



THE OFFICE OF
DAVID E. GILBERT
PROSECUTING ATTORNEY
CALHOUN COUNTY

Calhoun County Justice Center
161 E. Michigan Ave.
Battle Creek, MI 49014-4066
Phone: (269) 969-6980
Fax: (269) 969-6967

DANIEL R. BUSCHER
CHIEF ASSISTANT
PROSECUTING ATTORNEY

June 7, 2022

To: D/F/Lieutenant Chuck Christensen
MSP 5th District Headquarters, Paw Paw

Chief James Blocker
Battle Creek Police Department

Inspector Brad Wise
Battle Creek Police Department

Re: Investigation of Officer Involved Shooting of Sareedi Ulonda Harris, b/f,
d.o.b. 7/17/81 on December 15, 2021.

PROSECUTOR'S USE OF FORCE OPINION

Summary

Battle Creek Police Department [BCPD] Sgt Chad Fickle and BCPD Det Brandin Huggett responded to Summit Pointe's First Step campus located at 175 College Street, Battle Creek, Calhoun County Michigan on December 15, 2021, at about 12:04 p.m. to assist in taking Sareedi Harris into custody on a mental commitment order from Calhoun County. She was located in a white SUV. After being identified, Ms. Harris refused to abide by the commitment order, locking her car doors and rolling up her car window. Sgt Fickle attempted to get Ms. Harris out of the vehicle by trying to break the driver window with a baton. Meanwhile, a crisis worker went around the front of the SUV to the passenger side, motioning the child in the back seat to open the door. As the 9-year-old opened the rear passenger door, Ms. Harris fired a handgun at the crisis worker, then turned the gun on Sgt Fickle and others on the driver side of the SUV.

Det Huggett yelled "shots fired" and saw Ms. Harris turn the gun toward Sgt Fickle. Sgt. Fickle and others saw the gun being pointed by Ms. Harris toward

Sgt Fickle and the group near him. Both officers reasonably believed lives were in danger and that Ms. Harris posed an immediate threat of great bodily harm or death to the officers and the public.

The actions of Ms. Harris would cause a reasonable person to believe they or others nearby were in immediate danger of serious injury or death, and the use of deadly force was justified to protect the officers and the public, as well as preventing the escape of someone who had just shown they posed a serious threat of physical harm or death to the officers or members of the public, including her own children.

The measure of deadly force was also reasonable. The officers fired a total of 7 rounds at Ms. Harris after she opened fire at one person then pointed the handgun at Sgt Fickle and others before violently crashing her vehicle into a patrol vehicle twice and another car in the parking lot once. Both officers had clear fields of fire where others were not likely to be injured and stopped firing when they no longer did, despite Ms. Harris escaping arrest.

Investigation

In completing this opinion, I reviewed the investigation completed by the Michigan State Police [MSP] 5th District Headquarters, case #50-382-21, MSP Lab report LS21-3959, Battle Creek Police Department Complaint #21-9806, and the typewritten statements of BCPD Sgt. Chad Fickle and BCPD Det. Brandin Huggett. Motor Vehicle Records [MVRs] and other video media were also examined. On December 15, 2021, MSP conducted this investigation at the request of BCPD as BCPD officers had been involved in a shooting situation with Sareedi Ulonda Harris, b/f, d o b 7/17/81. MSP completed this investigation because it is the policy in Calhoun County for officer use of force cases to be investigated by an outside agency to avoid the appearance of impropriety, ensuring a fair investigation. This investigation was led by D/F/Lieutenant Chuck Christensen of the 5th District Headquarters [MSP] in Paw Paw. MSP did utilize the BCPD crime lab for evidence collection.

On December 15, 2021, at about 12:04 p.m., Det. Huggett and Sgt. Fickle responded to Summit Pointe's First Step located at 175 College St., in Battle Creek, Calhoun County, Michigan. There was a mental health [psychological] commitment order they were attempting to serve on Sareedi Ulonda Harris, b/f, d o b 7/17/81. During that attempt, Ms. Harris refused to cooperate, locking herself in her car, fired a handgun at a person attempting to get her child out of the passenger side rear seat. Ms. Harris was shot at by police after she shot at this worker and turned the handgun toward Sgt. Fickle and other workers. The statements of Sgt. Fickle and Det. Huggett are consistent with video evidence from First Step, MVR and body cams, statements of the workers and other witnesses present, and in some respects with MS. Harris' statement.

