



**For Immediate Release
August 12, 2022**

District Attorney Marc Bennett has completed the review of the use of deadly force that resulted in the death of Jason Williams. The incident occurred on December 30, 2020 at 937 North Faulkner in Wichita, Sedgwick County, Kansas.

SCOPE OF REPORT

This report details the findings and conclusions limited specifically to criminal liability of the officer employed by the Wichita Police Department who shot at Mr. Williams on December 30, 2020.

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 law enforcement officer(s) or citizen(s) had behaved differently in the moments leading up to the fatal use-of- force may not be properly addressed in a criminal investigation.

The sole question addressed by the District Attorney is whether sufficient evidence exists to establish beyond a reasonable doubt that a violation of the criminal laws of the state of Kansas occurred in this instance.

SUMMARY

On December 30, 2020, at approximately 7:05 a.m. 911 dispatch received calls reporting shots being fired in the 900 block of N. Faulkner in Wichita, Kansas.

Witness 1 was inside the residence when he called 911 to report the suspect, Jason Williams, had shot Witness 1's mother, Michelle Barr. At the beginning of the call, what sounds like multiple gunshots were audible. Witness 1 told dispatch he woke to what he believed was gun fire. Before escaping through a window, Witness 1 was able to provide basic information to dispatch.

Neighbors in the area also called 911 and reported hearing multiple gunshots. One neighbor estimated he heard 30 rounds being fired. Another neighbor contacted 911 to report a problem at 937 N. Faulkner. The caller reported hearing approximately one dozen gun shots from that location and hearing glass breaking. The caller's husband relayed that he saw someone stepping into the residence through the broken front window.

Police arrived at 7:09 a.m. Shots were subsequently heard inside the residence. Contact was made with Mr. Williams by law enforcement negotiators. Mr. Williams ultimately told negotiators he would let his children and his wife (Witness 2) out the back door but that he planned to then kill himself.

At 8:35 a.m., the children are released out the back sliding glass door. Officer 1 and Officer 2 had been stationed off the back door of the residence. They saw Mr. Williams and Witness 2 standing at the back door as the children exit the residence. It appeared to the officers that Mr. Williams was preventing Witness 2 from exiting the home and that Mr. Williams appear to be moving back into the interior of the house with Witness 2.

Officer 2 believed that Witness 2's life was in danger and that Ms. Barr was likely still in need of medical attention in the interior of the home. Officer 2 fired one shot, striking and killing Mr. Williams.

INVESTIGATION

The Wichita Police Department officer involved in the incident was removed from the area and his firearm was secured. Law enforcement officers at the scene gave voluntary statements to investigators with the Wichita Police Department and the Kansas Bureau of Investigations. The statements of four law enforcement officers at or near the scene of the shooting are included herein.

Civilian witnesses were interviewed by detectives with the Wichita Police Department and agents with the Kansas Bureau of Investigation. The statements of three eyewitnesses are included herein.

Crime Scene Investigators from the Wichita Police Department processed the scene. Evidence was submitted to the Kansas Bureau of Investigation for examination.

CIVILIAN WITNESS STATEMENTS

Investigators interviewed witnesses on scene and later at the Wichita Police Department.

Witness 1:

Witness 1 was interviewed by a WPD homicide detective on December 30, 2020 at the Wichita Police Department. Witness 1 lives at 937 N. Faulkner with his mother, Michelle Barr, as well as his sister, Witness 2, and his sister's two young children.

Witness 1 explained that his sister and her children came to live at 937 N. Faulkner in October or early November when his sister began divorce proceedings from Jason Williams.

Witness 1 described an earlier incident during which Mr. Williams had arrived at the house on Faulkner, banged on the door and then spoke to Ms. Barr. During this interaction, Witness 1 said Mr. Williams put his hands on Ms. Barr's wrist to push her away from the door so he could enter the home. Witness 1 reacted to this by pointing a firearm at Mr. Williams and telling him to leave.

Subsequently, Witness 1 said Mr. Williams told Ms. Barr he (Mr. Williams) was unable to take part in visitation with his children due to a Protection from Abuse (PFA) order sought by his wife, Witness 2.

