



For Immediate Release
June 3, 2025

District Attorney Marc Bennett has completed the review of the use of deadly force that resulted in the death of Bill Osterhout. The incident occurred on March 26, 2024 in the 200 block of North Main in Haysville, Sedgwick County, Kansas.

SCOPE OF REPORT

This report details the findings and conclusions limited specifically to criminal liability of the officers employed by the Haysville Police Department who shot Mr. Osterhout on March 26, 2024.

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 Haysville 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 March 24, 2024, at 8:28 p.m., two officers from the Haysville Police Department (HPD) responded to 204 N. Lamar in Haysville regarding a domestic violence call. The officers contacted the calling party, Bill Osterhout, who reported going to Denver for the weekend and upon returning home his wife (later determined to be his girlfriend) had thrown his property on the porch and tried to kick him out of the house. Osterhout said when he called 911 she left the residence. One officer found her at a park in Haysville. She reported she wanted to kick Osterhout out of the house because she believed Osterhout had been unfaithful. She went to stay with a friend.

Osterhout was notified that she had been located. He told police he would pack his property in the morning and go stay with his daughter in Denver until the situation was resolved. Neither party reported any physical violence. The call was documented by the police.

On March 26, 2024, at approximately 4:55 p.m., the girlfriend called 911 to report Mr. Osterhout was possibly suicidal after receiving a string of concerning text messages from him. She stated he had a gun and others in storage. Three HPD officers responded to 204 N. Lamar and spoke with the girlfriend who was distraught. She told officers that Mr. Osterhout had told her that he wanted her to have his truck. She said that “he’s going to kill himself” and reported he would not answer her calls or respond to her texts. She said he sent text messages including one that said “It’s time” and one that said “I have to leave things for my kids I hope you understand.”

Officers initiated attempts to locate Mr. Osterhout who was believed to be in possession of his white pickup. At 5:31 p.m., Mr. Osterhout’s truck was located in front of the Main Street Liquor Store, 237 N. Main Street, in Haysville by HPD officers. Officer 3, who had responded to the girlfriend’s 911 call arrived and approached the truck on the passenger side and tapped on the window to get Mr. Osterhout’s attention. Mr. Osterhout rolled down the window and the officer initiated a conversation, asking about how Mr. Osterhout was doing and informing him that others were concerned for his welfare. Mr.

Osterhout was asked if he was planning to harm himself which he denied.

Officer 1 and Officer 2, who had also responded to the 911 call - and had also responded to Mr. Osterhout's call on March 24 - arrived at 237 N. Main. At approximately 5:33p.m. they approached the truck from the driver's side. When asked by the officers to roll down the driver's door window, Mr. Osterhout refused. Mr. Osterhout was asked if he had a gun and he replied that he did not. He also denied having been drinking that day though the first officer to contact him reported that Mr. Osterhout appeared intoxicated and was slow in his responses to the officer's statements or questions.

At approximately 5:35:02 p.m. Officer 1 then went to the passenger side where Officer 3 was still engaged in conversation with Mr. Osterhout. Officer 2 remained on the driver's side. Mr. Osterhout was asked to step out of his truck to talk to the officers and he refused. Officer 2, who had remained on the driver's side of the truck, began examining the interior of the truck with his flashlight. He observed a handgun between Mr. Osterhout's thighs and verbally alerted the other officers of its presence at 5:35:49 p.m. Officer 2 then positioned himself at the rear of the truck on the passenger side and pointed his handgun towards Mr. Osterhout. At 5:36 p.m., an officer requested emergency radio traffic. At 5:38 p.m., officers requested more law enforcement units, advising they had a man with gun.

Mr. Osterhout was asked to give his gun to an officer and responded by attempting to roll up the passenger side window which was blocked by an officer. The officers attempted to convince Mr. Osterhout to let them help and not take action to harm himself. Shortly after the gun's presence was identified, Mr. Osterhout grabbed the gun in his right hand and held its barrel to his head.

Officer 1, who had remained near the front passenger door, opened that door. He asked Mr. Osterhout to give him the gun and continued to tell him to ask him not to hurt himself. Officer 3, who was also at the passenger side door raised his gun and pointed it at Mr. Osterhout.

