Use of Force – Fatality of

Eucytus

King County

Independent Force Investigation Team

Kirkland PD 2023-10099

King County Prosecuting Attorney

Public Integrity Team

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November 7, 2023

Law Enforcement Use of Force Fatality Regarding:

Eucytus

On March 20, 2023, the King County Prosecuting Attorney's Office (KCPAO) Public Integrity Team responded to an officer involved shooting involving Eucytus and detectives employed by the King County Sheriff's Office. After learning preliminary information, the KCPAO discovered a potential conflict of interest. In an abundance of caution, the KCPAO requested the Snohomish County Prosecuting Attorney's Office to assist in the investigation. The Snohomish County Prosecuting Attorney's Office agreed to assist and adopted the case. Their subsequent legal analysis is attached.

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MEMORANDUM

TO: **Kirkland PD Detective (REDACTED)**

FROM: **Jason Cummings, Prosecuting Attorney**

DATE: **October 18, 2023**

RE: **KCIFIT Case #2023-10099 {PA File 23-7552); Involved Officers: KCSO Detectives (REDACTED), (REDACTED), and (REDACTED). Involved Person: Eucytus Eucytus**

I write to you in your capacity as the assigned lead case detective on the above-described King County Independent Force Investigation Team (hereinafter KCIFIT) use of force investigation. The investigation was initiated following the March 20, 2023, eviction of Eucytus Eucytus, which resulted in the shooting of Detective (REDACTED) and subsequent self-inflicted gunshot wound by Eucytus resulting in Eucytus' death. Because of a perceived conflict within the King County Prosecuting Attorney's Office, the matter was referred to this office for review.

I have reviewed the investigative materials and the initial review memorandum of Senior Criminal Deputy Prosecuting Attorney (REDACTED) . I incorporate the summary, relevant facts, and analysis from (REDACTED) memorandum herein. (Attached hereto.)

In my assessment of the facts and the law, the filing of criminal charges against the involved officers is not warranted. While serving/executing a writ of eviction at 801 NW 54th St #6, Seattle (King County Superior Court #22-2-17418-8 SEA) on the morning of March 20, 2023, the KCSO detectives were met with resistance by Eucytus. When the detectives lawfully attempted entry into the apartment, Eucytus opened fire with a 9 mm handgun, seriously injuring Detective (REDACTED) who was hit by two of the shots. Detectives (REDACTED) and (REDACTED) returned fire. Eucytus was not hit in the return volley of gunshots. Eucytus retreated further into their apartment to the bathroom, whereupon it appears that Eucytus took their own life with a single (intra-oral) gunshot to the head. The ensuing investigation made clear that Eucytus had taken steps to barricade the apartment against entrance, boobytrapped the apartment floor with metal caltrops, and armed themselves with a Luger 9mm handgun with "Critical Defense" hollow point rounds.

Under these circumstances the detectives' use of lethal force returning fire after being fired upon was objectively reasonable. See RCW 10.120.020(2). Based upon the videos and witness statements from the scene, "a similarly situated officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual." RCW 9A.16.040. Under the facts presented the detectives were legally justified in using possible lethal force at the time that it was employed.

cc: FILE

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MEMORANDUM

TO: JASON CUMMINGS

FROM: (REDACTED)

DATE: August 21, 2023

RE: 23-7552 (SMART 2023-10099)

Mr. Cummings:

Based on my review of the investigative material submitted with this referral, and as explained more fully below, it is my opinion that members of the King County Sheriff's Office were legally justified in their use of force against Eucytus Eucytus on March 20, 2023. Accordingly, I recommend that this office decline to file criminal charges against the involved officers.

Incident Summary

This incident summary is based upon the numerous police reports, witness summaries, body worn camera videos, and RING videos, among other materials, which were provided to this office.

Detective (REDACTED), Detective (REDACTED), and Detective (REDACTED), are all investigators assigned to the King County Sheriff's Office Civil Division. In that capacity, they are responsible for investigating and, ultimately, executing evictions within the boundaries of King County. On December 27, 2022, an Order Issuing Writ of Restitution was obtained in King County Superior Court. This order authorized that the residential tenancy occupied by Eucytus Eucytus be terminated and shall by restored to the homeowner. This order specifically authorized the King County Sheriff's Office to "break and enter, if necessary" but specified that no physical eviction could take place before March 1, 2023.

