



For Immediate Release  
April 18, 2011

District Attorney Nola Tedesco Foulston announces completion of the review of the law enforcement use of deadly force resulting in the death of Jerome Dixon occurring November 5<sup>th</sup>, 2010, at 4818 E. New Jersey Drive, Apartment 102, 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.

**SUMMARY OF EVENTS**

On Friday, November 5<sup>th</sup>, 2010, at 10:17 p.m., Wichita Police Officers responded to a call to check gunshots in the area of the apartment building at 4818 E. New Jersey. The male calling party reported hearing what sounded like a single gunshot in the area of building #1 about ten minutes prior to calling 911 and also heard people arguing and yelling. The calling party reported he heard what sounded like two males arguing. The caller wished to remain anonymous. Two police units were dispatched to the area and, upon arrival, the officers began walking the area around the apartment building. The officers did not see anyone outside, nor did they find any signs of a disturbance or any evidence of a gun being fired. After finding nothing, the officers cleared the call and filed a report on the incident.

At 11:48 p.m., a female called 911 from the same apartment where the first call originated and reported loud music coming from 4818 E. New Jersey, apartment 102. The caller told 911 it was possible the individuals in #102 had been involved in the earlier disturbance but the only problem going on at this time was loud music.

The same two officers who responded to the earlier "check shots" call were dispatched to the loud music complaint. The dispatcher advised the officers of the caller's belief that the individuals in apartment 102 were possibly involved in the earlier call.

The two officers arrived, parked in the street south of the apartments and approached apt. 102 on foot. Officer 1 walked to a window adjacent to the porch of apt 102 and attempted to look inside. Officer 2 walked onto the porch area in front of the front door of apt 102. Both officers could hear what sounded like an argument taking place inside between a male and a female. The front door of the apartment began to open and a male was seen by Officer 2 emerging from inside. Officer 2 could see that the male was armed with a semi-automatic pistol in his right hand. Officer 2 commanded the male to

drop the gun. Instead, the male turned towards Officer 2 with the gun pointing at Officer 2. Officer 2 drew and fired his service weapon, striking the male. The male fell back into the apartment after being shot. Sedgwick County EMS responded and transported the male to Wesley Medical Center where he later died from his injuries. The male was subsequently identified as Jerome Dixon.

## STATEMENT OF INVESTIGATION

The officers involved in the shooting death of Jerome Dixon 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 Jerome Dixon was taken to the Sedgwick County Regional Forensic Science Center for autopsy. All recovered firearms, bullets and shell casings were submitted to the Forensic Science Center for examination.

Immediately following the shooting, numerous individuals with information concerning the events of the evening were identified and taken to Wichita Police Headquarters for interviews. The two officers directly involved in the incident gave voluntary, recorded statements to investigators, as did several civilian witnesses who had knowledge of some of the events of the evening.

## STATEMENT OF FACTS

The following facts are compiled from the statements of individuals involved in the incident, physical evidence recovered and the results of forensic testing. The details of the use of deadly force by the officer are compiled from statements given by the officers, physical evidence at the scene and the results of the autopsy of Jerome Dixon. 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' description of events.

Investigators interviewed the wife of Jerome Dixon, Lakeda Fisher, who was present at the apartment at the time of the shooting. Fisher told investigators her grandfather had died earlier in the week and the funeral was held that day (November 5<sup>th</sup>). Fisher said some family members had come from out of town and some were to stay with her and Jerome while in town. She said the funeral took place that morning and after the services, everyone went to her grandmother's house. She said Jerome was emotional over the death. Lakeda said Jerome drank alcohol while at the grandmother's home and continued to drink after they arrived at their home around 10:00 p.m.

Lakeda told investigators that Jerome went next door to building #2 to visit her cousin who lives in an apartment in that building. She said Jerome and her cousin (identified for the purposes of this report as M.W.) are good friends. She said after a short time she

heard Jerome and M.W. talking loud. She said she went next door to get Jerome because she didn't want his loud talking to disturb any neighbors. Lakeda told investigators that Jerome was not involved in any type of disturbance with M.W., but that Jerome just talks loud when he's been drinking. Lakeda denied hearing any gunshots or previously seeing Jerome or M.W. with a gun.

