

**St. Louis Circuit Attorney's Office Report Regarding the Review
into the Shooting Death of VonDerrit Myers, Jr.**



May 18, 2015

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I. INTRODUCTION

1. REVIEW OF POLICE OFFICER-INVOLVED SHOOTINGS: THE ROLE OF THE CIRCUIT ATTORNEY'S OFFICE

The Circuit Attorney's Office (CAO) handles state-level criminal matters, as a function of state government. The CAO is separate and independent from all other City of St. Louis government agencies including the St. Louis Metropolitan Police Department (SLMPD).

After the SLMPD adopted a new protocol related to police officer-involved shootings in September 2014, the CAO agreed to conduct an independent review of police officer-involved shootings occurring in the City of St. Louis, resulting in injury or death. These reviews occur after, and are fully independent of, an investigation undertaken by the SLMPD's Force Investigation Unit (FIU).

Upon receipt of all documents, witness statements, evidence and information from the SLMPD, the CAO embarks on a thorough and separate review of the facts and circumstances of any police shooting where a person has been injured or killed. As defined by law, the CAO may elect to utilize the legal functions of the grand jury to solely investigate a case. CAO staff may also conduct the investigation themselves. The decision regarding a course of action is determined on a case-by-case basis. The CAO may utilize all legal investigative tools for its independent review. Prosecutors may conduct additional interviews with all witnesses, subpoena witnesses to testify before the grand jury, collect and/or analyze physical and forensic evidence and apply all available evidence to current Missouri laws.

The role of the CAO in conducting these reviews is to determine if a criminal violation of Missouri law has occurred and if such violation can be proven beyond a reasonable doubt in a court of law. Prosecutors will not make comments regarding the efficacy of police policies, procedures, training or other aspects of police conduct outside of the laws of the State of Missouri. Additionally, the findings of this office bear no weight on potential disciplinary or civil litigation in these matters.

2. THE SHOOTING DEATH OF VONDERRIT MYERS, JR.

On Wednesday, October 8, 2014, VonDerrit Myers, Jr. (Myers) was shot and killed by a SLMPD officer (Officer X) working a department-approved secondary shift in the Shaw neighborhood in the City of St. Louis.

The FIU of the SLMPD reviewed the case for criminal conduct and, on December 5, 2014, delivered its findings to the CAO for review. The SLMPD did not request any criminal charges.

The CAO initiated an independent and thorough review of the facts of Myers' death. As a completely separate entity, the SLMPD's findings did not, in any way, dictate the actions taken by the CAO.

Circuit Attorney Jennifer M. Joyce assembled a team of experienced prosecutors, including an Assistant U.S. Attorney, to conduct the investigation. Circuit Attorney Joyce elected not to use the grand jury as the investigative body for this case.

Circuit Attorney Joyce and other office staff personally met with members of the Myers family on October 14, 2014. Prosecutors from the CAO were in contact with the family's attorneys throughout the investigation. Prosecutors asked the private attorneys hired by the involved parties to provide any information that may assist prosecutors in this review process. Prosecutors requested the same of the public.

The team of attorneys and other CAO staff reviewed police reports, laboratory reports, ballistics reports, DNA analysis, gunshot residue analysis, photographs, scene video, 911 calls, the digital report of Myers' GPS monitor, surveillance video, dashcam video and police reports relating to the stolen gun found with Myers at the scene of the incident, among other items. They conducted additional interviews and made numerous attempts to gain further statements and information necessary to complete their investigation.

Circuit Attorney Joyce promised the public that when the team reached a conclusion in the matter, she would issue a report making clear her decision and the reasons for it.

What follows is that report. In the interest of openness and transparency, the CAO has provided selected crime scene photos, created renderings of the scene and autopsy report conclusions and included in the report additional items for an appendix so the public can best understand the basis for the CAO's conclusion. Questions regarding any other source documents or materials relative to the investigation should be directed to the SLMPD.

II. STATEMENT OF FACTS

The referenced statement of facts has been corroborated by witness testimony, video surveillance, a GPS device, physical evidence and forensic evidence.

At approximately 7 p.m. on October 8, 2014, SLMPD Officer X was in his department-issued uniform while working a department-approved secondary shift for GCI Security, Inc., a private security company. The officer was specifically patrolling Flora Place in the Shaw neighborhood. Officer X was driving a retired police vehicle with the security company's markings, lights on the top and a spotlight on the side.

