



**For Immediate Release  
October 11, 2023**

District Attorney Marc Bennett has completed the review of the use of deadly force that resulted in the death of Jess Jackson. The incident occurred on October 3, 2021 in the 800 block of North Terrace 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 Mr. Jackson on October 3, 2021.

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 October 3, 2021, at approximately 1:59 am uniformed Wichita Police officers, responded to a residence in the 800 block of N. Terrace. The officer responded to a 911 call initially made from a Quik Trip. The calling party, Witness 1, told 911 that the man she was dating, Jess Jackson, had threatened to kill himself and anyone who came near him, and had shot the windshield of his own car. Witness 1 also advised that Mr. Jackson was at 815 N. Terrace in Wichita. Witness 1 left the Quik Trip before officers arrived.

Officers then responded to 815 N. Terrace to make contact with Mr. Jackson. Upon arrival, Officer 1 confirmed that a blue Ford Escort parked on the street appeared to have received a single bullet strike to the windshield.

Officer 1 and Officer 2 made contact with Witness 2 at the door of 915 N. Terrace, who told Officer 1 that he lived in the residence and that Mr. Jackson was the only other person in the residence. The officers asked Witness 1 if he would ask Mr. Jackson to come to the door. Witness 1 went to Mr. Jackson's bedroom then returned and said he had been unable to wake Mr. Jackson but allowed the officers to go into the house to contact Mr. Jackson.

Officers 1, 2 and 3 walked to the bedroom and stood at the foot of the bed where they found Mr. Jackson lying down, with his legs exposed but his torso covered by a blanket. Mr. Jackson woke and asked the officers why they were there. They asked if he had any weapons and he denied that he did. Officer 1 then told Mr. Jackson they were there to check on him because they had received reports that he was suicidal.

Officer 3 saw something silver in or near the hands of Mr. Jackson and in response, moved to the side of the bed. The officers could see Mr. Jackson's right hand over the blanket, but his left hand was obscured. Officer 3 asked Mr. Jackson to move so that officers could see his left hand.

Mr. Jackson responded by making a scooping motion with the blanket. Officers heard a thud that they described as something heavy and metal hitting the floor. Officer 1 pulled

her firearm, and could see that Officer 3 had also withdrawn her firearm. The officers gave verbal commands to Mr. Jackson to show his hands. Mr. Jackson instead reached down. Officers responding by verbally commanded him not to reach.

Officer 1 backed up. Officer 3 saw Mr. Jackson begin to stand with an outreached right arm. Officer 3 saw Mr. Jackson had a handgun in his hand. Officer 3 shot at Mr. Jackson. He went down, with his hands still on the bed, near the gun. Officer 3 commanded Mr. Jackson not to reach for the gun. Mr. Jackson leaned forward toward the gun and Officer 3 shot once more. The shots were fired at 2:23 a.m.

Officer 3 grabbed the silver handgun from the mattress and moved it on the ground away from Mr. Jackson. Other Officers administered CPR. Mr. Jackson was pronounced deceased by EMS at 3:08 a.m.

## INVESTIGATION

The Wichita Police Department officer who fired the fatal shot was removed from the area and her 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 three police officers in the residence at the time of the shooting are included herein.

Two civilian witnesses were interviewed by detectives with the Wichita Police Department and agents with the Kansas Bureau of Investigation. The statements 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 on October 3, 2021 by a detective with the Wichita Police Department. She confirmed she had been in a dating relationship with Mr. Jackson. They had been living together until she ended the relationship and asked him to leave two nights earlier after finding a syringe in her house. She was upset with his drug usage.

She knew that he had a gun. He threatened her via text (“the next bullet won’t miss”) and told her that if she called the police he would either be dead before they got there or he would get into a shootout with police.

She went to Quik Trip to try to make an anonymous call to 911 but ended up talking to the dispatcher after the Quik Trip employee called 911 at her request. She told 911 that Mr. Jackson would be at 814 N. Terrace.