A fourth HPD officer arrived at the scene and positioned himself towards the rear of the truck on the driver's side. Mr. Osterhout appeared to notice this officer's arrival from his driver's side exterior mirror. Mr. Osterhout began to tell the officer to shoot him.

Officers tried to persuade Mr. Osterhout not to hurt himself and to put the gun down. He kept the gun to his temple or under his chin and continued to indicate a desire to end his life. Approximately 6 minutes after the gun was seen by Officer 2, Mr. Osterhout took the gun barrel away from his head and began moving it toward the passenger side door, in the direction of the officers. Officer 3, who had his raised gun at the passenger door and Officer 2, at the passenger side rear of the truck began to fire their weapons towards Mr. Osterhout. Two Sedgwick County Sheriff's deputies had also arrived at the scene in response to the call for additional law enforcement units shortly before shots were fired.

At 5:42 p.m., the officers reported shots fired and requested EMS. EMS Medic 27 arrived and pronounced Osterhout deceased at 5:56 p.m. at the scene. The Sedgwick County Sheriff's Office (SGSO) investigated the shooting with assistance from the Wichita Police Department (WPD). Officers and civilians were transported to the Investigations Division for interviews.

INVESTIGATION

The two Haysville Police Department officers, Officer 2 and officer 3, who shot at Mr. Osterhout were removed from the area and their firearms were secured. Law enforcement officers at the scene gave voluntary statements to investigators with the Sheriff's Office and the Wichita Police Department. The statements of four police officers and one Sheriff's deputy at or near the scene of the shooting are included herein.

Civilian witnesses were also interviewed by investigators. Four of their statements are included herein.

Forensic Investigators from the Sheriff's Office processed the scene. Evidence was submitted to the Sedgwick County Regional Forensic Science Center for examination.

CIVILIAN WITNESS STATEMENTS

Witness 1: was interviewed on March 26, 2024 by a detective with the Sheriff's Office.

Witness 1 lived at 204 N. Lamar in Haysville with her boyfriend, Mr. Osterhout. She and Mr. Osterhout had been in a relationship for over seven years.

Witness 1 said she and Mr. Osterhout had been fighting for the past couple of days, after Mr. Osterhout's return from visiting relatives in Colorado on Sunday (March 24). She said Mr. Osterhout called the police after she had thrown some of his clothes outside of their home. She said she ended up leaving the house and spending the night with a friend.

She told investigators that she received text message that morning that made her concerned that Mr. Osterhout might try to kill himself. She indicated that she tried to reassure him that they could work things out and things would be better for them both. She reported that late in the afternoon she really got concerned because of the texts Mr. Osterhout was sending her and that he wasn't answering her phone calls. She showed the detective the string of text messages between her and Mr. Osterhout that day.

She said during the argument on March 24 Mr. Osterhout said, "I hate you. I want to kill you." On Monday the 25th, the fight continued through phone calls and texts. Mr. Osterhout sent her a text at 10:40 p.m. stating he had resigned from his job earlier in the day. Witness 1 said on the 26th the two of them started texting back and forth beginning at 7:19 a.m., when Mr. Osterhout sent her a text stating he had no place to go. He also texted that he was "ready to check out", and she told Mr. Osterhout not to do anything stupid. He later reported that he got his job back. Around 4:44 p.m., she sent a text stating she couldn't wait to see Mr. Osterhout who responded with, "It's time," accompanied by a sad face emoji. She said she tried texting and calling Mr. Osterhout and at 5:00 p.m., Osterhout texted, "I'm just trying to figure this out I don't want to hurt anyone but I'm a three time loser," accompanied by another sad face emoji. At 5:11 p.m., he sent a text, "It takes a lot of effort to say goodbye to everyone". At 5:19 p.m., Mr. Osterhout sent a text, "I have to leave things for my kids I hope you understand". At 5:29 p.m., Mr. Osterhout sent his final text to Witness 1 stating, "I feel peaceful it's okay", accompanied by a heart emoji.

She began driving home and called 911.

Witness 2 was interviewed by a Sheriff's detective. Witness 2 was an employee in the Main Street liquor store at the time of the shooting. He was dusting shelves and noticed Mr. Osterhout's truck had been sitting there for a while. He then noticed the first officer pull up. He assisted a couple of customers who left, and he then noticed officers walking up to the truck. He said everything seemed peaceful at first and he then heard a bunch of yelling, so he looked over and saw three officers had their guns drawn. He said he got scared and went with another employee towards the back of the store. He said he and the other employee were the only people in the liquor store at the time of the shooting. He did not know if Mr. Osterhout had been in the liquor store.

