



For Immediate Release  
November 19, 2014

District Attorney Marc Bennett announces completion of the review of the law enforcement use of deadly force resulting in the death of David M. Zehring. The incident occurred on April 10, 2014, in the 200 block of South Mt. Carmel in Wichita, Sedgwick County, Kansas.

As required by protocol, 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, and has compiled the following facts.

**SUMMARY OF EVENTS**

On Thursday, April 10, 2014, a Wichita Police officer was on routine patrol in the area of 15<sup>th</sup> Street and Gow in northwest Wichita. At approximately 2:29 A.M., the officer approached the intersection from the south on Gow. The intersection is slightly offset and is controlled by stop signs for traffic on Gow. The officer noted a car stopped at the intersection, on the north side of Gow, with a turn signal activated indicating the intent to turn east onto 15<sup>th</sup>. The officer stopped and waited for the vehicle to execute the turn; however, the car stayed in place. The officer used his spotlight to indicate to the other driver to make the turn but noted the car continued to stay in place. The officer then noted that the driver of the other car was using a flashlight in a strobing fashion, pointing the strobing light at the officer. The officer pulled through the intersection and pulled up next to the other car, a red Chevrolet Impala, in an attempt to determine what the issue was. The male driver of the other vehicle identified himself verbally as being with a security and weapons company. The officer noted the male had bloodshot eyes and, due to his behavior, felt he may be impaired. As the officer prepared to park and contact the driver, the male drove away. The officer began following the male and observed the male commit a traffic violation at 13<sup>th</sup> and Pleasant View. The officer activated his emergency lights in an attempt to perform a traffic stop; however, the male failed to yield to the lights. The officer then activated his siren and the other driver quickly accelerated and continued to fail to yield to the police and a traffic pursuit ensued. The pursuit continued south on McLean Blvd., and onto Meridian. The suspect then turned west onto Maple and continued to fail to yield. Two Sedgwick County Sheriff deputies joined in the pursuit to assist. The pursuit ended when the suspect turned north onto Mt. Carmel Street from Maple and immediately stopped his vehicle. The suspect quickly exited his car and began walking directly towards the WPD unit that had pulled in behind him. The WPD officer exited his car and immediately gave commands to the suspect to stop. The suspect continued towards the officer and the officer observed the subject pull an object from his pants pocket. One of the deputies moved up and deployed his TASER at the suspect. The TASER was ineffective and the suspect then turned towards the deputy and continued his approach. The second deputy then deployed his TASER at the suspect, and that deployment was ineffective as well. The suspect turned and aggressively approached the second deputy and raised the object in his hand. The

WPD officer recognized the object as a knife. As the suspect was closing quickly on the deputy, the WPD officer fired multiple shots from his handgun striking the suspect.

One of the initial responding officers had medic training. The officer provided advanced medical treatment until arrival of Sedgwick County EMS. The suspect was transported to a local hospital, where he died from his wounds.

## STATEMENT OF INVESTIGATION

The three officers involved in the shooting death of David Zehring were immediately removed from the area and their weapons were secured. Crime scene investigators from the Wichita Police Department processed the scene. The body of David Zehring was transported from the hospital to the Sedgwick County Regional Forensic Science Center for autopsy. All recovered bullets and shell casings were submitted to the Forensic Science Center for examination.

The three officers directly involved in the incident gave voluntary, recorded statements to investigators, as did civilian witnesses who had knowledge of some of the events of the evening.

The two Sedgwick County Sheriff's Office patrol units were equipped with in-car cameras, which captured most of the contact with David Zehring after the pursuit. The video was recovered and examined as well.

## STATEMENT OF FACTS

The following facts are compiled from the statements of officers involved in the incident, physical evidence recovered, and the results of forensic testing. The details of the use of deadly force by the officers are compiled from statements given by the officers, video evidence, physical evidence at the scene, evidence recovered from the area hospitals, and the results of the autopsy of David Zehring. As is generally the case, there are expected to be differences among witnesses in their perception of what they may have seen or heard from their different vantage points. The statements taken from the involved officers are consistent with the physical evidence developed during the investigation. When all of the statements are taken in concert with the totality of the evidence gathered during the investigation, a clear set of facts emerge that are consistent with the officers' descriptions of events.

## LAW ENFORCEMENT WITNESS STATEMENTS

The three officers involved in the death of David Zehring were voluntarily interviewed by investigators. The handgun used by the Wichita Police officer, and the TASER's used by the Sedgwick County Sheriff deputies were collected and submitted for examination.

The Wichita Police officer who had the initial contact with David Zehring is a three year veteran of the department. He is a United States Marine with 8 years of active service prior to joining

the WPD. The WPD officer told investigators he was assigned to fourth shift and was driving a fully marked Wichita Police car, and was dressed in authorized Wichita Police uniform. The officer told investigators that he initially encountered Zehring while on routine patrol. The officer said he drove up to the intersection of 15<sup>th</sup> and Gow from the south and stopped at the stop sign. He noted a red Chevy Impala stopped at the north side of the intersection with the left turn signal activated. The officer waited for several seconds for the Impala to turn onto 15<sup>th</sup> Street; however, the driver did not turn, so the officer utilized the spot light on his patrol car to indicate to the other driver to make the turn. In response, the officer stated the driver of the Impala began flashing a flashlight at him.