**Witness 2** was interviewed by a WPD detective on October 3, 2021. Witness 2 lived at 815 N. Terrace and confirmed that Mr. Jackson had been staying at the residence. He knew Mr. Jackson had been using methamphetamine. Witness 2 had told Mr. Jackson he would have to stop using drugs if he was going to stay at the residence.

Witness 2 and Mr. Jackson were drinking beer and eating pizza that evening when Mr. Jackson received a phone call. He heard Mr. Jackson tell the caller that he was “checking out.” Witness 2 also confirmed that he had received messages that evening from Witness 1, who expressed her concern that Mr. Jackson had been shooting a firearm. However, Witness 2 said he did not know Mr. Jackson had a gun and had not heard Mr. Jackson shoot the gun at his own windshield earlier that night.

## LAW ENFORCEMENT OFFICER STATEMENTS

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

**Officer 1:** Officer 1 responded to 815 N. Terrace to make contact with Mr. Jackson regarding a suicidal person call. Officer 1 was aware that the subject of the call was

thought to have been in possession of a firearm and that the person had shot the windshield of their own car earlier that night.

Upon arrival, Officer 1 confirmed that a blue Ford Escort parked on the street appeared to have previously received a single bullet strike to the windshield.

Officer 1 and Officer 2 made contact with a civilian (Witness 2) at the door of 915 N. Terrace, who reported that he lived in the residence and that Mr. Jackson was the only other person in the residence. The officers asked Witness 2 if he would ask Mr. Jackson to come to the door. Witness 2 went to Mr. Jackson's bedroom, then returned and said he had been unable to wake Mr. Jackson--but he allowed the officers to go into the house to contact Mr. Jackson.

Officers 1, 2 and 3 walked to the bedroom and stood at the foot of the bed where they found Mr. Jackson lying down, with his legs exposed but his torso covered by a blanket. Mr. Jackson woke and asked the officers why they were there. They asked if he had any weapons and he denied that he did. Officer 1 then told Mr. Jackson they were there to check on him because they had received reports that he was suicidal.

Officer 1 asked Mr. Jackson to get out of the bed and heard Officer 3 ask Mr. Jackson to remove his left hand from under the blanket. Mr. Jackson's right hand was already above the blanket and visible. Mr. Jackson initially responded to the request and removed his left hand. Mr. Jackson then began to gather the blanket, then rolled to his left side and made a scooping motion that Officer 1 perceived as an effort to pull the blanket off the bed.

Officer 1 heard a "thud" sound like metal hitting the floor. Officer 1 thought a gun had hit the floor. Officer 1 withdrew his service weapon and pointed it at Mr. Jackson. Officer could see that Officer 3 had withdrawn her service weapon as well.

Officer 1 gave Mr. Jackson verbal commands to show his hands several times. Mr. Jackson reached down for the gun. Officer 1 backed up in response and heard Officer 3

fire her weapon. Officer 1 informed dispatch that shots had been fired.

Officer 1 was told by Officer 3 that she (Officer 3) had secured Mr. Jackson's firearm.

**Officer 2:** Officer 2 responded to 815 N. Terrace to make contact with Mr. Jackson regarding a suicidal person call with shots fired through a windshield.

Officer 2 explained that she had accompanied Officer 1 and Officer 3 to the door where they made contact with Witness 2, who confirmed that Mr. Jackson was staying at the house. After making an unsuccessful attempt to wake Mr. Jackson, the officers went to the bedroom to make contact with Mr. Jackson.

The officers found Mr. Jackson lying on a bed. They identified themselves as police and attempted to speak to Mr. Jackson. He had his left hand covered by a blanket, and Officer 3 asked Mr. Jackson to show them his left hand. Mr. Jackson responded by showing them his left hand then tucking it back under the blanket. He stood with the blanket in his hand, and Officers 2 heard something solid and heavy hit the ground. The officers told him not to move, and "don't do anything stupid."