Witness 3 was interviewed by a Sheriff's detective. Witness 3 stated he and his wife and son were in the drive-through of the Bionic Burger that is directly north of the Main Street Liquor Store. He was seated in the passenger seat and his wife was driving. He observed a white truck parked at the liquor store to the south. He observed three officers surrounding the truck. The family drove around the north side of the restaurant and ordered, then proceeded to the pick-up window on the south side. Witness 3 said his window was down and he could hear yelling between the officers and the man inside the truck but could not make out what was said. He observed officers standing at the rear, passenger, and driver's side of the truck and said it sounded like "suicide by cop." When asked why, Witness 3 said because of the yelling, and because the suspect was yelling more than the officers were and seemed "off." He heard the word "gun" and saw the officer at the rear of the truck fire his gun.

Witness 4 was interviewed by a Sheriff's detective. She reported she, her husband and son were in the drive-through of the Bionic Burger when she observed a younger Haysville officer at the back of a white truck with a gun drawn. She heard officers say, "You don't wanna do that Mark, or Man," and heard them say, "Put the gun down." She then observed the officers continue to talk to the person inside the truck. She heard approximately 8 gunshots go off but was unsure of who all was shooting. The passenger side door was open, and the driver side door was closed on the white truck.

LAW ENFORCEMENT OFFICER STATEMENTS

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

Officer 1, a sergeant with HPD, was interviewed by a WPD detective on March 26, 2024. He graduated from the police academy in 1996 and had worked for the HPD since 2005. Prior to Haysville, he worked for three other Kansas law enforcement agencies.

On March 26, he was working second shift and was wearing a “soft” uniform of HPD. He stated Officer 2 was in field training and was riding with him. They responded with Officer 3 to a suicidal person at 204 N. Lamar to check on Bill Osterhout because he had sent some messages to his girlfriend (Witness 1) that led her to believe Mr. Osterhout was going to take his life. Officer 1 was familiar with Mr. Osterhout and his girlfriend because he had also responded to a call at that address on March 24.

When they arrived on March 26, the front door of the residence was open but nobody answered. Officer 1 said when Witness 1 arrived at the home she was very distraught and was afraid Mr. Osterhout was going to kill himself because of some text messages he had sent. Officer 1 said they tried to call Mr. Osterhout but got no answer. They started to work with 911 to ping Mr. Osterhout’s phone. Officers 1 and 2 were headed to the station to put out a BOLO when Officer 3 saw Mr. Osterhout’s truck parked at the liquor store.

Officer 1 said when they arrived at the liquor store, he observed Officer 3 standing at the passenger side of the truck talking to Mr. Osterhout through the door window, which was down, as Mr. Osterhout sat in the truck with the engine running. Officer 1 initially went to the driver’s side door, which was locked, and the window was rolled up. When Mr. Osterhout refused to roll down the window or talk to him, he moved to Officer 3’s location and tried to talk with Mr. Osterhout. Mr. Osterhout indicated he didn’t want to talk and wanted the officers to leave him alone. Mr. Osterhout tried to roll up the window but Officer 3 put his hands on the window to stop it from going up.

Officer 2 warned them Mr. Osterhout had a gun between his legs. Mr. Osterhout picked up the gun and later held it to his head. Officer 1 opened the truck door and asked Mr. Osterhout for the gun. He and Officer 3 were talking to Mr. Osterhout and trying to persuade him to put the gun down. Mr. Osterhout wouldn't put the gun down and was telling them to "kill him" and to "shoot him." "Bill was still holding the gun to his head. He moves it from the side of his head to under his chin and he's holding it there. So, again, he won't put the gun down and starts moving his, the gun away from him and starts pointing it towards us. As the gun gets closer, I hear gunshots from the other two officers." After the shots were fired, law enforcement secured Mr. Osterhout's firearm, got Mr. Osterhout out of the truck, and started CPR until the fire department arrived and took over.

