette. Prior to Mr. Holden leaving, Witness 7 understood that Witness 9 and Mr. Holden had been cleaning two guns, a silver pistol and black revolver that belonged to Witness 9. Witness 9 told Witness 7 said at least one of the guns was

missing from the residence after Holden went outside. Mr. Holden had previously told Witness 7 that one of the guns belonging to Witness 9 was “a .380.”

When Mr. Holden did not return from smoking, Witness 7 went outside to look for him and discovered he was gone. Witness 7, 8, and 9 then drove around the area looking for Mr. Holden. Witness 7 said Witness 9 placed a shotgun in the vehicle as they drove around the area. They observed Mr. Holden walking in the same direction as the car was traveling in the area of Mt. Carmel Street.

Witness 7 said that Witness 9 made a comment about the missing pistol to Mr. Holden: “I see you got my pistol,” or “hey, do you have my pistol?” Mr. Holden responded that he (Holden) had the gun—“Yeah, I got it right here”—and then started backing up and running backwards.

According to Witness 7, Mr. Holden then pulled a handgun from the area of his pants. Witness 7 heard shots and saw a muzzle flash from the handgun Mr. Holden was holding. She dove to the floor of the car, covering Witness 8. According to Witness 7, Witness 9 never exited the car and never pointed the shotgun at Mr. Holden.

**Witness 8** lives at a residence in the 400 block of North Richmond Street with Witness 9. Witness 8 has known Mr. Holden since middle school. Witness 8 said Mr. Holden and Witness 7 came to the Richmond residence to visit on Saturday.

Witness 9 retrieved two handguns for Mr. Holden, who had asked to see them. The guns were left laying on a table. Mr. Holden, who had grown upset about his daughter and his inability to see her, said he was going outside to smoke a cigarette late Saturday night/early Sunday morning. When Mr. Holden failed to return, Witness 8, Witness 7 & Witness 9 discovered the two handguns missing from the table: “At that time I did notice that there was like – the guns were missing.”

Witness 7, 8, and 9 left in a vehicle looking for Holden. Witness 9 brought a long gun to the vehicle before they left. In the area of Newell and Mt. Carmel Streets, they found Mr. Holden walking in a yard. Witness 9 asked Mr. Holden about the missing guns: “hey, you got those guns?” Mr. Holden responded that he had them – “Yeah, I do,”—and took off running. Mr. Holden then pulled out a “black handgun” and fired at the vehicle: “. . . he was running and shooting at us like shooting at the vehicle.” The occupants of the car immediately returned to the residence on Richmond.

Witness 8 estimated this incident took place at approximately 5:20 a.m., approximately one hour prior to the shooting call on Douglas Street.

**Witness 9** lives at a residence in the 400 block of North Richmond Street with witness 8. Witness 7 and Mr. Holden were at the residence visiting in the early morning hours Saturday prior to the Douglas Street shooting.

After Holden left the residence, Witness 9 discovered a .22 revolver and .380 semi-auto pistol which belonged to him were missing from the residence.

Witnesses 7, 8 & 9 drove around the area looking for Mr. Holden. Witness 9 observed Holden in the area of Newell and Mt. Carmel Street and stopped to talk to him. Witness 9 asked Holden if he had the guns: “Hey, you got those guns?” According to Witness 9, Mr. Holden answered in the affirmative—“Yeah”—and then began to run and then “he started shooting” at the car. Witness 9 acknowledged that he wasn’t sure if Mr. Holden “was shooting at us . . . but I wasn’t gonna’ hang around and take that chance.” Witness 9 had a shotgun in the vehicle which he insisted was never pointed Mr. Holden and was not involved in the incident.

After Mr. Holden fired shots, Witness 9 drove straight back to the Richmond address.

## LAW ENFORCEMENT OFFICER STATEMENTS

The three officers involved in the death of Jeffrey Holden gave recorded voluntary statements.

**Officer Involved 1:** The Wichita Police officer involved in the shooting is a four ½ year veteran of the department with two years of prior law enforcement experience with another department. The officer was assigned to fourth shift and was driving a fully marked Wichita Police vehicle, and was dressed in an authorized Wichita Police uniform.