Lakeda later told investigators that Jerome went downstairs and continued to drink alcohol. She said he was intoxicated. Lakeda said she went downstairs to check on some laundry and saw a handgun on the couch. She told investigators she didn't know Jerome owned a gun and said she told Jerome to get rid of the gun because they have children in the home. Lakeda said she went back upstairs to the main floor of the apartment and Jerome came up a short time later. Lakeda said some relatives had arrived at her apartment and that the relatives were all on the third level in the bedrooms preparing to go to bed. Lakeda said she once again told Jerome to get rid of the gun at which point he pulled the gun from the waistband area of his pants and walked to the front door. Lakeda said she thought he was going to possibly take the gun outside and throw it away. She said Jerome had the gun in his hand and was holding it at his side as he opened the front door. Lakeda told investigators Jerome opened the door and she heard someone yell "freeze," then heard shots and saw Jerome fall. Lakeda said police officers then came into the apartment. Lakeda said she had no idea anyone was outside the apartment as Jerome began to walk out.

Investigators spoke to the relatives of Lakeda Fisher who were staying the night at the apartment. None witnessed any of the above events; however, they described Jerome as intoxicated that evening and described his behavior as loud and argumentative. One of the relatives said she had heard Jerome talk about having a gun on a previous occasion. The same relative reported hearing the gunshots at the front door and, upon looking down the stairs towards the door, saw police attending to Jerome after he'd been shot and seeing an officer remove a gun from underneath Jerome after he had been shot and was lying on the stairway.

The two Wichita Police Officers, the shooting officer and the witness officer, were interviewed after the incident. The witness officer-referred to as Officer 1 for the purposes of this report-is a 5 year veteran of the Wichita Police Department. Officer 1 responded to both calls for service that night and gave the following details:

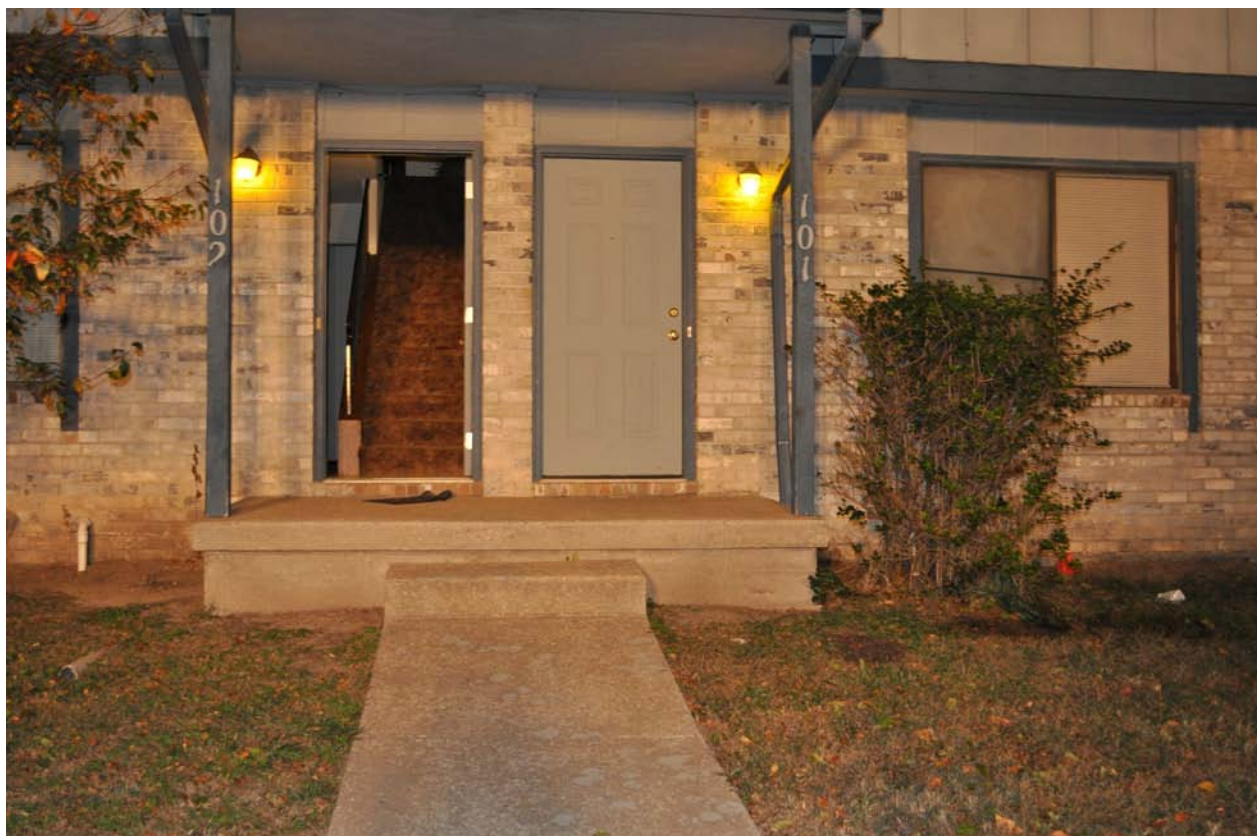
Officer 1 responded to the complaint of loud music at apartment #102, and was informed by the dispatcher that the caller reporting the loud noise believed the occupants of apartment 102 may have been involved in the earlier call involving the gunshots fired in the area. Officer 1 reported he and Officer 2 arrived and approached the apartment on foot. He described both he and Officer 2 were wearing the issued WPD uniform. Officer 1 said as they approached the apartment building, he heard arguing coming from #102. Officer 1 said he walked to a ground floor level window to look inside of #102 while Officer 2 walked up onto the raised concrete front porch area in front of the doors to apartments #101 and #102. Officer 1 reported that, upon looking into the window, he saw a black female sitting at a table in the kitchen area and could