Officer 1 stated when Mr. Osterhout had the gun to his head, Officer 1 didn't draw his gun because, "I didn't want him to provoke us into killing him." However, Officer 1 knew Officer 3 had drawn his gun and suspected Officer 2, who had moved to the back of the truck, had drawn his gun too. While describing the moments of the shooting, Officer 1 demonstrated and described Mr. Osterhout having the gun pointed under his chin and then making a "deliberate" movement with the gun towards Officer 1 and stated at that time, "I thought he was going to make us kill him. That's what I thought." Officer 1 said prior to the shooting he had told Mr. Osterhout they were not there to shoot him. Mr. Osterhout wanted the officers to leave him alone so Mr. Osterhout could, "Go out on a country road and kill himself with dignity".

Officer 1's body worn camera video was collected and downloaded as evidence. The body camera video captured by Officer 1 includes images of him opening the passenger door of Mr. Osterhout's truck and Mr. Osterhout holding the gun under his chin. It also shows Mr. Osterhout moving the gun in the direction of Officers 1 and 3.

Officer 1 holding out his hand asking Mr. Osterhout to give him the gun.



Mr. Osterhout pointing gun under his chin.



Mr. Osterhout moved the gun and asks, "Have you ever seen this before?" When Officer 1 said he had, Mr. Osterhout stated, "Well this is going to be another memory right"



Mr. Osterhout then started moving the gun towards Officer 1 and Officer 3.





Officer 2 was interviewed by Sheriff's detectives on March 27, 2024. Officer 2 had worked as a patrol officer for HPD since September 2023, graduating from the training academy in early 2024 and was in field training with Officer 1. Officer 2 said he was at the station when he received the call of a suicidal person at 204 N. Lamar. The caller, Witness 1, reported that Mr. Osterhout was suicidal, not answering her calls, and had guns. Officer 2 said they had dealt with Mr. Osterhout on Sunday regarding a domestic incident after Mr. Osterhout called to report being kicked out of the house and having some of his property thrown out. On the night of the shooting, Witness 1 showed Officer 2 some texts on her phone to the effect of it's hard to say goodbye and he had to leave things behind for his kids. Witness 1 had two numbers for Mr. Osterhout, which Officer 2 gave to dispatch to try and have his phones pinged.

Officer 2 said Officer 3 circulated the area and located Mr. Osterhout at the Main Street Liquor. Officer 2 said when he arrived Officer 3 was already contacting Mr. Osterhout. Officer 2 could not recall whether he went to the passenger or driver's side of the vehicle first but recalled being on the driver's side and hearing Officer 3 ask if there were any weapons in the vehicle and Mr. Osterhout saying there were not. Officer 2 looked into the vehicle and saw a gun between Mr. Osterhout's legs. Officer 2 physically demonstrated that he saw the gun between Mr. Osterhout's thighs. Officer 2 said he called out "gun" to make the other officers aware Mr. Osterhout had a gun between his legs.

After that, Officers 1 and 3 attempted to "deescalate the situation." Officer 2 said he retreated to the back of the truck when he saw Mr. Osterhout grab the door handle. Officer 2 put information out over the radio about a man with a gun and requested more units. Officer 2 did not remember when or how but said Mr. Osterhout pointed the gun to his head and yelled, "Shoot me. Shoot me."

Officer 2 observed SGSO deputies arriving and once they arrived, "He started to point the gun. He made an overt move to point the gun at [Officers 1 and 3] and that's when [Officer 3] shot first and then I shot." Once they deemed it was safe they moved in and Officer 2 got the medical pack to render aid.

During follow-up questioning, Officer 2 said prior to the shooting, during the contact

with Witness 1, she did mention Mr. Osterhout had access to guns, mentioning a storage unit. He also recalled dispatch mentioning guns. Officer 2 said after arriving at the liquor store, he moved to the back of the truck when he saw Mr. Osterhout grab the handle of the gun. He eventually took a position at the right rear of the truck.

Officer 2 recalled Mr. Osterhout pointing the gun to his own head, which he could see from his position. He remembered Mr. Osterhout yelling to shoot him and Officer 1 trying to deescalate Mr. Osterhout. While demonstrating moving his arm from near his head and pointed straight out, Officer 2 stated, "Like it was slow motion for me. I remember seeing this. Then [Officer 3] shot and then I shot." Officer 2 said the movement he demonstrated was the "overt move." When asked what he was thinking at that point Officer 2 stated, "My training kicked in." Officer 2 then spoke about his academy training, stating Mr. Osterhout had the ability to shoot, the opportunity, and the jeopardy to shoot. "He made that overt move to point the weapon at the other officers."