In his statement dated 12/17/21, Sgt Fickle heard dispatch sending BCPD officers to First Step for a mental commitment order pickup. Noting the officer assigned was just leaving the police department and he [Sgt Fickle] was just around the corner, he responded in a fully marked "canine" police unit wearing a fully marked BCPD canine officer uniform. He parked his police vehicle directly behind Ms. Harris' vehicle blocking it in the parking space. He confirmed her name, advising her of the pickup order to which she became argumentative and refused to comply with the court order, shouting that her kids were fine. She stated she was going to Safe Place [a local domestic violence shelter]. She slammed the driver door, locked the doors, and rolled the driver window up. Sgt Fickle tried reaching through the driver rear window, but due to the risk of Ms. Harris rolling that window up, he decided to use his baton to break the driver window, yelling at Ms. Harris to get out of the vehicle. Instead, she refused to comply, putting the vehicle in reverse. Not knowing her mindset and in fear for the two young children in the car, Sgt Fickle struck the driver window with the baton to break the window, but merely causing spider cracks in the window. He could not break the window with the baton, so he tried to pry the window out with the baton. At this point he could not see well inside the SUV due to the spider cracks. He heard a 'popping' sound, and Det Huggett yelled, 'shots fired'. As he backed up from the SUV, Sgt Fickle could see Ms. Harris had a handgun in her hand, pointing it toward him and the crisis staff. At this time, Sgt Fickle stated he believed "Ms. Harris presented an imminent deadly threat" to himself, First Step employees, Det Huggett and her own children. Seeing he had a clear line of fire, he fired 4 rounds at Ms. Harris with his handgun. Ms. Harris backed up the SUV, ramming his patrol vehicle with his canine partner inside it, pulled forward striking another vehicle, rammed the police vehicle again, then fled the parking lot.

Det Huggett's statement dated December 17, 2021, is consistent with Sgt Fickle and other evidence obtained. He states he also heard the radio call, knew Sgt Fickle was going alone and responded as possible backup until uniformed officers arrived in support. As he was in plain clothes, he did not get out of his vehicle immediately. He saw Sgt Fickle and numerous women standing around the white SUV talking to Ms. Harris, who was seated in the driver seat of the vehicle. He saw Ms. Harris quickly shut the driver door, heard Sgt Fickle order her out of the car and saw Sgt Fickle hitting the driver window with his baton, after which Det Huggett joined him. He saw a First Step employee move to the rear passenger side of the vehicle and saw Ms. Harris stretch her arm across the vehicle to the passenger side but could not see her hand due to the seat. He heard a loud 'pop', saw Ms. Harris lift her hand and saw there was a firearm in her hand, watching as she turned, aiming the gun toward Sgt Fickle and others near him. He shouted, 'shots fired' and pulled his own sidearm. Seeing she was threatening Sgt Fickle and others with deadly force, having a clear line of fire to Ms. Harris, he fired his weapon 3 times at Ms. Harris. She reversed the vehicle at high speed. He heard Sgt. Fickle also fire. He watched Ms. Harris strike the

marked police car then the black car parked next to hers before Ms. Harris fled the scene

Soon after, Ms. Harris was located wounded at 293 Garfield with one of her children. The resident had called the police as Ms. Harris had been shot. Ms. Harris said the police shot her. The witness went into her driveway to the white SUV, seeing damage to the vehicle along with a handgun in the vehicle. The vehicle was searched by BCPD crime lab officers, recovering [among other things] a Glock 380 semiautomatic with 3 GFL 380 bullets in the magazine, two [1 SIG and 1 GFL] .380 cartridges double fed in the chamber/breach area of the gun [making it inoperable] and one spent .380 shell casing. The vehicle had bullet holes in it consistent with the officer's statements.

Ms. Harris was interviewed at Bronson in the Emergency Room. The interview was recorded. She was Mirandized and agreed to speak. She started out talking in a normal way, and as time went on began becoming more incoherent. She talked about not feeling safe, that the police took her children, they blocked her vehicle, she didn't know what happened, but a female tried to grab her kid, and she thought the woman was trying to kidnap her child for someone named JOMO. She denied firing a weapon but said she could legally carry the gun.

