



Office of the District Attorney  
18<sup>th</sup> Judicial District of Kansas

For Immediate Release

September 12, 2007

District Attorney Nola Tedesco Foulston announces completion of the investigation and review of a Citizen Use of Deadly Force occurring on August 25, 2007.

## **Nature of the Investigation**

The incident giving rise to the investigation and review occurred at Salyer Pharmacy, 102 East 21<sup>st</sup> Street North, Wichita, Sedgwick County, Kansas. The incident involved two co-owner pharmacists, a third employee of Salyer Pharmacy and a citizen, Alexander R. Mies, who died as a result of the incident.

As required by protocol established by the Office of the District Attorney and under its authorization, a joint investigatory team consisting of the Wichita Police Department and the Investigations Division of the Office of the District Attorney revealed the following facts:

## Factual Summary

On Saturday, August 25<sup>th</sup> 2007, Salyer Pharmacy opened to the public for normal pharmacy business at 9:00 am. The pharmacy was staffed at the time by two male pharmacists, ages 67 and 59, co-owners of Salyer Pharmacy (hereinafter referred to as **Pharmacist One** and **Pharmacist Two**) and their 19 year old female **Employee**. At approximately 10:45 am, a white male, later identified as **Alexander R. Mies**, entered the public entrance at the rear of the store. **Mies** had a tan Ace-type bandage wrapped around his head and face leaving only his right eye exposed. **Mies** was wearing a grey/black hooded sweatshirt with the hood covering his head. There were no customers in the store at the time.

**Mies** approached the register counter and asked the employee about a prescription called in by an unnamed doctor and provided the **Employee** a false patient name. The two pharmacists heard the request and discussed the fact that neither was familiar with the name of the physician or that such an order had been received at the pharmacy.

**Mies** moved away from the register counter to a partial wall that enclosed the pharmacist work area and drew a semi-automatic handgun. **Mies** stated, *"This is a Hold-up give me the Lortabs and narcotics."* **Mies** then produced a plastic shopping bag and ordered that the drugs be placed in the bag. **Mies** pointed the handgun at **Pharmacist One**.

**Pharmacist Two**, upon observing **Mies**' actions, realized a robbery was taking place and began to move to the back area. **Mies** yelled at him to *"come back."* Instead, **Pharmacist Two** retreated to a back room where he retrieved a pistol grip shotgun hidden from view. **Pharmacist Two** then walked back to the work area, confronted **Mies** and yelled at **Mies** to, *"Put down the gun. Drop it."*

**Mies** pointed his gun at **Pharmacist Two** and then swung the gun back toward **Pharmacist One**. **Pharmacist Two** fired the shotgun he was holding at **Mies** hitting him on the right side of the head and face. **Mies** immediately fell to the floor.

**Pharmacist One** pushed the alarm button under the counter and directed the **Employee** who was hiding under a chair to call 911.

At approximately 10:47 am, Sedgwick County Emergency Communications was notified of the shooting.

## Emergency Response to the Pharmacy

The Wichita Police Department responded to Salyer Pharmacy and found **Alexander Mies** on the floor bleeding from a head injury. Officers located a black semi-automatic handgun on the floor under the right side of **Mies'** body. Emergency Medical Services responded to the pharmacy to provide medical treatment and transported **Mies** to Via Christi St. Francis Hospital where he was pronounced dead at 11:18 am.

## Crime Scene Investigation

Crime Scene Investigators from the Wichita Police Department arrived at the scene to photograph, diagram and preserve evidence. The handgun on the floor and the shotgun used by **Pharmacist Two** were collected and examined. The investigation revealed that the handgun used by **Mies** was unloaded. It was determined that a single shot was fired from the shotgun that hit **Mies** and also damaged property inside the pharmacy.

Additionally, scene photographs were taken by investigators of the District Attorney's Office to demonstrate the placement of all individuals involved at the time of the incident.

## Medical History and Autopsy Results

**Alexander Mies** was twenty-seven years old and had undergone several surgical procedures since high school and had battled an addiction to pain medications.

An examination of the body at autopsy revealed **Mies** was shot one time with a shotgun from a distance. The shot entered the right frontal area of his head penetrating his brain and causing his death.

## The Law

In Kansas all persons 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 another when and to the extent it appears to such person and such person reasonably believes that such force is necessary to defend themselves or another against imminent use of unlawful force.

A person is justified in using deadly force if such person reasonably believes deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person. Kansas law does not require a person to retreat if such person is using force to protect oneself or a third person.

The law in Kansas also provides that 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 their ground and meet force with force.

In Kansas it is lawful for a person to possess and carry a firearm in their fixed place of business.

The use of force by **Pharmacist Two** against **Alexander R. Mies** did not constitute an unlawful use of force. The firing of a single shot from a shotgun at **Mies** was a reasonable use of force in defense of a person and defense of others. The investigation reveals that **Mies** was threatening both pharmacists with a deadly weapon, a semi-automatic handgun, while attempting to complete a forcible felony.

Prior to the discharge of the shotgun, **Pharmacist Two** demanded that **Mies** put down the gun. **Mies** continued to point his gun at both men placing them in imminent danger of death or great bodily harm.

**Pharmacist Two** took reasonable steps to dissuade **Mies'** demonstrated intent before firing the shotgun.

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.

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18<sup>th</sup> Judicial District of Kansas*