Officer 2 referred to an academy training scenario where a person had a gun to his head, who was flashing officers. Officer 2 was supposed to have shot but did not, which resulted in Officer 2 being shot. Officer 2 stated when he saw Mr. Osterhout make the overt movement he thought Mr. Osterhout was going to "shoot." "Plain and simple I thought he was going to kill someone." Officer 2 did not know how many rounds he fired and said he stopped shooting when Officer 3 stopped.

After the shooting, Officer 2 called it out over the radio. Officer 2 said he was standing at the back right corner of the truck and was shooting through the back window. Officer 2 said the back window was tinted but he could see through it.

It was determined from a countdown of Officer 2's weapon and magazines that Officer 2 fired 11 shots. His body worn camera video was collected and downloaded as evidence.

Officer 3 was interviewed by a Sheriff's detective and a WPD detective on March 26, 2024. Officer 3 had worked for HPD for two years as a patrol officer and had two years of prior reserve experience in another local community.

Officer 3 stated while at the police station he was dispatched, along with Officer 2 and Officer 1, to 204 N. Lamar on a suicidal person. Officer 3 was told by Officer 2 and Officer 1 they had previously dealt with the residents on Lamar. They did not get an answer at the door upon arrival, so they waited for the caller, Witness 1, to arrive. When Witness 1 arrived, she was very emotional over texts she received from Mr. Osterhout, which Witness 1 interpreted as suicidal. Witness 1 also told them Mr. Osterhout had guns. Prior to leaving the residence, Officer 3 checked the FLOCK (license plate reader) system and found a hit for Mr. Osterhout's truck on Main Street in Haysville.

Officer 3 left the residence and began checking the area for Mr. Osterhout's truck and found Mr. Osterhout's truck in the liquor store parking lot and notified dispatch over the radio. Officer 3 could see there was a male moving around in the driver's seat so he walked up to the passenger side of the truck and knocked on the window. Officer 3 said Mr. Osterhout seemed intoxicated and rolled down the passenger side window. Mr. Osterhout said he was okay, but Officer 3 reported he could tell that Mr. Osterhout wasn't okay. Officer 3 tried to engage Mr. Osterhout in conversation, telling him there were people worried about him, and telling Mr. Osterhout he was there to help him, but Mr. Osterhout said he didn't want to talk.

Officer 2 and Officer 1 arrived and approached Mr. Osterhout on the driver's side of the truck. Mr. Osterhout refused to roll down the driver's window, so Officer 1 came to the passenger side of the truck with Officer 3 and tried to talk to Mr. Osterhout. Mr. Osterhout denied having a gun on him when asked. Mr. Osterhout expressed concern they were going to take him to jail and they told Mr. Osterhout they were not going to take him to jail, they were there to help him. Mr. Osterhout got more emotional and kept declining telephone calls that were coming in.

While they were talking to Mr. Osterhout, Officer 2 informed them Mr. Osterhout had a gun between his legs so Officer 3 drew his handgun but did not point it at Mr. Osterhout as he and Officer 1 kept trying to talk with Mr. Osterhout. Mr. Osterhout said something to the effect of, "There wasn't really nothing to decide with this," pulled the firearm from

between his legs, and held it in his right hand near his lap. Officer 3 and Officer 1 kept talking with Mr. Osterhout, who told them to leave him alone and, "Let me go out to a dirt road." Mr. Osterhout attempted to roll up the passenger window so Officer 3 held the top of the window to prevent it from going up. Officer 1 reached in, opened the door, and was standing in the door area. Mr. Osterhout raised the gun and put it to his own head, so Officer 3 raised his gun and pointed it at Mr. Osterhout to provide cover as they tried to reason with Mr. Osterhout.