Witness 1 explained that the morning of the 30th, he was asleep when he was awoken to "fire cracker" sounds coming from the front porch area. Just before those sounds, he had heard the doorbell ring, which he thought was his own girlfriend. He thought he heard Ms. Barr go to the door, and then he heard the firecracker sounds. Witness 1 retrieved his handgun and ran toward the dining room. As he did so, he saw the back door to the house was not open. In the dining room, he found his mother, Ms. Barr, lying on the ground on her side.

Witness 1 said his sister, Witness 2, was crouched next to Michelle Barr as Ms. Barr moaned. He looked at the front door and windows area and saw glass flying inward. He saw that the front door was not open, so he believed Mr. Williams had been the one shooting through the front door and windows.

Witness 1 got low to the ground near his mother and sister. His sister told him to go call 911. He went back to his bedroom to make the call. While in the room, he heard more gun fire, and heard his sister yelling and screaming. He also heard Mr. Williams say words to the effect, "Was this worth pointing a gun?" When Witness 1 went back into the dining room, briefly, he saw Mr. Williams leaning over Ms. Barr's body. When Mr. Williams saw Witness 1, Mr. Williams pointed a handgun at Witness. In response, Witness 1 went back into his room and exited the house through a window.

Once outside, Witness 1 went toward two people, one with a flashlight, at which point he heard another gun shot. He wasn't sure at that time if the two people he saw were with Mr. Williams or neighbors, so he continued down the street until he made contact with a police officer.

Witness 1 did not fire his weapon during the incident.

Witness 2:

Witness 2 was interviewed by a WPD detective at the hospital. She told the detective she received a text from Mr. Williams around 0505 hours. She was not sure if he was at the residence when he sent the text. She stayed awake for approximately 30 minutes after the text but fell asleep. She explained that the message from Mr. Williams made accusations against her (Witness 2).

Witness 2 awoke to some kind of hitting or loud pounding noises. She went upstairs and saw her mother, Michelle Barr, lying on the floor. She then realized the pounding noises were gunshots.

While attempting to move her mother, she could not see Mr. Williams. She could tell her mother was having trouble breathing and saw red on her chest. She heard additional gun shots and breaking glass. She saw Mr. Williams coming through the broken glass of a side window into the house. Mr. Williams told her the reason he shot her mother was because she went up to the door "starting shit." Mr. Williams then shot Witness 2. Mr. Williams then began to shoot toward the room where Witness 1 slept.

Mr. Williams later fired more rounds at what she initially thought must have been her brother, but later realized it was police with flashlights.

Mr. Williams told Witness 2 that his plan was to kill her mother, her brother and then her before killing himself. He told her the children would be better off without any of them. Later Mr. Williams told Witness 2 he would let her and the children go. Witness 2 said Mr. Williams spoke on the phone with someone and then called the children upstairs to say goodbye. He later sent them back downstairs to get their shoes as he indicated he was prepared to release them.

Witness 2 grabbed her own shoes as Mr. Williams told her he would let her go as well. After this, one of the children opened the back door. The children went outside to the back porch. Witness 2 was next to Mr. Williams at the back door when he was shot by law enforcement.

Witness 2 said she felt she was at risk of passing out and was physically unable to make it out of the back door as a result of having already been shot by Mr. Williams.

Note: the children were interviewed by detectives with the Exploited and Missing Child Unit (EMCU). The children provided details of the incident to detectives. The details provided by the children are not included in this report.

LAW ENFORCEMENT OFFICER STATEMENTS

The law enforcement officers involved in the incident gave voluntary statements to investigators:

Officer 1: Officer 1 was interviewed by a detective with the Wichita Police Department and a Special Agent with the Kansas Bureau of Investigation. He did not review any video of the incident prior to the interview. He had nearly ten years of experience at the time of the incident. He had been a member of the WPD SWAT Team since 2014.

Officer 1 was off duty when he received the SWAT page for the incident at 937 N. Faulkner. He learned from radio traffic while traveling to the scene that it was a hostage situation; that a victim (Witness 2) had suffered a gunshot wound; that a second victim (Ms. Barr) was injured or dead inside the house; and that children were inside the residence. Upon arrival, Officer 1 took up a position at the back of the residence with Officer 2.

Officer 1 positioned himself south of Officer 2, next to a tree, using a tripod to support his weapon. He could see the back sliding glass door. He covered the sliding glass door as well as a window adjacent to the sliding glass door on the back porch of 937 N. Faulkner.