Both officers turned their firearms in for a round count. Det. Huggett's 9 mm Springfield had a total of 11 rounds in it, including one in the chamber. Sgt. Fickle's Glock 23 40 cal had a total of 9 rounds including one in the chamber. 4 .40 shell casings were recovered from the shooting scene as well as 3 9 mm spent shell casings.

The guns, recovered bullets, and shell casings were sent to the MSP lab for analysis. The 380 shell casing recovered from the white SUV was identified as coming from the 380 Glock recovered from the same SUV. The 4 .40 shell casings were identified as being fired from Sgt. Fickle's firearm while the 3 9 mm shell casings came from Det. Huggett's weapon.

Other witnesses at First Step gave statements consistent with the officers, including a nurse [who was sitting in the black vehicle next to Ms. Harris which was struck by Ms. Harris' vehicle, fleeing after being struck by the SUV], Ms. Harris's 9-year-old daughter, and 4 employees of First Step. The worker who helped the 9-year-old out of the back seat stated further that when she was trying to get the girl out of the back seat, she heard the shot fired by Ms. Harris, and was hit in the head by what she described as a shell casing, causing pain. In a further interview, this worker could not figure out what hit her because she didn't see a shell casing; there was no mark, but the area was tender and painful, with no blood or bruising.

After reviewing video footage from Sgt. Fickle's patrol vehicle MVR [which was pointed directly at the back of the white SUV], the injury to this worker is better

explained While Sgt. Fickle is striking the driver window with his baton, the video shows the worker, who has long blonde hair, running around the front of the white SUV to the passenger side, then motioning for the rear seat child to open the door As the door is opened, Ms. Harris' arm is seen extended toward the passenger side of the vehicle and fires Glass fragments from the window can be seen exploding outward toward the worker. The worker's hair puffs out like hit by a sudden burst of air. It is possible she was hit by either a piece of glass or the 380 projectile.

The workers all believe Ms. Harris was acting very paranoid during their interaction trying to keep her on scene One worker also described seeing a handgun in the SUV prior to the officers' arrival.

Use of Deadly Force

Deadly force was obviously used in this case. Deadly force is defined as that force that causes or is very likely to cause death or serious bodily injury. In *Tennessee v Garner*, 471 US 1 [1985], the United States Supreme Court established the circumstances under which police officers may use deadly force in self-defense and to apprehend felons. In the context of self-defense, the rule is clearly established that an officer may use any force reasonably necessary under the circumstances, including deadly force, if the officer reasonably believes that he or she is in immediate danger of serious bodily injury or death Use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable, and where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so *Garner, Supra* However, where a police officer has probable cause to believe that a criminal suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent the escape of the suspect by using deadly force, thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given. *Garner, supra*

That belief is to be viewed in the light of the facts and circumstances confronting the officer and from the perspective of a reasonable officer at the scene. If the officer's belief was honest and reasonable, he or she could act immediately to defend himself or herself even if it turned out later that he or she was wrong about how much danger he or she was in at the time.

It is also well settled law that police officers may use any reasonable force they deem necessary when making an arrest or taking someone into custody See, *Brewer v Perrin*, 132 Mich App 520, 349 NW2d 198 [1984] The measure of

necessary force is that which an ordinarily prudent and intelligent person, with the knowledge and in the situation of the arresting officer, would have deemed necessary *Barrett v United States*, 62 US App DC 25,26, 64 F2d 148, 149 [1933] The issue is not whether an officer has violated *departmental policy*, but whether the conduct violates the *criminal law*.

An issue usually questioned is the officer's potential violation of the 4th Amendment in the use of force While that issue usually relates to civil lawsuits regarding the use of force for assaultive suits and not criminal offenses, it is instructive in the criminal realm as sometimes a constitutional violation may also result in a criminal violation. The test for determining whether a police officer violates the 4th Amendment by using excessive force in executing an arrest is not limited to the consideration of the severity of the crime at issue, whether suspect posed an immediate threat to the safety of officers or others, and whether the suspect was actively resisting arrest or attempting to evade arrest by flight, the test is one of "objective reasonableness" based on all facts and circumstances of individual case *Forrester v City of San Diego*, 25 F3d 804 [1994].