The officer told investigators he responded to a 911 call of a suspicious character with a gun firing shots in the area of Douglas and Mt. Carmel near Newell street. A witness there reported hearing several shots fired. The officer and another responding officer spoke to a homeowner, and walked the area looking for evidence, finding nothing: “we were unable to see any – any scene at all.” Officer Involved 1 made a case and documented the call. The officer left the area and responded to an unrelated burglary call.

While completing the burglary call, the officer heard two separate calls come out: one a white male with a limp and a black handgun “walking down the street firing off rounds.” The second call was less descriptive, “just gunshots.”

The officer drove the area. Near Mt. Carmel and Douglas, the officer observed a white male, later identified as Jeffrey Holden, lying down on the southwest corner of the intersection. Holden sat up and started firing from a black handgun towards the officer.

“As I pull up here [at] Mount Carmel and Douglas, the southwest corner. Uh, there’s a man, lying down with his knees up right by the—I think it was a stop sign maybe or some type of-there’s some type of sign right there at the intersection . . . on the southwest side. He sits up and I can see that he realizes I’m a police officer. And when he sits up he has his



hands down on the ground. Looks at me, picks up a gun and starts firing shots at me. It's a – it's – I can see it's a black handgun. I see flashes. And I hear the shots. And they're coming right at me.”

The officer took evasive action and drove north into the driveway of an apartment complex. The officer stopped, exited the patrol vehicle and ran behind an adjacent parking garage. Mr. Holden moved behind vehicles in a driveway on the south side of Douglas and then moved into a yard in the 3100 block of West Douglas. At one point, Officer 1 moved behind an electrical box on the northeast corner of the intersection for continued cover.

Mr. Holden began to fire again at the officer who was then able to see the flashes coming from Mr. Holden's gun: “I do finally get zeroed in on where he's at . . . he's using the SUV for cover and firing off rounds I think at me.” The officer returned fire with the officer's duty issued 9 mm handgun.

Other officers arrived in the area in their patrol vehicles. Officer 1 got on the radio and warned the responding officers to stay back, fearing they would be shot. The other responding officers parked to the west of Mr. Holden on Douglas Street. Mr. Holden also fired at the newly responding officers. Officer 1 saw Mr. Holden “out in the yard moving towards officers that I know are over here.”

Given the risk to the officers and homeowners in the immediate vicinity, Officer 1 quickly covered the distance to Mr. Holden, using parked cars in the area as cover. The other two officers also approached Mr. Holden who continued to fire. Mr. Holden was struck by gunfire and fell in the yard of a residence in the 3100 block of West Douglas on the south side of the street. Mr. Holden appeared to move his arms as if he was going to fire again and Officer 1 fired again at Mr. Holden.

“But I knew he was going to hurt someone if I didn't. So I moved in and I fired several rounds. He fell to the ground and then he, he, it looked like he was trying to get up. And he moves both of his arms like he still has a weapon and he's going to shoot at those officers again. So, I had stopped shooting and then I started shooting again.”

The officer approached Mr. Holden and could not see whether he still had the handgun in his hands at that point. Concerned that Mr. Holden could be covering the handgun, the officer pulled Mr. Holden by his leg away from any handguns that could be within his reach. Mr. Holden was then handcuffed by officers. The .380 pistol was found where Mr. Holden initially laid.

**Officer Involved 2:** The second Wichita Police officer involved in the incident is a 1 year veteran of the department. The officer was assigned to fourth shift and was driving a fully marked Wichita Police vehicle, and was dressed in an authorized Wichita Police uniform.

Officer 2 responded to a 911 call of a suspicious character with a gun firing shots in the area of Douglas and Mt. Carmel. As Officer 2 was responding to the call, he heard Officer 1 advise over the police radio that the suspect was firing at the officer, who was pinned down. Officer 2 arrived on West Douglas and was directed by Officer 1 on the radio to back up because of active gunfire from the suspect: “The car that just pulled up, back up . . . shots are being fired.” Officer 2 backed up on Douglas Street and exited the patrol vehicle.

Officer 2 heard gunfire and bullets striking the patrol vehicle. The gunfire was coming from the south and east of the officer’s location. Another officer arrived (Officer 3) and parked next to Officer 2 on West Douglas. Officer 2 then hears more shots hitting both patrol cars at this point. Officer 2 was unable to see Mr. Holden but was told by Officer 3 via radio that the suspect was across the street to the south. Mr. Holden was continuing to fire at the officers.