Officer 1 did not have his body worn video at the time as he had loaned his helmet, which had his body worn video camera affixed to it, to another officer who stayed on the front side of the house. That team member did not have his helmet and Officer 1 felt it was an officer safety issue for the other officer to have a helmet in case that officer had direct contact with the suspect.

Officer 1 and Officer 2 communicated with each other regarding their respective roles. He estimated they were in position at the back of the house for approximately 30 to 45 minutes before seeing anyone come to the back sliding glass door.

He said the radio traffic indicated there were children inside, that Witness 2 had been shot in the shoulder and that Ms. Barr was deceased. He later learned through radio communications that the children and Witness 2 were to be released and there were indications the suspect might shoot himself.

Initially, Officer 1 thought the release would take place at the front of the home, before the plan changed to release out the back. Shortly thereafter, the back sliding glass door slid open from the south to north. In the south side of the sliding glass door there was a wood panel with a dog door. Officer 1 described seeing who he believed to be the suspect move a curtain. The back sliding glass door opened approximately 15 to 18 inches and two small children exited the door and stood on the back porch.

Officer 1 called for the children. He saw the suspect and a female (Witness 2) standing shoulder to shoulder in the doorway facing west.

Officer 1 notified another SWAT officer who had arrived just off the back porch that he (Officer 1) would try to send the kids to that officer, as that officer was closer. Officer 1 said the children then moved in a circle on the porch. Officer 1 called for the children and for Witness 2 to walk forward. Officer 1 said that Mr. Williams held Witness 2 back with his left arm. Officer 1 said that it appeared Mr. Williams was attempting to prevent Witness 2 from coming out.

Officer 1 could see Mr. Williams' arm come out and hold the female (Witness 2). Officer 1 had not been focused on his weapon's sights while motioning for the children and female to come out. When he saw Mr. Williams prevent Witness 2 from exiting, Officer 1 looked back through his weapon's sight. He intended to shoot because he felt Witness 2 was in danger as Mr. Williams was not going to let her out.

Officer 1 believed Mr. Williams was letting the children out so he could kill Witness 2. Officer 1 said before he could effect a shot, Officer 2 shot Mr. Williams.

When asked by the KBI Agent to clarify the physical gesture Mr. Williams made to Witness 2, Officer 1 said it looked like Mr. Williams was holding her back to prevent her from stepping outside the residence.

Officer 1 estimated the shot was fired around 0900 hours. He said the sun was up and it was a humid, cold, cloudy day. The light was such that he could clearly see a male, female, two children, and a dog. After Officer 2 shot, officers then coordinated efforts to render aid to Mr. Williams.

Officer 1 did not fire his weapon.

Officer 2: Officer 2 was interviewed by two detectives with the Wichita Police Department. He had nine years of experience at the time of the incident and had been a member of the SWAT team for six years. For three years, Officer 2 was assigned as a sniper on the SWAT team. To hold that designation, he attended the national tactical officer association basic training; he passed the sniper training school at KLETC; he passed the three sniper schools -- basic sniper, advanced sniper, and counter sniper -- with GPS Precision in Phoenix, AZ; and in addition to normal WPD SWAT Team standards, he must qualify monthly with a rifle. This is the first time Officer 2 has been involved in an officer involved shooting.

Officer 2 said that at the time of the call-out he was pulling into the WATC parking lot as he was scheduled to teach recruits that day. Once in the parking lot, he changed clothes to his SWAT gear then drove to the scene. In route, he received text messages that this was a hostage situation, that shots had been fired, and was made aware of the suspect description.

Once at the scene Officer 2 parked northbound in the 800 block of Faulkner. He was wearing his body camera (note, the camera was obstructed once he was in position on the

west side of the home, as officer 2 lay prone on the ground during the incident). He learned via radio traffic from SWAT commanders that the suspect had shot his mother-in-law; that there were children inside the house; and that the suspect's wife had also been shot in the shoulder. Officer 2 believed this information came from negotiators.

The WPD SWAT Team Commander wanted a sniper on the front and back of the house. Officer 2 was familiar with the area and knew there was an alley in the back of the house, so he went to that location while other officers took position at the front of the residence.

Officer 2 observed an armored SWAT vehicle already parked in the driveway of 937 N. Faulkner. Once he got into position in the alley behind the house, he saw a patrol car and patrol officers on the west side of the alley. He confirmed the location of the house with another officer. He observed the back sliding glass door was closed, the screen was open and vertical blinds were partially open.