see she appeared to be arguing with an unknown person whom he couldn't see. Officer 1 said he could hear a male voice inside and it appeared to him that the male might be standing by the front door to the apartment based on the direction the female was facing and talking towards. Officer 1 said he heard the male voice say something about "if they're gonna shoot me, they're gonna shoot me," and the front door began opening. Officer 1 looked at the door and saw Officer 2 was drawing his gun and backing away from the front door. Officer 1 heard Officer 2 yell "drop the gun" and then heard gunshots. Officer 1 saw Officer 2 falling backwards off the porch and believed Officer 2 had been shot as he didn't know exactly where the gunshots came from. Officer 1 said he drew his firearm and ran to the now open front door. Officer 1 said he found a male lying on the stairs that are just inside the front door and also saw the female at the kitchen table. Officer 1 said he saw the male had been shot and now believed that the male and Officer 2 had exchanged gunfire. Officer 1 notified dispatch of the shooting via radio and requested EMS and additional officers to respond. Officer 1 began assessing the male's injuries and found a 9mm pistol lying on the stairs under the male's body. Officer 1 reported the male was unconscious after the shooting. Officer 1 quickly learned that Officer 2 had not been shot and was uninjured. Additional officers arrived and secured the scene. EMS transported the suspect, identified as Jerome Dixon, to Wesley Hospital.

Officer 2 was interviewed after the incident and gave the following account to investigators:

Officer 2 is a five year veteran of the Wichita Police Department and is assigned to fourth watch patrol. Officer 2 also responded to the earlier check shots call and detailed the search for any witnesses or evidence as being unsuccessful. Officer 2 was later dispatched to the second call and was cognizant of the information that the calling party believed the occupants in apartment 102 were possibly involved in the earlier call as well. Officer 2 arrived with Officer 1 and said they approached the apartment on foot. He reported they approached the apartment cautiously due to the earlier call possibly involving a gun being fired. Officer 2 said he quietly walked up on the porch and tried to listen for any noises inside while Officer 1 began peeking into a ground floor window. Officer 2 said he could hear voices inside the apartment but initially couldn't make out what was being said. He said he could hear a male voice inside and could tell by the voice that the person talking was moving closer to the front door. Officer 2 then heard the male voice say something like "we'll see who gets shot first" and could tell by the proximity of the male talking that he was just inside the front door. Officer 2 said he was preparing to knock on the door when the doorknob began to move and he realized someone was getting ready to come outside. Officer 2 said he was standing to the right of the front door and, as it opened, he saw the right side of a person starting to come out and saw a chrome semi-automatic handgun in the person's right hand. Officer 2 said he began to draw his handgun and, as the door continued to open, he moved back from the opening door and to his right. He saw a male in the doorway holding the pistol at waist level with the barrel pointing in front of the male. Officer 2 said he yelled for the male to drop the gun but was unsure if he said "police, drop the gun" or "drop the gun, police". Officer 2 said the male then turned his body and the gun towards him. Officer 2

said the gun was pointed directly at him. Officer 2 said he believed he was about to be shot so he fired at the male four or five times with his Glock .40 caliber pistol while moving backward away from the door. Officer 2 said he was unsure at that point if the male was firing at him as well. Officer 2 fell from the porch onto the grass. He reported he then saw Officer 1 enter the apartment. Officer 2 got to his feet and entered the apartment as well. He reported seeing the male lying face down on the stairs and saw several females in the apartment as well.