While talking with Mr. Osterhout, he lowered the gun down but then pointed it under his chin and said, "This is the spot where I'm supposed to do it right." Officer 1 kept talking to Mr. Osterhout and asked him to give Officer 1 the gun. Mr. Osterhout commented on incoming police sirens and then became fixated on Officer 2, telling Officer 2 to shoot him. Mr. Osterhout noticed Officer 3 had his gun pointed at Mr. Osterhout and began asking Officer 3 if he was going to shoot him. Officer 3 told Mr. Osterhout that he did not want to shoot him and was telling Mr. Osterhout, "Please don't do this. Please don't make me do this. Don't." While they continued talking to Mr. Osterhout, Mr. Osterhout began turning the gun towards Officer 3 and Officer 1. Officer 1 was standing in the doorway, did not have a position of cover, and did not have his firearm out. "As that gun got to the point where it was about, it was, flagging (Officer 1), I was overly concerned for my safety and also overly concerned for (Officer 1), I discharged my firearm." Officer 3 did not recall how many shots he fired.

After the shooting, Officer 3 put on latex gloves and checked for a pulse for Mr. Osterhout but could not find one. Officer 3 noticed Mr. Osterhout had been shot in the head and believed it was his own (Officer 3's) bullet. Officer 3 put a bandage on Mr. Osterhout's head before pulling him out and starting CPR. The fire department arrived and took over.

During follow-up questions, Officer 3 said Mr. Osterhout had his finger on the trigger the entire time after the gun was introduced. Officer 3 also recalled that Mr. Osterhout had done a three-second countdown at one point while holding the gun to his head. When asked why he fired, Officer 3 stated, "...More than anything I was fearful for (Officer 1) and myself..." He further explained Mr. Osterhout had his finger on the trigger and, "Could have easily shot (Officer 1) in the face or shot me." Officer 3 said he

stopped shooting when Mr. Osterhout stopped moving. Officer 3 did not recall what or if Mr. Osterhout stated anything as he moved the gun towards Officer 3.

It was determined from a count of Officer 3's weapon and magazines that Officer 3 fired 11 shots. His body worn camera video was collected and downloaded as evidence.

Officer 3's body camera footage time stamp indicated the following sequence of events. Mr. Osterhout is not always in view of Officer 3's camera:

1732:39 – Officer 3 approached Mr. Osterhout's truck and knocked on the passenger window

1732:53 – Mr. Osterhout rolled down the passenger window

1733:32 – Officer 2 approached the driver's side window

1735:02 – Officer 1 moved from the driver's side to the passenger side of the truck

1735:49 – Officer 2 announced the observation of the gun

1737:02 – Officer 3 raises his gun and points it at Mr. Osterhout. Commands were given to Mr. Osterhout to put his gun down

1737:38 – Officer 1 opened the passenger side door

1742:41 (Approximate) – Shots were fired

1742:44 (Approximate) – Shots stop

Officer 4 was interviewed by a WPD detective. Officer 4 had been with HPD for four years and was serving as a master police officer.

Officer 4 stated he was headed back to the station when he heard Officer 3 come up on the radio asking for the air (emergency traffic). Officer 4 knew they were working a suicidal person call so he headed that way to provide assistance. As he approached the scene, Officer 4 noticed Officer 2 had his gun drawn so Officer 4 exited his vehicle, drew his gun, and took a position behind Officer 2.

Officer 4 heard Officer 3 talking to Mr. Osterhout. Officer 2 was then standing by the rear passenger side of the truck and Officer 4 was standing near the back driver's side of the truck, looking down the side of the truck. Officer 4 could see in the mirror that Mr. Osterhout had a gun to his head. Mr. Osterhout noticed Officer 4 and started yelling, "Go ahead and shoot me. Go ahead and shoot me." Officer 4 then observed Mr. Osterhout put the gun under his, Mr. Osterhout's chin. Officer 3, who was standing near the open passenger side door, continued talking to Mr. Osterhout trying to deescalate the situation and, "All the sudden the shots start going off." Officer 4 did not see Officer

2 shooting but realized he was shooting when Officer 4 saw the glass shatter. Officer 4 did not know if Officer 3 had fired. Officer 4 said he did not know where Mr. Osterhout was at due to the back window tint so Officer 4 did not fire his weapon.

After the shooting, Officer 4 observed a gun between Mr. Osterhout's legs, which was demonstrated as between his thighs. Officer 4 said, "It happened so fast. I mean it went from the guy, he kept telling Barrett that he wasn't worth it, he was done, and Barrett kept telling him no you're good. Just put the gun down, then the shots were fired." After the shooting, Officer 3 pulled Mr. Osterhout out the driver's side of the truck and performed CPR until the fire department arrived and took over. Officer 4 did see Officer 1 standing near Officer 3 but he did not know if Officer 1 had his gun out.