Mr. Jackson reached down. Officer 2 had her gun drawn and was aware Officer 1 and 3 had as well. Officer 1 began to step backward, and in so doing stepped between Officer 2 and Mr. Jackson, so Officer 2 lowered her gun.

Officer 2 heard shots fired. Officer 2 tried unsuccessfully to move Mr. Jackson alone, then assisted other officers in moving Mr. Jackson.

**Officer 3:** Officer 3 was interviewed by a detective with the Wichita Police Department and a special agent with the Kansas Bureau of Investigation.

Officer 3 described having responded to 815 N. Terrace to make contact with Mr. Jackson regarding a suicidal person call with shots fired. Officer 3 arrived and found a vehicle on cinder blocks in the street with a bullet hole in the windshield.

Officer 3 joined Officers 1 and 2 at the door where they made contact with Witness 2, who confirmed that Mr. Jackson was staying in the house. Witness 2 was unable to wake Mr. Jackson gave the officers permission to go in and make contact with Mr. Jackson.

Officer 3 knocked on the bedroom door and announced Wichita Police Department. Officers 1 and 2 followed.

Officer 3 shone her flashlight on Mr. Jackson to wake him. Once Mr. Jackson was awake, Officer 3 stepped into the bedroom closer to the bed, and asked Mr. Jackson if he would come outside and talk to the officers.

Officer 3 saw a blanket on the bed and a jacket by Mr. Jackson's head. Officer 3 immediately saw a silver object between Mr. Jackson and the blanket. Officer 3 was not sure, but believed the object to be a gun in light of the dispatch information.

Officer 1 began to talk to Mr. Jackson about why they were there and the nature of the concern. While that took place, Officer 3 stepped to the side of the bed by the closet to get a closer look at the silver object.

Mr. Jackson kept his left hand down, and Officer 3 was concerned he was trying to hide something. Officer 3 asked Mr. Jackson to show the officers his left hand. Mr. Jackson raised himself to his knees and hands, then placed his feet on the floor with his hands still on the mattress. He "cupped" the blanket then moved to slide the blanket off the bed.

Officer 3 heard something heavy hit the floor that sounded metal. Officer 3 could not see what the object was as she was on the other side of the bed. Officer 3 began to yell at Mr. Jackson to show his hands. She heard Officer 1 yell, "don't reach," which she (Officer 3) also remembered yelling.

Mr. Jackson reached down toward the floor. Officer 3 withdrew her gun. She saw Mr. Jackson raise up with his arm outstretched and start to raise his right hand toward her. Officer 3 saw a gun in his right hand. Officer 3 knew she shot 4 or 5 times. Mr. Jackson went to his knees on the opposite side of the bed. Officer 3 saw the gun fall from his hand

and land on top of the mattress. Mr. Jackson's arms came down on the bed near the gun. Officer 3 gave commands to Mr. Jackson not to reach for the weapon. Mr. Jackson reached for the weapon and Officer 3 believed she fired again. Mr. Jackson slid off the bed to the floor. Other officers began to enter the room, some of whom went to Mr. Jackson, while others asked where the weapon was. Officer 3 removed the gun from the bed and set it on the floor in the living room.

## CRIME SCENE INVESTIGATION

Wichita Police Department Crime Scene Investigators processed the scene of the shooting. Investigators located the following:

Firearms:

1 – Jiminez Arms .380 automatic pistol (functional) belonging to Mr. Jackson, unloaded.

1 - Glock 17 Gen. 4 9 mm handgun - fired by Officer 3.

Cartridge casings:

4 – Speer 9 mm Luger fired cartridge casings in the SW bedroom

Ballistics analysis conducted by the Sedgwick County Regional Forensic Science Center determined that the cartridge casings were fired from the same firearm.