A number of young men, including 18-year-old VonDerrit Myers, Jr., were walking near Shaw Market on Shaw Blvd. According to statements made by two of the men to police, they saw the GCI patrol car. They observed the car make a U-turn and drive away.

Video surveillance shows several young men, including Myers, enter Shaw Market at approximately 7:03 p.m., real-time. (This is different than the timestamp on the video. Cyber analysts later determined that the timestamp on the video was nine minutes behind real time.) The video also shows other individuals repeatedly enter and exit the store throughout the evening.

In the video, Myers is clearly seen wearing a red shirt with a black graphic t-shirt over it. He is not wearing a jacket or hooded sweatshirt. He walks around the store then selects and buys a sandwich. On the video, he is seen opening the packaging to the sandwich, giving pieces to his friends, and eating part of the sandwich himself. The video captures Myers and other men leaving the market at approximately 7:13 p.m., real-time.

Acquaintances that were with Myers that night told investigators that they were cold, so they headed around the corner to Myers' house in the 4200 block of Castleman Ave. to get jackets. An acquaintance told police that Myers finished his sandwich.

While in his patrol car, Officer X noticed a group of men at Shaw Blvd. and Klemm St., not far from the house on Castleman Ave. One of them was bouncing a basketball. Officer X told investigators that he made a U-turn at Klemm St. and Shaw Blvd. Officer X said the man who had the ball was now running away, his left hand was moving in a normal running motion and his right hand was pinned to the front of him.

Officer X said he first followed the man by car, then on foot, chasing him in the 4100 block of Castleman Ave., making himself known as law enforcement. After a foot pursuit, the man got away.

When Officer X came back around a gangway on Shaw Blvd., he again saw a group of men that he believed were the men who had been in possession of the basketball and fled when they saw the officer. One of the men had short, twisted hair and looked to the officer like the man he had chased. This man was putting on a dark-colored hooded sweatshirt and another man with him was also putting on a sweatshirt. Officer X told investigators he assumed the men had traded jackets.

Officer X told investigators that he again made himself known as law enforcement.

According to Officer X, the man with short, twisted hair who turned out to be Myers backed away and repeatedly said expletives to the officer while grabbing at his waistband. Officer X stated that he was scared Myers had a gun and therefore had his weapon drawn.

When Officer X told Myers to get on the ground, Myers repeated the expletives and did not comply with commands.

Officer X told investigators that Myers took his hand off his waistband. Officer X told investigators that he holstered his weapon. According to the acquaintances that were with Myers that night, Officer X was grabbing for Myers and/or Myers' jacket. According to a witness, Officer X and Myers engaged, pushing and pulling at each other. Myers slipped out of his jacket and ran, again, according to the officer, holding his waistband.

Officer X pursued Myers, yelling at Myers to stop. Myers ran up a hill toward a gangway on Shaw Blvd. Officer X told investigators that Myers slipped as he was running up the hill and his hands fell to the ground. The officer stated that Myers got up at the top of the hill, turned around and faced Officer X. Myers pulled out what Officer X believed to be a handgun. At this time, Officer X did not fire his weapon, stating that he wanted to be sure it was a gun.

The officer told police that Myers started shooting at him with both hands on the gun. The officer told investigators he ducked down on the ground, saw the muzzle flashes and began shooting back. He emptied his weapon as he saw Myers running toward the gangway. Witness 1 observed muzzle flashes coming from two different directions, one from the top of the hill and one from the bottom. A number of different witnesses told prosecutors they heard two sets of gunshots from two different guns. Ballistic evidence recovered from the scene reveal bullets hit the ground near Officer X and a vehicle behind Officer X's location. One of Myers' acquaintances said he saw the officer shooting and then saw that the officer would duck down after shooting.

At that point, Myers was in the gangway between two buildings, lying on the ground. Officer X told investigators that he yelled to Myers to drop the gun, and a witness confirmed hearing someone say those words. As the officer peered around into the gangway, he said he observed Myers was still pointing the gun in his direction. The officer said he fired two more shots.

Upon hearing the shooting, a witness repeatedly screamed "stop!" from inside the residence.

That witness heard one of Myers' acquaintances yelling. The witness was afraid there was going to be another shooting, so the witness started to scream from the porch for the young men not to start something. The witness did not hear Myers say anything at all.

Officer X retrieved the gun from near Myers' body. It was a 9mm Smith and Wesson. Officer X told investigators that he noted a spent shell casing was jammed inside the gun.