A bullet count was done on Officer 4's gun to confirm he had not fired his weapon. Officer 4 did not have body camera footage.

Deputy 1 was interviewed by a Sheriff's detective on March 26. Deputy 1 had been with the SGSO for one year and was the training deputy for Deputy 2.

Deputy 1 said they responded to the call after hearing radio traffic from a Haysville officer indicating someone had a gun. He pulled up the call and read it aloud as Deputy 2 was driving to the scene. As they arrived, he observed three or four officers around the truck with their guns drawn. Deputy 1 told Deputy 2 to park their vehicle directly behind Mr. Osterhout's truck and Deputy 1 exited with his patrol rifle. Deputy 1 then transitioned to a shotgun and told Deputy 2 to give him the less lethal beanbag rounds. Deputy 1 was facing down into the passenger side of the police car, in the process of loading the beanbag rounds, when he heard the shots go off.

After the shots were fired, he approached the truck and cut the seatbelt off Mr. Osterhout, removed the gun from Mr. Osterhout's lap, and put it on the hood of Mr. Osterhout's truck. Haysville officers then began rendering aid to Mr. Osterhout and Deputy 1 assisted in securing the scene. Deputy 1 did not see Mr. Osterhout's gun prior to the shooting but saw some of the Haysville officers had their guns drawn and pointed at the truck.

His body worn camera video was collected and downloaded as evidence.