Officer 2 hears someone on the radio say, “It looks like he’s reloading.” In that moment, Officer 3 and officer 2 advanced on foot toward Mr. Holden. As soon as the two officers step away from the cover of the patrol cars, “shots ring out. I could see more pieces of the vehicle—of our vehicles coming off the top and the front.”

Officer 2 heard one officer radio that the suspect was behind an SUV. Officer 2 then sees Officer 3 begin to run toward that position and Officer 3: “I get up and follow suit. We have our – our weapons drawn.” Officer 2 heard what he believed to be one of the officers yell at Mr. Holden, who was running to the West, to “get down.” Officer 3 again gave commands for Mr. Holden to get down. Officer 2 described Mr. Holden’s reaction: “I see the individual turn his body and raise an arm. And the other officer started firing at him.”

Officer 2 observed Mr. Holden with an arm extended towards the officers “as if he had a weapon.” Officer 2 fired his duty issued 9 mm handgun at Holden who fell in the front yard of a residence.

**Officer Involved 3:** The third Wichita Police officer involved in the incident is a five year veteran of the department. The officer was assigned to fourth shift and was driving a fully marked Wichita Police vehicle, and was dressed in an authorized Wichita Police uniform.

Officer 3 responded to the call of an “officer in trouble” and heard Officer 1 over the radio say, “put me out shots fired” in the area of Douglas and Mt. Carmel. While in route to the scene, Officer 3 heard Officer 1 say over the police radio that he (Officer 1) was “pinned down” by gunfire in the apartment complex.

Officer 3 arrived on scene and parked next to another patrol vehicle on Douglas Street, west of the apartment complex. Officer 3 heard gunfire which sounded as if it impacted close to the officer’s location. Officer 3 and Officer 2 took cover behind their patrol vehicles. Officer 3 heard more gunfire

which seemed to come from the south side of Douglas and impacted very close to the officer.

Officer 3 took a prone position behind a patrol vehicle and observed Mr. Holden who was southeast of their location. Officer 3 observed at least one handgun in the left hand of Mr. Holden and believed he was holding another gun in his right hand. Officer 3 described to investigators how the suspect continued to fire at them, which left he and Officer 2 effectively pinned down, each lying prone behind their respective patrol cars, with no identifiable cover to which they could safely run. Officer 3 observed Mr. Holden had moved to a vehicle in the driveway of a residence on the south side of the street. Based on prior military training, Officer 3 described thinking that he and Officer 2 had to immediately move and close the distance between themselves and the suspect or face a rapidly approaching suspect firing at their position without adequate cover. Officer 3 determined he and Officer 2 would be safer as moving rather than stationary targets.

Officer 3 yelled at Officer 2 that they were going to have to close the gap between themselves and the suspect. Officer 3 said he began to run forward towards Mr. Holden who was pointing a handgun in the direction of the officers and appeared to be firing the weapon: "I mean, there was one gun that looked like it was you know, pointed in my direction as I'm running towards him, and I could see his arm 'kinda moving, which to me gave the impression that he was actually firing a weapon and uh, the gun was, there was a recoil that was you know causing his arm to go up . . ."

Officer 3 returned fire with his duty issued 9 mm handgun. Mr. Holden went down in a yard on the south side of Douglas Street. Mr. Holden continued to move which caused Officer 3 to believe he was going to shoot Officer 1, who had also advanced with Officer 2 and Officer 3. Officer 3 fired again at Mr. Holden. Other officers then advanced and handcuffed Mr. Holden who was on the ground in the yard. Officer 3 observed a "shiny" semi auto pistol lying on the ground close to Mr. Holden.

In addition to the three officers involved in the shooting, there were additional witness officers:

**Officer Witness 1:** This officer is a six year veteran of the Wichita Police Department who was working fourth shift. The officer was driving a fully marked Wichita Police vehicle and was dressed in an authorized Wichita Police uniform. Officer Witness 1 responded to a call over the police radio of a suspicious character and a weapon firing shots in the area of Douglas and Mt. Carmel. The officer then heard an officer on scene say "shots fired" over the radio.

As the officer responded to the scene, the officer heard officers giving additional calls of "shots fired." The officer then heard dispatch say that the subject firing at officers was hiding behind a white SUV.

Once parked, the officer observed other officers pinned down by gunfire behind two patrol vehicles parked on West Douglas. This officer heard gunfire coming from east of the location of these officers.