Officer 2 positioned himself across the alley from the house in the backyard of another house with a wooden fence. After removing two of the slats on the wooden fence, Officer 2 had a clear view of the back of the house from a prone position. He estimated he was ~~thirty~~ 30 yards away from the back sliding glass door of the house. Shortly thereafter, other WPD SWAT officers arrived.

At this point, Officer 2 heard that Witness 1 had crawled out of a window and contacted officers. Witness 1 told police that Mr. Williams had shot Michelle Barr, who was lying on the floor inside the house, as well as Witness 2, who was able to move around despite having been shot in the shoulder.

Over the next fifteen minutes, Officer 1 arrived and Officer 2 asked him to cover a window on the back of the house that Officer 2 was unable to see.

Additional information was put out over the police radio that Mr. Williams was talking to the negotiator. Mr. Williams told the negotiator he intended to release the children and Witness 2, at which point he intended to kill himself. Officer 2 learned the release was going

to happen at the back sliding glass door.

Officer 2 saw a child's hands pull open the back sliding glass door and saw an adult hand assist. The SWAT sergeant contacted Officer 2 by radio to confirm Officer 2 had heard all of the radio traffic. Officer 2 later explained to detectives, "I understand this is a serious situation and there are lives in danger."

When the sliding glass door was opened, Officer 2 saw two children, then a female adult, which Officer 2 believed to be the mother of the children. The woman was standing behind the children. Officer 2 had not yet seen the suspect.

The children started to walk away from the house when Mr. Williams appeared from behind the vertical blinds. Officer 2 could only see Mr. Williams' face and part of his neck.

Officer 2 saw a blood-stained wound on the adult female's right shoulder. After Mr. Williams became visible, Officer 2 focused his attention on him. Officer 2 could not see Mr. Williams's hands but it appeared he was positioning himself with his left hand around the female's (Witness 2) shoulder or waist.

When Officer 2 saw the children move away from the door, he expected to see the female (Witness 2) move as well. Officer 2 saw Mr. Williams was not letting her go, and appeared to be moving further back into the home with her. Officer 2 said he could not let that happen. Officer 2 said it became obvious Mr. Williams was not coming out nor was he going to allow Witness 2 to exit the home.

As Mr. Williams moved backwards, Officer 2 saw the blinds start to move. Officer 2 believed this was his last opportunity to save Witness 2's life. Officer 2 told investigators he believed Mr. Williams was taking Witness 2 back into the interior of the house to kill her. Officer 2 added that he also feared Michelle Barr was inside the house bleeding to death and that they needed to get to her.

Officer 2 fired one round. Mr. Williams fell immediately.

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 36 shell casings, 28 bullet fragments, handgun magazines and a Smith & Wesson SD40 in the Southwest room in which Mr. Williams was shot. Mr. Williams had a 9 mm Sig Sauer in a holster on his person.

A single shell casing was collected outside the home where Officer 2 fired one shot.

The deceased body of Michelle Barr was located inside the residence. An autopsy conducted December 31, 2020 determined she had died of "multiple gunshot wounds" (5 to the "trunk" and 3 to the "right upper extremity and lower extremities").



Front porch of 937 Faulkner



Front porch of 937 N. Faulkner



Front door with 9 bullet holes



Side window (apparent point of entry) with bullet holes in curtain.

FORENSIC EVIDENCE & AUTOPSY RESULTS

Cell phone data was retrieved which reflected Jason Williams's movement from his residence in the 11000 blk of W. Dora, Wichita, Kansas to the 937 N. Faulkner, Wichita, Kansas leading up to the shooting.

Video from 952 N. Faulkner, which shows Mr. Williams's car being parked on Faulkner followed by a male figure exiting the vehicle and walking to 937 N. Faulkner.

A Facebook update made by Mr. Williams with: "I'm so sorry everyone. [Witness 2] has gone too far and I have to fix this for our kids. [Witness 2], I love you with all my heart and hope you understand what you've done to our family. "

A thread of texts sent from Mr. Williams's cell phone to the phone of Witness 2 beginning at 4:38:24 a.m. Additional texts were sent to Mr. Williams's lawyer at 5:01:47 a.m. and to Michelle Barr at 6:58 a.m.