The WPD officer then pulled across the intersection and stopped next to the driver's side of the Impala to check on the other driver. The officer told investigators he wanted to contact the other driver thinking it may be an undercover or off duty officer. The officer said that when he pulled up next to the Impala, he saw a "scruffy white male" was the driver and sole occupant. The officer said the other driver appeared to have bloodshot eyes. The officer reported that the male stated, "what's your badge number?" to which the officer replied, "who are you?" The male didn't answer initially but said something to the effect of being with a "security and weapons company." The officer pulled his patrol car forward in an attempt to get the tag number from the Impala and the subject turned left onto 15<sup>th</sup> and drove away.

The officer reported having concerns that the driver of the Impala was possibly impaired due to his strange behavior, so he began following the Impala and monitoring the male's driving. The subject turned south onto Pleasant View from 15<sup>th</sup> and then turned east on 13<sup>th</sup> but failed to signal the turn onto 13<sup>th</sup>. The officer initiated a traffic stop due to the infraction, along with his concerns of impaired driving.

The officer told investigators the Impala continued east on 13<sup>th</sup> –ignoring the emergency lights behind him -so he activated his siren. The Impala accelerated and turned south onto McLean Blvd.

The Impala continued south on McLean. The officer told investigators that speeds during the pursuit exceeded 75 mph on McLean, and , at one point, the driver held his flashlight out of the window and was flashing the light back towards the officer. The suspect vehicle continued south past Central, where McLean turns into Meridian. The officer reported that other units were moving into the area to assist and the chase turned west on Maple. The officer reported that, at one point, another police unit deployed spike strips in front of the suspect vehicle in an attempt to deflate the tires to end the pursuit, but the suspect was able to partially avoid the strips, causing deflation to only the right front tire of the suspect's vehicle. The suspect continued west on Maple and then turned north onto Mt. Carmel Street where he quickly stopped the vehicle.

The WPD officer told investigators that as he pulled up behind the suspect vehicle, he saw the driver immediately exit the car and walk directly back towards the police car. The officer said he immediately exited his patrol car and saw the suspect pulling an object from the front pocket of his jeans. The officer saw the suspect begin to manipulate the object and realized

the suspect was opening the blade of a folding knife. The officer stated he gave commands to the male to stop, but the male continued to approach.

The officer said a Sedgwick County Sheriff deputy had moved up and deployed his TASER at the suspect, but the only effect appeared to be that the suspect changed direction and moved towards the deputy. At that point, the WPD officer saw a second deputy appear and that deputy fired his TASER at the suspect. The suspect then turned towards the second deputy and moved quickly towards him, raising the knife up as if he was going to stab the deputy. The WPD officer said he believed the suspect was about to stab the deputy so he fired several shots at the suspect. The officer said the suspect paused, but then continued to move forward towards the deputy, so he fired several more shots until the suspect fell to the ground. The officer told investigators that the suspect was still holding the knife in his hand after falling to the ground.

Both deputies from the Sedgwick County Sheriff's Office were interviewed. Deputy 1 is a seven year veteran, and assisted with the pursuit from the area of Central and McLean. The deputy told investigators he followed the pursuit and pulled in behind and to the right of the WPD patrol car as the suspect stopped his car on Mt. Carmel. Deputy 1 said he saw the suspect immediately exit the car and begin quickly walking back towards the WPD officer. The deputy described the suspect as walking aggressively towards the officer. The deputy said that as he was moving up on foot to assist, he heard the WPD officer giving commands to the suspect to stop, saw the WPD officer had drawn his firearm, and then saw the WPD officer begin backing up, away from the suspect. Deputy 1 told investigators that he quickly moved up and fired his TASER at the suspect to stop his aggressive approach, but the TASER did not have any effect on the suspect. Deputy 1 said that a second deputy then moved up and deployed his TASER at the suspect. Deputy 1 said the suspect moved towards the second deputy and he saw both the second deputy and the WPD officer moving backwards. Deputy 1 said he then saw the WPD officer fire shots at the suspect and saw the suspect was armed with a knife and had raised the knife above his head. Deputy 1 said the suspect continued his approach, the WPD officer fired more shots and the suspect fell to the ground. The deputy said that he saw a second knife on the ground after the suspect fell, but was unsure where it had originated from.