Additional police arrived on the scene, Myers' body was concealed from view, the area was cordoned off and the SLMPD investigation began.

III. EVIDENCE

1. OFFICER X

Officer X is a 31-year-old, white male. He is licensed as a law enforcement officer in the state of Missouri. He graduated from the SLMPD Academy in 2008.

Prosecutors reviewed Officer X's background and found one misdemeanor criminal conviction for attempted unlawful use of a weapon in 2001.

On Wednesday, October 8, 2014, Officer X was working a SLMPD-approved secondary shift for GCI Security, Inc. Multiple witnesses confirm the officer was in uniform and identifiable as a police officer.

Officer X's Account

On Friday, October 10, 2014, Officer X provided his recorded statement of the incident to Sgt. Roger Engelhardt with the FIU of the SLMPD.

During the review, CAO staff made a request to interview Officer X. Through his attorney, Officer X declined the request. CAO staff subsequently relied solely on Officer X's statement made to FIU investigators. Because Officer X is the subject of the investigation, his testimony cannot be compelled by the courts.

For a summary of Officer X's statement, see section below entitled "Witnesses Not Interviewed by the Circuit Attorney's Office."

2. WITNESS STATEMENTS

Prosecutors and CAO staff members began their investigation into witnesses' statements by reviewing all interviews conducted by the SLMPD. Then, CAO staff members and prosecutors attempted to personally interview all known witnesses and locate additional ones. A number of witnesses declined to speak with the CAO.

The CAO team learned that no independent witness or person who was with Myers claims to have seen the entirety of the incident.

Witnesses Interviewed by the Circuit Attorney's Office

CAO staff personally interviewed nearly two dozen people. These interviews included police officers and Missouri State Highway Patrol laboratory experts, as well as approximately 20 witnesses who claimed to have specific knowledge of the events.

Witness 1 – Witness 1 did not see the beginning of the confrontation but was outside and heard gunshots and turned to look in the direction of the gunfire. This witness made statements to prosecutors that appear to be substantively consistent with a recorded statement to the police. CAO staff recorded the interview with this witness. A transcript of the entirety of the interview is located in the appendix.

The witness said he/she heard popping and looked and saw that there were gunshots fired between two individuals, one being a police officer and the other being someone else.

Witness 1 says he/she recognized one of the men as an officer, because of the uniform. The witness cannot say for sure who started shooting, but the witness saw muzzle flashes coming from two different directions.

The witness said that he/she saw that the officer was chasing the individual and the individual was getting between the houses. The witness told police the individual was on the ground at a point, shooting at the officer.

This witness told investigators that the sounds were of two distinct guns. This witness told prosecutors that he/she never saw the officer fire a gun in any direction other than towards the person in the gangway. The witness told prosecutors the officer pointed the gun at other individuals who were approaching the scene and yelling, after the shooting had concluded.

Witness 2 – Witness 2 lives very near the incident. Witness 2 says he/she was interviewed at the scene by police. He/She indicated he/she was also interviewed by investigators representing the attorneys hired by the Myers family.

His/Her statements with the police and with the CAO staff were consistent.

Witness 2 told CAO staff that he/she heard three clear shots from one gun and then “a bunch” from a different gun. This witness heard some “huffing and puffing” like someone had been running and was out of breath. After the first few shots, the witness says he/she curled up on his/her couch and started screaming, “stop!” The witness claims to have heard two different sets of shots from two different guns; about three from one gun and about 17 from another. When the shooting subsided, Witness 2 crawled out on the balcony and saw an officer standing with his gun pointed toward the gangway. According to the witness’ statement, the officer appeared frozen. Witness 2 was able to recognize Officer X as a police officer. This witness retrieved a flashlight and shone it down on a body in the gangway. The witness saw a young African American male lying on his side. The witness did not see if the man had a weapon. The witness told CAO staff that the officer never moved towards the body. When he/she came back from getting his/her flashlight, the officer was in the same position.

The witness asked if the officer was okay, and the officer replied yes and asked the witness if he/she was okay.

The witness became visibly upset, recounting the incident.

This witness saw that a specific news outlet was reporting that Myers had been screaming for the officer to stop shooting. This witness claims to have called the TV station, wanting to correct the story. The witness told CAO staff that Myers never screamed at all; that, in fact, the witness was the one screaming for the shooting to stop.