The firearm evidence collected included 36 shell casings fired in and around 937 N. Faulkner by Mr. Williams; a 9 mm handgun on Mr. Williams's waist in a holster; a .40 pistol found near Mr. Williams inside the back sliding glass door; Officer 2's weapon; and the one shell casing fired by Officer 2.

An autopsy was performed on the body of Jason Williams on December 31, 2020, at the Sedgwick County Regional Forensic Science Center. The final autopsy report, dated, March 30, 2021, determined that Mr. Williams died as a result of a single gunshot wound to the head.

The toxicology report determined Mr. Williams blood (heart) tested positive for ethanol, 0.115 gm% (negative for additional drugs in screen); and that his vitreous was positive for ethanol, 0.173 gm%.

KANSAS LAW

In Kansas all persons, including law enforcement officers, are entitled to defend themselves and others against the use of unlawful force. K.S.A. 21-5220 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).

With respect to a law enforcement officer’s use of force, in *Graham v. Connor*, 490 U.S. 386, 396 (1989), the United States Supreme Court clarified that any assessment of objective reasonableness must take into account the contextual realities faced by the officer:

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”

“The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”

A. Immunity

In 2010, the Kansas Legislature enacted a series of statutes addressing the use of force, including the use of deadly force, in the defense of a person or property, including a person’s dwelling. See K.S.A. (2018 Supp.) 21-5220 et seq. The new statutes became effective on July 1, 2011, and are commonly known as this state’s “stand your ground law.” *State v. Barlow*, 303 Kan. 804 (2016); *State v. Younger*, unpublished opinion, No. 116, 441 (Feb. 16, 2018).

K.S.A. 21-5231 (2018 Supp.) **Immunity from Prosecution**, reads,

- (a) A person who uses force which is subject to the provisions of K.S.A. 21-5226, and amendments thereto, is justified pursuant to K.S.A. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law

enforcement officer.

K.S.A. (2018 Supp.) 21-5222, **Defense of A Person, . . . no duty to Retreat**, reads,

- (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 that such use of force is necessary to prevent imminent death or great bodily harm to such person or a third person.

K.S.A. (2016~~8~~ Supp.) 21-5224, **Use of Force; presumptions**, reads,

- (a) . . . a person is presumed to have a reasonable belief that deadly force is necessary to prevent imminent death or great bodily harm to such person or another person if:
 - (1) The person against whom the force is used, at the time the force is used:
 - (A) Is unlawfully or forcefully entering or has unlawfully entered and is present within, the dwelling, place or work or occupied vehicle of the person using the force; or
 - (B) has removed or is attempting to remove another person against such person's will from the dwelling, place of work or occupied vehicle of the person using the force; and
 - (2) The person using the force knows or has reason to believe that any of the conditions set forth in paragraph (1) is occurring or has occurred.

No such presumption of reasonableness exists if the person utilizing force does so against a law enforcement officer per K.S.A. 21-5224(b)(4):

- (b) The presumption set forth in subsection (a) does not apply if, at the time the force is used:

. . . (4) the person against whom the force is used is a law enforcement officer who has entered or is attempting to enter a dwelling, place of work or occupied vehicle in the lawful performance of such officer's lawful duties, and the person using force knows or reasonably should know that the person who has entered or is attempting to enter is a law enforcement officer.

K.S.A. 21-5230, addresses the **duty to retreat**,

“A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has *no duty to retreat* and has the right to stand such person's ground and use any force which such person

would be justified in using under article 32 of chapter 21 of the *Kansas Statutes Annotated*, . . . K.S.A. 2018 Supp. 21-5202 through 21-5208, 21-5210 through 21-5212, and 21-5220 through 21-5231, and amendments thereto.”

On March 10, 2017, in *State v. Hardy*, 305 Kan. 1001, 390 P.3d30 (2017), the Kansas Supreme Court recognized that immunity granted by K.S.A. 21-5231 is distinct from self-defense, citing with approval the dissent in *State v. Evans*, 51 Kan.App.2d 1043 (2015):

Self-defense and immunity are clearly distinct concepts. If immunity were the same as self-defense, there would have been no need to adopt a specific immunity statute because K.S.A. 2014 Supp. 21–5222 would have sufficed. Perhaps most importantly, because K.S.A. 2014 Supp. 21–5231 grants immunity from arrest and prosecution rather than a mere defense to liability, it is effectively lost if a case is erroneously permitted to go to trial. [citation omitted] . . . [a] prosecutor must rebut a claim of statutory immunity before the case can go to trial. *Hardy*, 305 Kan. at 1009-1010.