Police officers are not required to use the least intrusive degree of force possible to execute an arrest, the inquiry is whether the force that was used to effect a particular seizure was reasonable, when viewing the facts from the perspective of a reasonable officer on the scene. *Forrester, supra* Police officers, however, are not required to use the least intrusive degree of force possible Rather, the inquiry is whether the force that was used to effect a particular seizure was reasonable, viewing the facts from the perspective of a reasonable officer on the scene See, *Graham v Connor*, 490 US 386, 109 SCt 1865 [1984] Whether an officer hypothetically could have used less painful, less injurious, or more effective force in executing an arrest is simply not the issue See, *Hammer v Gross*, 932 F2d 842 [1991]

Court have held that when deciding the reasonableness of an officer's actions allowance must be made "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." *Graham, supra*..

Findings and Opinion

Sgt Fickle responded to Summit Pointe's First Step campus located at 175 College Street, Battle Creek, Calhoun County Michigan on December 15, 2021, at about 12:04 p m to assist in taking Sareedi Harris into custody on a mental commitment order from Calhoun County. On his arrival, he met with case staff in the parking lot who were with Ms. Harris to stall her for police to arrive. Sgt. Fickle used his fully marked police vehicle to block Ms. Harris' vehicle from leaving and approached her wearing a full police uniform Sgt Fickle identified

Ms. Harris as the subject of the commitment order and tried to take her into custody. Although paranoid, Ms. Harris knew he was a police officer and did not want to go with him. She closed the driver's door, rolled up the window and locked the SUV doors. Det. Huggett was on scene to see this and assisted Sgt. Fickle. Sgt. Fickle attempted to get Ms. Harris out of the vehicle by trying to break the driver window with a baton. Meanwhile, a crisis worker went around the front of the SUV to the passenger side, motioning the child in the back seat to open the door. Det. Huggett could see Ms. Harris reach toward the passenger side but could not see her hand. As the 9-year-old opened the rear passenger door, Ms. Harris fired a handgun at the crisis worker, possibly shooting her, at least injuring her with a blast from the window intense enough to blow her hair back.

Det. Huggett yelled "shots fired" and saw Ms. Harris turn the gun toward Sgt. Fickle. Sgt. Fickle and others saw the gun being pointed by Ms. Harris toward Sgt. Fickle and the group near him. Both officers stated they believed lives were in danger and that Ms. Harris posed an immediate threat of great bodily harm or death. Based on the statements and videos in this case, that fear was honest and reasonable under the circumstances. The actions of Ms. Harris would cause a reasonable person to believe they or others nearby were in immediate danger of serious injury or death, and the use of deadly force was justified to protect the officers and the public, as well as preventing the escape of someone who had just shown they posed a serious threat of physical harm or death to the officers and members of the public, including her own children. But for the semiautomatic handgun double stacking making it inoperable until cleared, it appears she would have fired at or toward Sgt. Fickle and those around him.

The measure of deadly force was also reasonable. The officers fired a total of 7 rounds at Ms. Harris after she opened fire, pointed at one of them and violently crashed her vehicle into a patrol vehicle twice along with another car in the parking lot once. Both officers had clear fields of fire where others were not likely to be injured and stopped firing when they no longer had a clear field, despite Ms. Harris escaping arrest.

Conclusion

Based on the foregoing, it is my opinion these officers violated no criminal law. They acted in lawful self-defense of themselves and others after being put in a deadly situation solely by the actions of Ms. Harris. It appears Ms. Harris had mental issues at the time, was very paranoid and a danger to those around her. She was armed with a handgun in an automobile and fired at someone she believed was trying to kidnap her child despite an officer trying to take her into custody. She fired at and almost killed a care worker before turning it on Sgt. Fickle and others. But for the misfeed jamming the weapon, this situation could have been worse.

Further, the amount of deadly force used was also reasonable due to the danger Ms Harris posed to police officers and the public at large. The officers fired a total of 7 rounds at a person who already tried to shoot one person then pointed it at others before recklessly crashing her vehicle into two vehicles to escape. Despite one child left in the vehicle, the officers each had a clear line of fire when they discharged their weapons and ceased when they did not.

Respectfully Submitted,



David E. Gilbert (P41934)
Calhoun County Prosecuting Attorney