Officer Witness 1 heard someone yell “there he is,” and then observed someone running to the west “out from behind” the white SUV toward the officers. A nearby street lamp gave the officer a clear view of the subject running: “As he’s runnin’ across the yard I see him clearly with a – with one of his arms out and a shiny object in his hand pointing it back towards the officers . . .” as Mr. Holden ran to the south.

Officer Witness 1 observed two officers firing as they advanced towards the subject. The subject fell to the ground and this officer heard other officers yelling “show me your hands.” The subject continued to move, “it appear[ed] that he’s not complying” and at least one officer fired again at the individual. After the individual was handcuffed Officer Witness 1 observed a silver colored semi-auto handgun on the ground.

**Officer Witness 2:** The officer is a deputy with the Sedgwick County Sheriff Department. The deputy was on duty and responded to a call of suspicious character with a gun in the area of Douglas and Mt. Carmel with shots fired.

The deputy arrived in the area and parked near Sheridan and Douglas. “I put it in park and I can hear – as soon as I opened the door, I was hearing gunfire.” The deputy took cover behind his patrol vehicle. The deputy then overheard an officer say, “that he was pinned down and he thinks the suspect is reloading.”

The deputy began to run toward the shooting when he observed a Wichita Police Officer leave the cover of another patrol car and begin running and firing a handgun, toward the suspect. Vehicles initially obscured the deputy’s view of the position of the suspect. The deputy eventually ran to the point that he was able to observe a male on the ground. Other officers were yelling commands at the male on the ground to show his hands. The male was then handcuffed by another officer.

## 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 including: a .22 revolver and .380 semi-auto pistol; an additional cylinder for a .22 revolver; several live .22 and .380 cartridges; as well as fired cartridge casings, bullets and fragments.

A total of fifteen (15) fired .22 cartridge casings, four (4) .380 fired cartridge casings and thirty two (32) 9 mm fired cartridge casings were recovered by crime scene investigators.



.22 Revolver and .22 cartridges recovered behind a vehicle where the officers observed Mr. Holden during the incident.



.380 semi-auto pistol recovered in the yard by Mr. Holden. In addition, investigators were able to recover video surveillance from a residence in the 3100 block of West Douglas showing Mr. Holden with a handgun, and arm extended firing at the officers.