On February 21, 2021, the Kansas Court of Appeals ruled in *State v. Dukes*, 59 Kan.App.3d 367 (2021), that the district court had appropriately found Mr. Dukes was immune under K.S.A. 21-5222. Mr. Dukes was approached by a man named Berryman who had sent him verbal threats in the past via Facebook (which Dukes testified he had not taken seriously). When Dukes saw Berryman approach, Dukes pointed a gun at Berryman. Berryman responded, "I got something for you," then ran back toward his car. The evidence was inconclusive as to whether Berryman held a weapon when he initially walked toward Dukes, but Mr. Dukes testified that he believed Berryman was going back to his car to get a gun given the statement, "I've got something for you." That is why Dukes said he shot and killed Berryman as he reached the car. Police later located a handgun on the floorboard of Berryman's car. The district court and the Court of Appeals ruled Dukes was immune from prosecution because the state's evidence could not overcome self-defense immunity:

After a defendant in a criminal case files a motion requesting immunity under K.S.A. 2020 Supp. 21-5231, the State must come forward with evidence establishing probable cause that the defendant's use of force was not statutorily justified. This generally means the State must show probable cause

that (1) the defendant did not honestly believe the use of force was necessary or (2) a reasonable person would not believe the use of force was necessary under the circumstances. *Dukes*, 59 Kan.App.3d, at Syl. 2.

The *Dukes* Court also added the following quote from *State v. Phillips*, 312, Kan. 643 (2021):

The State may also overcome a defendant's request for immunity by demonstrating that the defendant was the initial aggressor as defined in K.S.A. 2020 Supp. 21-5226 and thus provoked the use of force. *Dukes*, 59 Kan.App.3d, at 372.

B. Use of Force During Arrest

K.S.A. 21-5227, 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.”

CONCLUSION

On December 30, 2020, an officer employed by the Wichita Police Department utilized deadly force resulting in the death of Jason Williams.

Under K.S.A. 21-5222(b), a person may employ deadly force when the person reasonably believes that deadly force is necessary to prevent imminent risk of great bodily harm to himself or another.

Since 2011, under the Kansas "stand your ground" law, one who acts in defense of himself or to protect a third party is immune from prosecution. See K.S.A. 21-5231. A person may not be charged or prosecuted unless the state can establish that the person who utilized deadly force was *not* acting reasonably under the circumstances. In *Graham v. Connor*, the United States Supreme Court made clear that assessment as to the reasonableness of an officer's decision to utilize deadly force must be made within the context in which the officer found himself – not from the perspective of "20/20 hindsight."

The investigation established that Mr. Williams fired dozens of rounds into the home of his mother in law; forced his way into the home through a side window; shot his mother-in-law multiple times killing her; shot his estranged wife (Witness 2); expressed to negotiators his intent to end his own life; and, after letting his children go, appeared to be actively preventing his estranged wife (Witness 2) from leaving the residence. Officer 2 believed Mr. Williams posed an imminent threat to Witness 2's life and fired a single shot which struck Mr. Williams, killing him. Officer 2's perceptions are supported by the facts

In 2021, the Wichita Police Department conducted an investigation for the Sedgwick County Sheriff's Department regarding an allegation of stalking/domestic violence against a Sedgwick County Sheriff's Deputy Maxfield. Investigators with the WPD obtained access to then Deputy Maxfield's cell phone in order to search for evidence of the alleged stalking/domestic violence. Sometime after Officer 2 was involved in the shooting death of Mr. Williams, (then) Deputy Maxfield texted Officer 2 that he (Officer 2) was an "ultimate de-escalator." Officer 2 responded with a "love" response to the message and then texted back, "Good stuff, Max. Thank you."

This private text exchange may well fall below the public's expectation of the professionalism to which officers should hold themselves. It does not however, change the clear facts of this case, the risk to Witness 2's life that Officer 2 encountered or the legality of the decision made by Officer 2 to fire his weapon.

Under the totality of the circumstances, Officer 2 is immune from prosecution under Kansas law.

Under Kansas law and the facts of the case, I conclude that no criminal charges will be filed against Officer 2.

A handwritten signature in black ink, appearing to read "Marc Bennett". The signature is fluid and cursive, with a long horizontal stroke at the end.

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