Photo of Mr. Jackson's vehicle parked outside the residence.

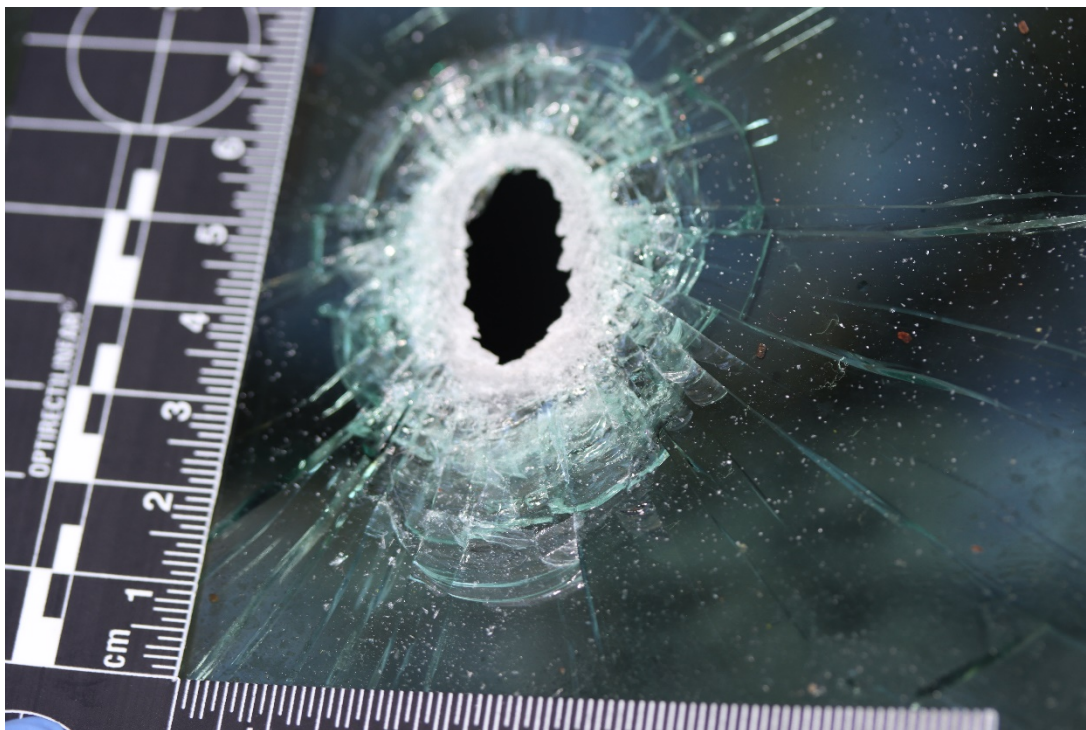
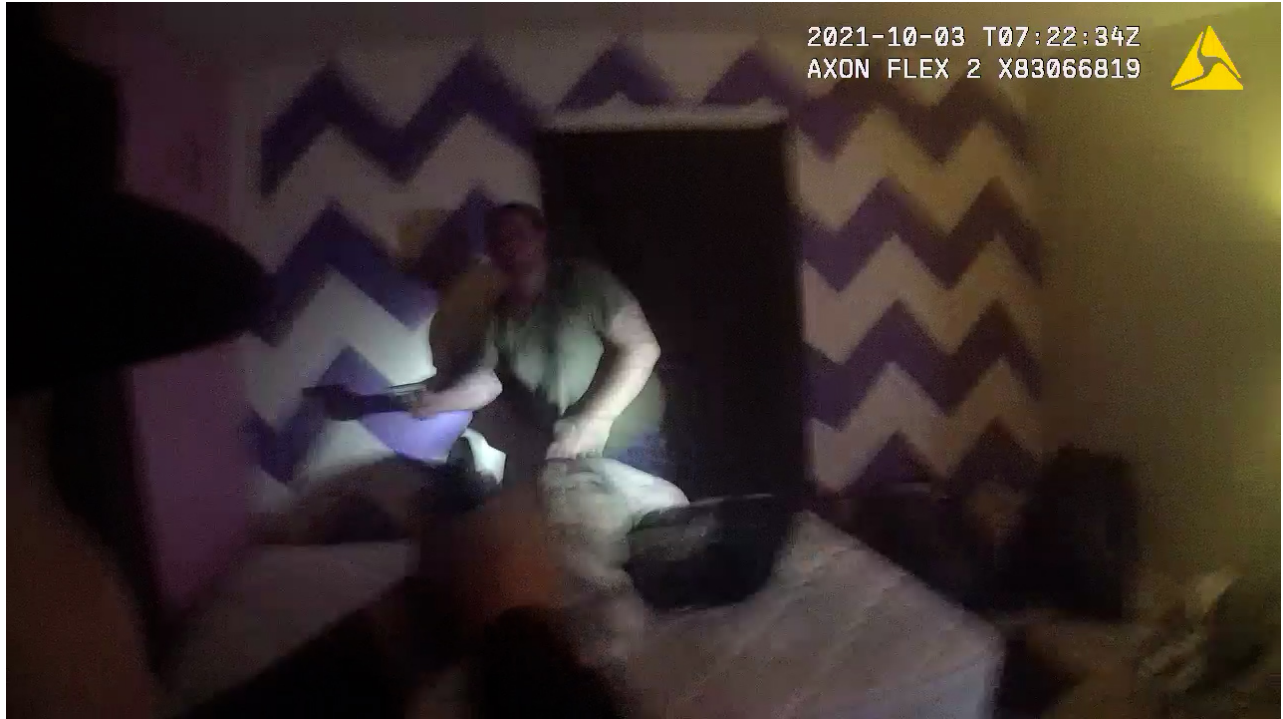