2014.10.26 SUN AM 06:38:54 BDR-3100 CAM 01







2014.10.26 SUN AM 06:51:48 SDR-3100 CAM 02

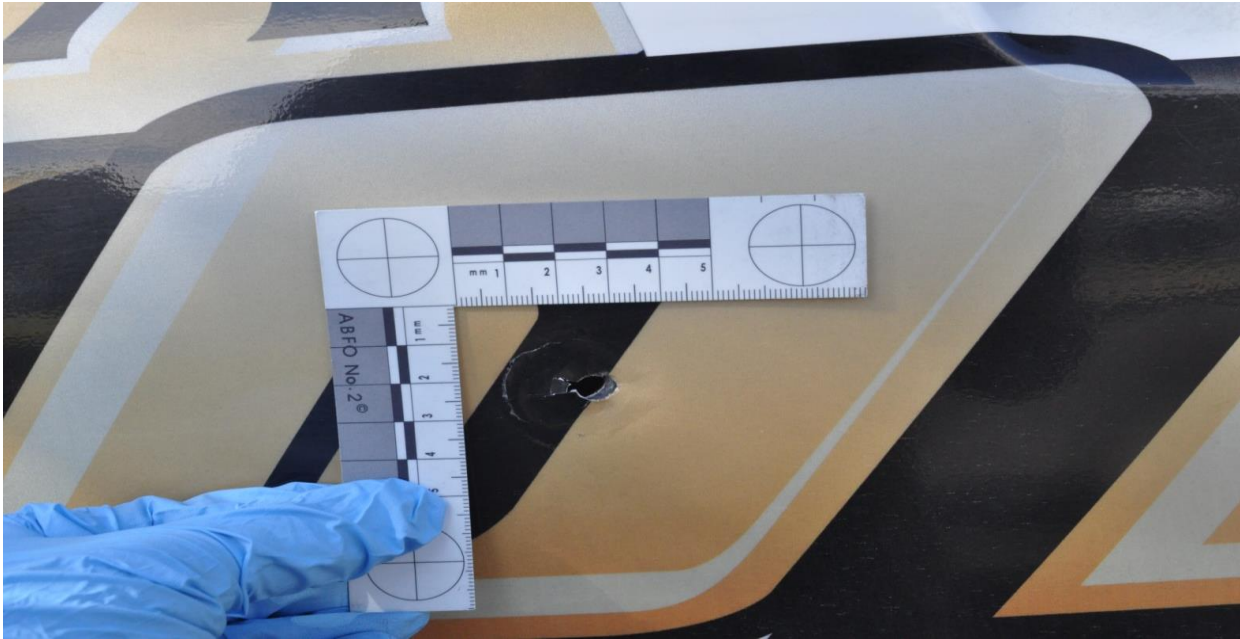


2014.10.26 SUN AM 06:51:53 SDR-3100 CAM 02





Crime scene investigators documented damage from gunfire to the driver side door of the patrol vehicle driven by the initial responding officer (Officer Involved 1).



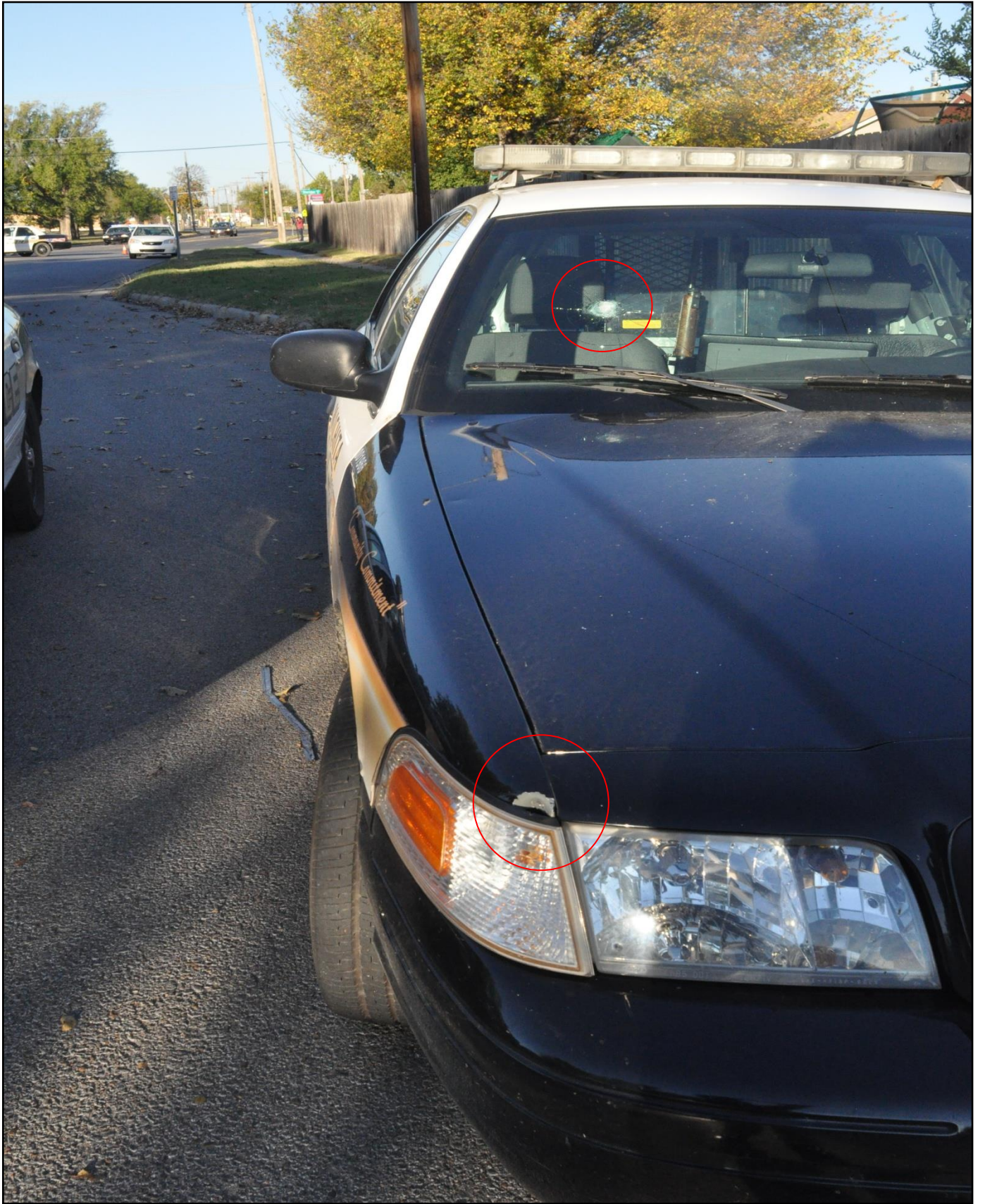
Damage from gunfire to the front bumper of the patrol vehicle of the initial responding officer (Officer Involved 1).



