



Office of the District Attorney
18th Judicial District of Kansas

For Immediate Release

District Attorney Nola Tedesco Foulston announces that a joint investigatory team under the authorization of the Office of the District Attorney, including the Kansas Bureau of Investigation and the Derby Police Department, has completed its investigation and review of a law enforcement officer involved incident that occurred on November 20, 2005 in Derby, Kansas.

Nature of the Investigation

The incident giving rise to the investigation and review occurred in Derby, Kansas at the Dillon's Supermarket parking lot located at 317 N. Rock Road, Derby, Sedgwick County, Kansas, and involved a Derby police officer and a citizen, Edward E. Lowe, age 56, who died as a result of the incident.

The joint investigation revealed the following facts:

Factual Summary

At approximately 3:40 pm on November 20, 2005, Derby Police Department received a call from the Dillon's store reporting a disturbance involving abuse of a child by the child's father. The reporter relayed that the mother and child were inside the store and the father was outside in the parking lot inside a maroon car with a veteran tag parked in handicap parking. This information was dispatched and a member of the Derby Police Department, referred to as Officer A, responded immediately to the call.

The Police Response

Upon arriving in the parking lot of the store, Officer A immediately noticed that a maroon car parked in a handicap stall was occupied by one white male in the front passenger seat. When Officer A arrived, he was in his police uniform and was driving a marked patrol vehicle.

Officer A drove toward the maroon car and parked directly behind it. The officer observed the maroon car had a handicap tag with a disabled veteran label. Officer A contacted dispatch for information on the license plate and then proceeded to exit his patrol car. As that time, he saw the white male in the maroon vehicle move forward and to the left as if reaching for something. When Officer A began walking toward the maroon car, the man flung open the car door and yelled at the officer to go away. Officer A told the man, "Sir do not get out of the car." The man responded by again telling the officer to go away. Officer A told the man, "I'm here to find out what is going on today..." Before the officer could ask for identification, the man came out of the car with a knife in his hand.

The Altercation

When Officer A first saw the knife, the man was holding it high in his left hand, blade pointed up with the sharp edge forward. Officer A was at this time positioned at the right rear tire of the maroon vehicle. The man then swung the

knife at Officer A, who pushed the man's arm down and away and commanded him to drop the knife. The man continued multiple times to swing the knife at the officer.

Officer A backed up and drew out his firearm as the unidentified man again moved toward the officer with the knife. While pointing his service revolver at the armed man, he commanded him to "Drop the knife." The man continued forward and Officer A again commanded him to "Drop the knife." At this time, the man came up with the knife again, lunging at the officer. Officer A fired his weapon and the unidentified man, still armed with his knife, fell to the ground. Officer A holstered his weapon and immediately called for emergency medical assistance. While on the ground, the man continued to reach for the knife, however, the officer was able to secure the weapon by stepping on it.

The man continued to struggle with the officer in an attempt to reach the knife. Officer A yelled at the man to stop reaching for the knife. The man, later identified as Edward Lowe, continued to try to reach the knife until he was transported away by emergency medical personnel.

EMS Transport

EMS arrived at the scene and provided Lowe immediate medical assistance. He was transported to Wesley Medical Center where he was later pronounced dead at 4:14p.m.

Crime Scene Investigation

Crime Scene Investigators from the Derby Police Department arrived at the scene to photograph, diagram and preserve evidence. The knife Lowe used to charge the officer was located on the cement parking lot near the maroon 4-door Chevrolet car. The knife was a lock blade knife with a brown handle and 4" blade.

Investigators determined a single shot was fired from Officer A's gun, a .45 caliber semi-automatic pistol issued by the Derby Police Department.

Officer A received minor cuts to both of his hands.

Civilian Witnesses

Several employees and customers saw or heard portions of the altercation and were interviewed by investigators. Investigators learned that a female employee was approached by a woman and a young boy just prior to the shooting. The woman told the employee that she was scared for her life and the life of her son. The woman reported that her husband and father of the boy had been violent and was in the parking lot. The employee took the woman and the boy to the manager's office and the police were notified.

Two other employees reported that they had observed the altercation from the drive-thru pharmacy window. They each said they saw the man swinging his hands at the officer, and saw the officer back away while the man continued to swing his hands at the officer. The employees saw the officer draw his gun and the man again started fighting the officer and the officer shot him.

Several other witnesses in the parking lot observed the man with a knife in his hand swinging at the officer and yelling for the officer to "Stop fucking with me." The same witnesses heard the officer tell the man to get back in the car and also heard him tell the man to drop the knife.

The witnesses report the man refused to listen and was very irrational and aggressive. The witnesses observed the man lunge at the officer and saw the officer shoot him from approximately 3 feet away.

Medical History and Autopsy Results

Edward E. Lowe was fifty six years old and a veteran with the United States Army, serving in Vietnam from 1968-1970. He had previously suffered from a gunshot wound to the left arm, head, thigh and shrapnel wound to the right eye. He had been diagnosed and treated by the Veteran's Administration for Intermittent Explosive Disorder, Major Depression, prolonged Post Traumatic Stress Disorder, and personality disorder. He had numerous times self reported homicidal thoughts toward other humans and animals.

An examination of the body at autopsy revealed Lowe was shot one time. The shot entered the right side of his chest above the nipple, perforated the right lung and heart and lodged in the 11th thoracic vertebrae. The shot was fired from a distant range.

The 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. An 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 conduct is necessary to defend himself or another against such aggressor's imminent use of unlawful force.

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

The use of force by Officer A against Edward E. Lowe constituted a lawful use of force under the circumstances then presented. The officer was justified in firing the weapon at Lowe who continued to

aggressively strike at the officer when armed with a deadly weapon. Prior to the use of deadly force, Officer A had issued several commands to Lowe to drop the knife and Lowe still continued to charge toward the officer with knife in hand. The aggressive actions of Edward E. Lowe toward Officer A contributed to his own death and a consequence of his own actions.

Kansas law provides that a law enforcement officer is permitted the use of deadly force when it is reasonably necessary to defend against the imminent threat of deadly force by another.

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