Photo of the apparent bullet hole in the windshield of Mr. Jackson's vehicle.



Still photo from the axon (body camera) recording on Officer 3.



Firearm collected from Mr. Jackson.

## FORENSIC EVIDENCE & AUTOPSY RESULTS

An autopsy was performed on the body of Jess Jackson on October 4, 2021 at the Sedgwick County Regional Forensic Science Center. The final autopsy report dated January 23, 2022, determined that Mr. Jackson died as a result of “a gunshot wound to the trunk.”

The toxicology report detected the following:

Blood: ethanol - 0.060 gm%; and tetrahydrocannabinol [THC] – 1.3 ng/mL;

Vitreous: ethanol – 0.73 gm%.

The toxicology screen was negative for other substances.

## 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. (2018 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,

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.

In *State v. Dukes*, 59 Kan.App.3d 367 (2021), the Kansas Court of Appeals ruled that the district court had appropriately found Mr. Dukes was immune from prosecution 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 October 3, 2021, an officer employed by the Wichita Police Department utilized deadly force resulting in the death of Jess Jackson.

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. Meaning, 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. Jackson had made both threatening and suicidal comments earlier that evening, and had allegedly shot a gun into the windshield of his own car while it was parked on the street in front of the residence at which he was staying. Responding officers made contact with a civilian (Witness 2) who acknowledged Mr. Jackson was staying at the residence. The civilian witness allowed the officers into the home so they could make contact with Mr. Jackson.

The officers asked Mr. Jackson to step outside to discuss the events of the evening. When Officer 3 saw a silver object in Mr. Jackson's possession and asked Mr. Jackson to show his hands, Mr. Jackson made an attempt to move the firearm which caused it to fall to the floor. When officers verbally ordered Mr. Jackson not to reach for it, he reached down and came up with the gun in his hand, with his hand extended from his body. In response, Officer 3 fired multiple shots in self-defense striking Mr. Jackson once. Mr. Jackson died from this gunshot wound.

Under the totality of the circumstances, Officer 3 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 3.

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*