Though it is unknown to this author on what date Mr. Eucytus became aware of this order, it is clear from interviews with the neighbors surrounding the property that he was in fact aware. During the months that followed, several neighbors heard what sounded like heavy equipment, hammering, and possibly a saw being used at night. Mr. Eucytus also relayed to one tenant that he was planning on barricading himself in the apartment unit, clearly in an attempt to prevent the eviction. This would later be corroborated during a walkthrough of the home after this incident in which several barriers were clearly installed inside of the home, including barriers across the windows, and small metal caltrops (a device with four metal points that are used to puncture tires or the hooves of horses) were strewn about the floor near the entry way. Neighbors also relayed to responding officers both during and after the incident that they believed Mr. Eucytus was in a manic state but would be harmless.

At approximately nine in the morning, the named Detectives above arrived at the apartment complex and parked their vehicles, coordinating their efforts for the morning. They were clearly wearing clothing which identified them and their employment. As Detectives walked up and knocked on Mr. Eucytus' door, you can hear them state "Eucytus. Sheriffs Office. Come to the door please" before the video cut out. Several more requests are made for Mr. Eucytus to come to the door, explaining they are there for an eviction, and explaining that they are going to have to force the door if he did not comply. Though hard to hear, you can hear Mr. Eucytus state something to the effect of "I will defend myself' which the Detectives clearly heard based on statements made to each other.

Though Detectives had voices that would be characterized as commanding, they also remained calm and polite during these interactions, stating at one point, "Hey bud, you realize if you come out now, you're not in trouble, right? Eucytus did you hear that? Open up or we're going to force it in." The Detectives even talk to Mr. Eucytus about options such as shelters before he responds that "I'm not going back to the street! I won't go back! I won't do it again! I won't!" The Detectives attempt again for Mr. Eucytus to at least come out and talk to them but he again refuses. They inform Mr. Eucytus that he isn't under arrest, is not going to be hurt, but that he needs to come out. This interaction lasts approximately 30 minutes in time.

At this point, Detective (REDACTED), began to push onto the door in an attempt to get it open. As he is doing so, six shots are heard and Detective (REDACTED) then falls to the ground moaning in pain. It was later discovered that he had been shot twice by Mr. Eucytus on the left-hand side. Shots were fired by the Detectives (Detective (REDACTED) fired 3 rounds from his firearm and Detective (REDACTED) fired 5 rounds from his firearm) towards Mr. Eucytus in response but according to the autopsy report, did not hit him.

After the SWAT team arrived and secured the scene, Mr. Eucytus was found on the bathroom floor, deceased. An autopsy revealed that the cause of death was a single intraoral perforating gunshot wound. The manner of death was suicide. Also located

inside the apartment were several firearms and magazines of ammunition presumably belonging to the victim.

Legal Standard

The following statutes are implicated in my analysis:

RCW 10.120.020 Permissible uses of force.

(2) DEADLY FORCE. Except as otherwise provided under this section, a peace officer may use deadly force against another person only when necessary to protect against an immediate threat of serious physical injury or death to the officer or another person. For purposes of this subsection: "Immediate threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.

(3) REASONABLE CARE. A peace officer shall use reasonable care when determining whether to use physical force or deadly force and when using any physical force or deadly force against another person. To that end, a peace officer shall:

(a) When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force;

(b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person: ... displays signs of mental, behavioral, or physical impairments or disabilities; . . . is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs; is suicidal;

(c) Terminate the use of physical force as soon as the necessity for such force ends;

(d) When possible, use less lethal alternatives that are available and appropriate under the circumstances before using deadly force; and

(e) Make Jess lethal alternatives issued to the office reasonably available for his or her use.

Conclusion

In this case, Detectives from the King County Sheriff's Department had just been assaulted, one potentially fatally, by Mr. Eucytus firing his gun several times at them. Just prior to that point, Mr. Eucytus had refused several commands to come out peacefully and, instead, claimed that he was going to defend himself. Though they were

not necessarily aware at the time, Mr. Eucytus was in fact armed and presently capable of defending himself. The Detectives had legal authority to enter into the apartment and were attempting to use less lethal alternatives. Their extensive efforts to resolve this incident without the use of lethal force are relevant to the question of whether they exercised reasonable care as defined by RCW 10.120.020

The question turns on whether the Detectives were legally justified in using possible lethal force at the time that it was employed. In my opinion the clear answer is yes. The first to use potential lethal force was, in fact, Mr. Eucytus who shot several times at the Detectives, wounding one in the process. The danger to these Detectives was real and imminent and their belief that further harm could come to them was entirely reasonable based on the circumstances. Therefore, it is my opinion that, "a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual." RCW 9A.16.040. Accordingly, it is my opinion that none of the Detectives should be held criminally liable for their actions.