View of porch area in front of apartments 101 and 102

Crime scene investigators processed the scene. Four .40 caliber shell casings were recovered from the yard area to the right of the front porch of apartment 102. Investigators also recovered and examined the pistol held by Jerome Dixon which was a stainless steel Smith and Wesson 9mm. The pistol was loaded and held 12 rounds in the magazine.

Investigators also recovered a cell phone on the person of Jerome Dixon. Upon examining the phone, several text messages were found that indicated Dixon had been involved in a disturbance earlier in the evening. The first text sent from Dixon's phone stated: "Yea seen I brought ya got dat ragedy 9 if u want it come outside u kill me or I kill u since u bringn gunz 2 my hoUse, get yo niggaz I'm waitiin."

The recipient responded back saying that Dixon and his wife were family and telling Dixon he was “acting dumb.” Dixon then responded: “Naw. Aint shit we just aint cool dnt give a fuck bout none of that u bring piststols 2 my shit. U a enemy so I. Dnt give a fuck u bring shit ova here shoot me before I shoot u , dnt matter u dnt fuck wit me, I aint gone tell.”

These messages were sent and received just a few minutes prior to the call of shots fired in the area. Additional investigation revealed the other party as a resident who lived in building two in the same apartment complex. The person was identified as a male cousin of Dixon’s wife, Lakeda Fisher. This cousin, identified earlier in this report as M.W., was then located and interviewed.

M.W. told investigators he has known Dixon for several years. M.W. said he had gone to visit his cousin Lakeda on an earlier occasion and had a gun on his person. M.W. said he received a phone call from Lakeda that evening telling him Dixon was coming over to his apartment and Lakeda told him not to answer the door. M.W. said that a short time later Dixon showed up and was armed with a pistol. He described the pistol as a chrome 9mm, and said Dixon has owned that gun for some time. M.W. said Dixon was drunk and was mad about the fact that he believed M.W. had come to his apartment with a gun. M.W. reported Dixon was waving his gun around. M.W. said he told Dixon to leave. M.W. said Dixon then fired one shot into the air. M.W. said Lakeda was present when the shot was fired and Lakeda grabbed Dixon and escorted him back to their apartment. Investigators searched the area where this incident occurred and located a 9mm cartridge casing in the grass.

Based upon the information provided by M.W., investigators attempted to re-interview Lakeda Fisher about the events involving M.W. Fisher chose not to speak further with investigators.

## FORENSIC EVIDENCE AND AUTOPSY RESULTS

The firearms evidence collected from the scene of the shooting, as well as the casing collected from the area in front of building #2, were examined at the Sedgwick County Regional Forensic Science Center. The four .40 caliber casings were determined to have been ejected from the Glock handgun used by Officer 2. The 9mm casing recovered by building #2 was determined to have been ejected from the 9mm pistol carried by Jerome Dixon. Dixon was unlawfully possessing the handgun due to a prior felony conviction. The investigation revealed that the handgun he possessed had been reported stolen by its owner in 2000.

An autopsy was performed on the body of Jerome Dixon on November 11<sup>th</sup>, 2010, at the Sedgwick County Regional Forensic Science Center. The autopsy determined that Dixon had died from a gunshot wound to the chest. The bullet struck Dixon in the mid-chest, traveled from Dixon’s left to right striking his heart and right lung, and lodging in his right back area. Dixon was also struck by bullets in his left forearm, and his left hand. It appears that one of those bullets exited and entered his left upper arm. The

shot that struck Dixon's left hand was determined to have been fired from an intermediate range with the others being fired from farther away.

Toxicology tests were done on Dixon. The results showed Dixon had a .27 alcohol content in the testing of his vitreous fluid, a .33 alcohol content in his urine, and the presence of Tetrahydrocannabinol, the active ingredient in marijuana.

## 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. 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.

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 Officer 2 against Jerome Dixon did not constitute an unlawful use of force. The investigation established Dixon was armed with a loaded gun and, immediately prior to opening the front door, Dixon made a statement indicating his intent to "shoot the gun." When the door opened and Officer 2 saw a handgun in Dixon's right hand, he first commanded Dixon to "drop the gun." Instead, Dixon pointed the gun directly at Officer 2. These acts by Dixon clearly posed a lethal and imminent threat to Officer 2.

Therefore, it was reasonable, under these circumstances, for Officer 2 to respond to Dixon's unlawful use of deadly force by firing his service weapon at Dixon in order to protect his own life or the life of another.

District Attorney Nola Tedesco Foulston  
*18<sup>th</sup> Judicial District of Kansas*