The second Sedgwick County Sheriff Deputy was interviewed by investigators. He is a two year veteran of the department. Deputy 2 began assisting in the pursuit as it went west on Maple from Meridian, and was present when the suspect stopped on Mt. Carmel. Deputy 2 stopped his patrol car to the left of the WPD car and exited. He saw the suspect was out of the car and was approaching the WPD officer on foot. Deputy 2 described the suspect as walking directly towards the WPD officer and that the suspect looked agitated and angry. Deputy 2 said he began moving up and heard an officer giving the suspect commands. Deputy 2 said he saw Deputy 1 move up and deploy his TASER, but saw that the probes appeared to have struck the suspects jacket, causing the TASER to be ineffective. Deputy 2 said he then deployed his TASER towards the suspect to stop his aggressive approach, but his TASER was ineffective as well. He said the suspect then turned towards him and increased his rate of approach. Deputy 2 said he had observed the suspect reach into his pocket and felt the suspect had moved too close to him, so he began turning away from the suspect to create additional distance when he heard gunshots. Deputy 2 said after the initial shots, additional shots were

fired and he saw the suspect fall to his knees, and saw the suspect holding black knife in his hand. The suspect fell to the ground. Deputy 2 estimated the distance between he and the suspect was 4 to 5 feet at the time of the initial shots. Deputy 2 also told investigators he saw a second knife on the ground after the shooting.

Investigators also spoke with Wichita Police officers who patrolled the area where David Zehring lived with his mother. Several neighbors had recently expressed concerns about Zehring's behavior. In late March, neighbors reported to a Community Police officer that Zehring was making bizarre comments to them, which included references to the police department being disbanded, and also made comments about the CIA watching him. Neighbors said that Zehring talked of confronting a uniformed officer in the area and that he felt the officer was committing "treason", and told the neighbors that the police car the officer was driving would have a "mechanical malfunction" within the next few days.

Zehring's background indicated he had suffered a head injury years earlier in a motor vehicle accident, after which he had several contacts with law enforcement in Butler County-including an incident involving his mother that led to David Zehring being convicted of Domestic Violence against his mother in 2013.

## CRIME SCENE INVESTIGATION



Knife brandished by Zehring

Wichita Police Department crime scene investigators processed the scene of the shooting. The scene was photographed and diagrammed. Scene investigators located, photographed and collected multiple items of physical evidence. Investigators documented and collected cartridge casings from the scene, as well as two knives.

Crime scene investigators also photographed and later searched the red Chevrolet Impala driven by David Zehring. The search revealed three additional large knives in the car, as well as the flashlight Zehring used to "flash" the officer.

The scene investigation also revealed that Zehring had been wearing a necklace which held a sheath for a concealed knife. The second knife located in the scene matched the size of the sheath on the necklace Zehring wore. The knife was smaller in size, and the sheath was damaged during the shooting. It is unclear whether Zehring had pulled that second knife from its sheath during the incident, or if the knife fell from the sheath when Zehring was shot.



Smaller knife from necklace sheath



Location of red Chevy Impala and police vehicles at time of the vehicle stop.



Large knife visible next to console of Impala.





Flashlight used to “strobe” at the Wichita Police Officer



Photo of knife found by console



Small sword recovered from back seat of Zehring's Impala.



Combat knife found inside Zehring's vehicle

## FORENSIC EVIDENCE AND AUTOPSY RESULTS

An autopsy was performed on the body of David Zehring April 10, 2014, at the Sedgwick County Regional Forensic Science Center. The autopsy determined that Zehring was shot nine times during the incident. Zehring's wounds consisted of multiple gunshot wounds to the left arm, chest area, and neck. The video evidence shows that Zehring was still charging towards Deputy 2 after being shot several times.

The autopsy also documented that neither of the two TASER applications were successful. Evidence suggested that the first application of the TASER was unsuccessful due to the probes striking Zehring's jacket. The jacket was loose, which kept the probes from being close enough to the body to deliver the electric current. The second TASER application struck Zehring; however, evidence showed the probes struck very close together, negating the effect of the current. The video evidence indicates that Zehring may have intentionally used his arms to dislodge the probes from his body after the TASER was deployed.

Toxicology testing was performed on David Zehring. The results of that testing indicated Zehring had ingested marijuana during the past several days to weeks, but was not under the influence of drugs or alcohol at the time of the incident.

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

## KANSAS LAW

In Kansas all persons including law enforcement officers are entitled to defend themselves and others against the use of unlawful force. The law provides that a person is justified in the use of force against an aggressor when and to the extent it appears to him and he reasonably believes that such conduct is necessary to defend himself or another against such aggressor's imminent use of unlawful force.

"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.

A law enforcement officer is justified in using force likely to cause death or great bodily harm only and to the extent that it appears to him and he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another person, or when such officer reasonably believes that such force is necessary to prevent an arrest from being defeated by resistance or escape and such officer has probable cause to believe 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.

The use of deadly force in defending a person is judged on a “case by case” basis. Only such force reasonably needed to defend against another’s imminent use of unlawful force will be legally permissible.

## CONCLUSION

The use of deadly force by the Wichita Police officer was lawful and justified.

The investigation established that David Zehring charged at three police officers while armed with at least one knife. The actions of David Zehring were clearly an application of force likely to cause great bodily harm or death. The Wichita Police officer reasonably believed Zehring to be an imminent lethal threat to the Sedgwick County Sheriff Deputy. The officers, in an attempt to stop Zehring and affect an arrest, gave verbal commands for Zehring to stop his actions. He did not respond to their commands. The officer fired at Zehring to stop his attack - the commission of a forcible felony and to stop the imminent threat to human life.

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