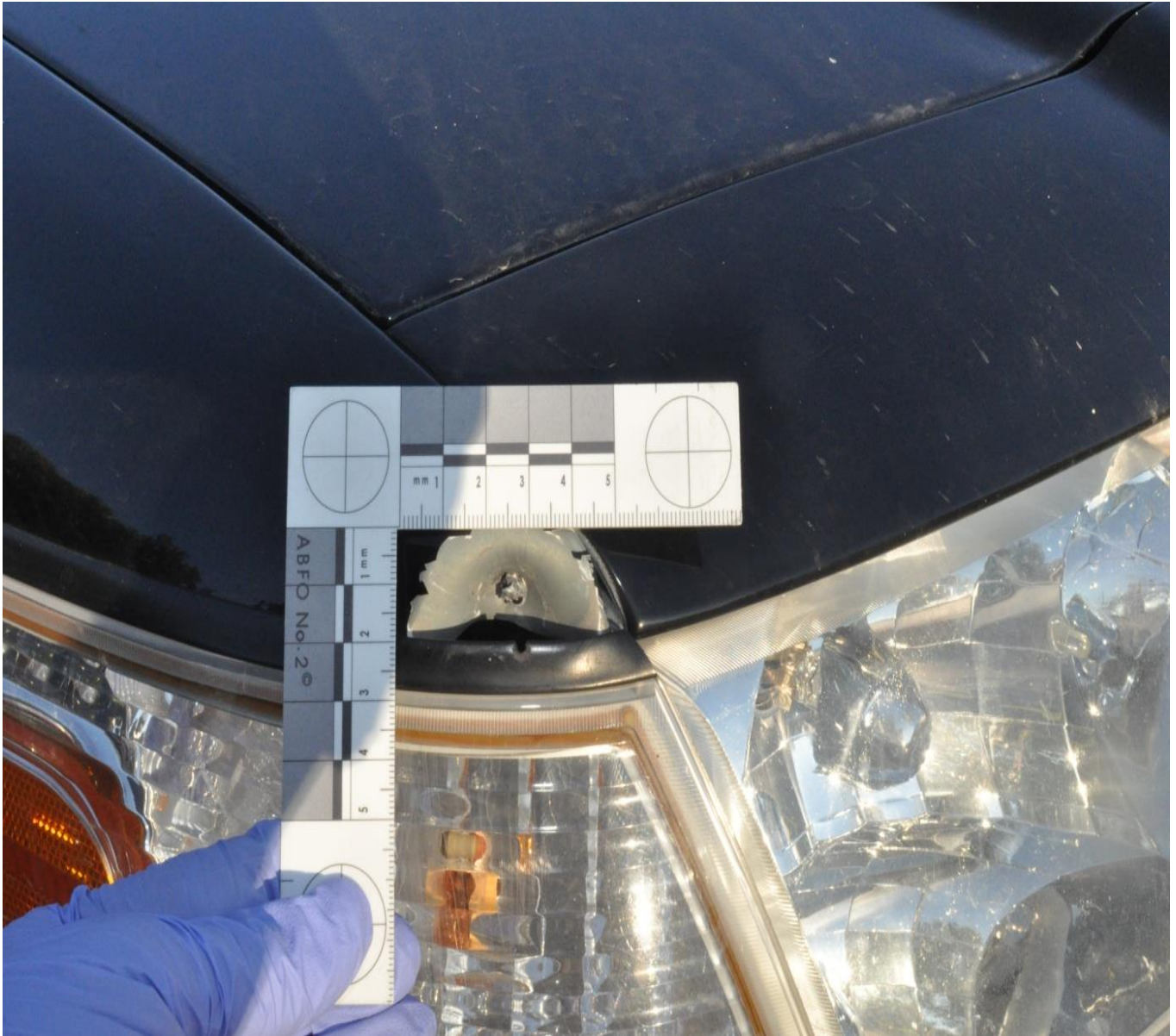
Crime scene investigators documented the damage from gunfire to the two responding officer's patrol vehicles.