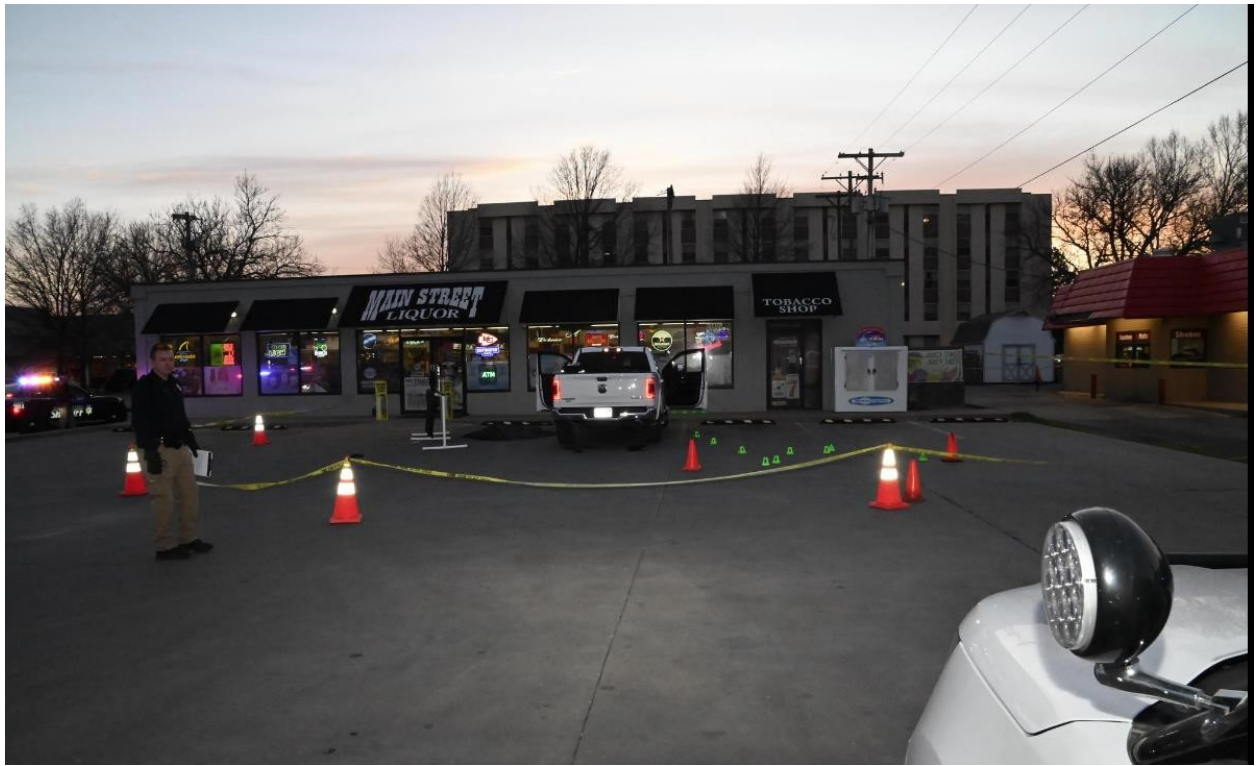
CRIME SCENE INVESTIGATION

SGSO forensic investigators processed the scene of the shooting. Investigators located and collected numerous shell casings, bullets and bullet fragments at the scene and other fragments were collected after an autopsy of Mr. Osterhout's body. Video footage from the Main Street Liquor Store was also captured and retained as evidence. Bullets, bullet fragments and bullet defects were observed on the interior and exterior of Mr. Osterhout's truck and the liquor store. Other fragments were found to have struck another nearby truck. Twenty-two (22) shell casings were recovered.

The following image from the liquor store surveillance showed the position of the officers at the time of the shooting. Officer 1 is standing in the door of the truck with Officer 3 over his left shoulder. Officer 2 is standing at the rear passenger side of the truck and Officer 4 is at the back driver's side. Deputies 1 and 2 are back at the patrol car.



The following photographs taken by forensic investigators at the scene show the locations of the 22 recovered shell casings, marked by green or yellow coverings.





FORENSIC EVIDENCE & AUTOPSY RESULTS

An autopsy was performed on the body of Mr. Bill Osterhout on March 27, 2024 at the Sedgwick County Regional Forensic Science Center (RFSC). Projectiles were recovered from the area of the left ear, head, and lateral right jaw. Projectile fragments were recovered in the area of the right shoulder. The report indicated Mr. Osterhout was struck 12 times, described as three to the head, three to the neck/head, two to the neck, and four to the lateral proximal right upper extremity. The following is the description of internal injuries to the brain associated with the gunshot wounds: "Marked hemorrhagic traumatic disruption is through the cerebellum, brainstem and inferior cerebral cortices." The report indicated the presence of Ethanol, in Mr. Osterhout's

system – 0.168+/- 0.03 gm% in the heart blood and 0.195+/- 0.015 gm% in the vitreous.

The Coroner-Chief Medical Examiner ruled Mr. Osterhout's death was caused multiple gunshot wounds and determined it to be a homicide.

Firearms evidence was also evaluated at RFSC. The gun recovered from Mr. Osterhout was found to be a black Smith & Wesson Model. M&P 40 semiautomatic pistol. It has a magazine and 9 S&W 40 live cartridges. The guns used by Officers 2 & 3 were department issued 9mm Luger caliber Glock model 17 Gen 5 semiautomatic pistols. All 3 firearms were determined to be functional. Mr. Osterhout's weapon was determined to not have fired any of the 22 cartridge cases found at the scene.

In a supplemental report dated May 9, 2025, a RFSC forensic scientist reported that further examination of the firearms evidence established that the gun used by Officer 2 had fired 11 of the 22 bullet casings recovered from the scene and the gun used by Officer 3 had fired the remaining 11 casings.

The examination further confirmed that a projectile removed from Mr. Osterhout's lower jaw in the cheek area and a copper fragment taken from his posterior neck were fired by the gun used by Officer 3. It was also verified that a projectile taken from his brain was fired from the gun used by Officer 2.

Statutes and Case 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. 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 **Immunity from prosecution or liability**..., states:

- (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. 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.
- (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.

K.S.A. 21-5224 **Presumptions**, states:

- (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 . . . K.S.A. 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.

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.

CONCLUSION

On March 26, 2024 officers employed by the Haysville Police Department utilized deadly force resulting in the death of Bill Osterhout.

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. Osterhout was in possession of a 40 caliber handgun when officers contacted him in his truck, though he initially denied having a gun. After the presence of the firearm became known to the police, Mr. Osterhout brandished it, holding it to his head and under his chin. The officers unsuccessfully attempted to get Mr. Osterhout to relinquish possession of the gun to them, opening the passenger door of the truck to allow Mr. Osterhout to hand over the weapon. Instead, Mr. Osterhout yelled at the police to shoot him and ultimately directed his weapon towards Officers 1 and 3 who were at the passenger door, prompting Officer 3 and Officer 2 to fire at Mr. Osterhout, resulting in his death.

Under the totality of the circumstances, Officers 2 and 3 are clearly 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 Officers 2 and 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*