## FORENSIC EVIDENCE AND AUTOPSY RESULTS

An autopsy was performed on the body of Jeffrey Holden on October 27, 2014, at the Sedgwick County Regional Forensic Science Center. The autopsy documented the following: 1) penetrating gunshot wound of the right arm; 2) perforating gunshot wound of the right arm with penetrating re-entry into the right chest; 3) penetrating gunshot wound of the left upper chest; 4) perforating gunshot wound of the left back with perforating re-entry into the left arm; 5) penetrating gunshot wound of the right thigh; 6) perforating gunshot wound of the mid right thigh; 7) penetrating gunshot wound of the mid right thigh; 8) perforating gunshot wound to the right leg; 9) penetrating small caliber gunshot wound of the left leg; 10) laceration of the right foot associated with a gunshot wound through the right shoe.

The small caliber bullet recovered from the lower left leg (see #9 in previous paragraph) was eliminated as having been fired from any of the three officer's 9mm handguns and the .380 semi-auto pistol possessed by Mr. Holden. It could neither be identified nor eliminated as having been fired from the .22 revolver possessed by Mr. Holden.

Jeffrey Holden's clothing was examined and twenty-three live .22 cartridges, and thirty-nine live .380 cartridges were located in his pants pockets. Also a live .380 cartridge was located in Holden's right shoe, and a fired .22 cartridge case was located inside his pants leg.

Toxicology testing was performed on Holden. The results of the testing showed Holden's blood alcohol level was negative. Holden tested positive for the presence of Amphetamine, Methamphetamine, and Carboxytetrahydrocannabinol [THCA].

The autopsy determined the cause of Jeffrey Holden's death was multiple gunshot wounds, and the manner of his death was Homicide.

The firearms evidence collected from the scene of the shooting was examined at the Sedgwick County Regional Forensic Science Center. All of the firearms submitted for examination meet the definition of a firearm and were functional.

The cartridge case collected in the 500 block of N. Mt. Carmel (the first incident earlier that night) was identified as having been fired in the .380 auto pistol. In addition, the four fired .380 cartridge casings from the shooting on Douglas Street were identified as having been fired in the .380 auto pistol.

The fifteen fired .22 cartridge casings from the Douglas Street shooting were identified as having been fired from the .22 revolver. In addition the fired cartridge case in the left pants leg of Mr. Holden was identified as having been fired from the .22 revolver.

A fired bullet recovered from a wood fence on the North side of Douglas Street was identified as having been fired from the .380 pistol. In addition, a bullet recovered from the door of one of the two responding officer's vehicles on West Douglas was identified as having been fired from the .380 pistol.

Twelve fired 9mm cartridge casings were identified as coming from Officer Involved 1's firearm. Two fired 9mm cartridge casings were identified as coming from Officer Involved 2's firearm. Eighteen fired 9mm cartridge casings were identified as coming from Officer Involved 3's firearm.

Remaining bullets and fragments collected lacked sufficient detail for suitable comparison and the associated testing was inconclusive.

## 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 October 26, 2014, Officer 1, Officer 2 and Officer 3 exercised deadly force resulting in the death of Jeffrey Holden. The evidence uncovered during the course of the investigation found no credible, admissible evidence that the officer’s use of force in self-defense was unreasonable under the circumstances encountered by the officers.

The investigation established that Jeffrey Holden deliberately fired two different handguns (a .380 and a .22) multiple times while walking on Douglas Street in Wichita. When officers were dispatched to the area in response to citizens’ calls to 911, Mr. Holden immediately began to fire upon the first officer and continued to fire at additional responding officers.

The actions of Jeffrey Holden constituted an application of force likely to cause great bodily harm or death. The Wichita Police Officers reasonably believed Mr. Holden presented an imminent lethal threat to their lives.

The officer's acted in an objectively reasonable manner in defending themselves against an individual clearly armed with firearms. This individual fired on the officers multiple times and continued to do so when officers returned fire. Under Kansas law and the facts of the case, I conclude that no criminal charges will be filed against the officers.

District Attorney Marc Bennett  
*18th Judicial District of Kansas*