Witness 3 – Witness 3 was inside Shaw Market at the time of the shooting. Witness 3 stated that he/she was looking out a window, facing east in the front of the store. He/She said that he/she could not see the young men outside, but saw flashes of light coming from a yard to the east. He/She said he could see an officer, but could not see who or what the officer was shooting at because buildings blocked his/her view. He/She then came outside and heard young men yelling. This witness did not say he/she saw the officer fire in any other direction than toward the gangway.

Witness 4 and Witness 5 – Witness 4 and Witness 5 were indoors and did not see the encounter. They heard many shots. Witness 5 heard two to three shots and then a short pause and then 15 to 17 more shots. He/She believed the shots were from two different weapons.

Witness 6 – Witness 6 was indoors and did not see the encounter. Witness 6 heard about 12 shots initially, and then a pause and then about four more shots. Witness 6 could not tell if the shots came from different weapons.

Witness 7 – Witness 7 was indoors and did not see the encounter. Witness 7 heard about seven shots in fast succession and then heard shouting. This witness called 911.

Witness 8 – Witness 8 was indoors and did not see the encounter. Witness 8 heard a bunch of shots and thought they all came from one gun. A family member called 911.

Witness 9 – Witness 9 was indoors and heard numerous shots at first, then a pause then two to three more shots. This witness could not tell if they came from different weapons.

Witness 10 – Witness 10 was indoors and heard several shots, then a pause and then several more shots and couldn't tell how many weapons there were.

Witness 11 – Witness 11 was indoors and heard two to three shots, a short pause and then several more shots. This witness could not determine how many guns there were.

Witness 12 – Witness 12 was indoors and heard several shots and could not differentiate whether they came from different weapons. The witness said some attorneys (not prosecutors) came by a few weeks after the incident and the witness spoke to them.

Witness 13 – Witness 13 was indoors and heard eight to twelve shots and believed them to be from two different guns. The partner of Witness 13 heard someone yelling “drop the gun” when the shooting ended and saw two angry males approaching.

Witness 14 – Witness 14 heard numerous shots, then a pause and then about three more shots before they stopped. He heard a lot of people yelling. This witness said he could not differentiate if they came from different weapons.

Witness 15 – Witness 15 heard shots while taking out the trash and believes the shots were from different weapons. The witness heard several shots, a pause, and several more shots.

Witness 16 – Witness 16 made a 911 call at 7:30 p.m. The witness heard four quick shots, then a pause then multiple shots and said the second set of shots sounded different than the first shots.

Witness 17 – Witness 17 was in the kitchen of an apartment nearby. The witness heard a lot of gunshots and then shouting. He/She was unsure of how many shots. The witness could hear Witness 2 screaming, but did not look outside until many police officers were there. This witness was directly quoted by a news reporter; however, when CAO staff attempted to ask the witness to verify and discuss the statements made to the media, the witness denied ever speaking to reporters.

Witness 18 – Witness 18 saw Myers and three other young men on their way out of Shaw Market before the shooting occurred. The witness later heard shots fired and then a lot of screaming. The witness was inside a home on Russell Blvd. and did not come outside until about 30 minutes after the shots were fired. This witness was directly quoted by news reporters claiming to be in Shaw Market when the shooting happened. The witness told the news that two shots were heard and what sounded like a Taser. When CAO staff attempted to ask the witness to verify and discuss the statements made to the media, the witness denied ever speaking to reporters.

Witness 19 – Witness 19 is the owner of a vehicle that sustained damage from a gunshot on the evening of the incident. Witness 19 told CAO staff that the car was parked on Shaw Blvd. at

approximately 3:30 p.m. Later in the evening, it was discovered that the door of the car had been shot and the window shattered. The witness told police and CAO staff that it was not damaged prior to the exchange of gunfire on the same street that evening.

Gunshot Residue Examiner (Missouri State Highway Patrol) – CAO staff spoke with the Gunshot Residue Examiner from the Missouri State Highway Patrol. See further explanation of analyst’s findings later in this report.

Witnesses Not Interviewed by The Circuit Attorney’s Office

Prosecutors made multiple requests to the public for people to come forward with information regarding this matter in an effort to interview all available witnesses and gather all relevant information. Prosecutors also made several attempts to interview individuals who spoke to the media claiming to have information pertinent to the case.

Officer X – As stated in the earlier section entitled “Officer X’s Account,” Officer X declined to be interviewed by CAO prosecutors and staff. Because Officer X is the subject of the investigation, his testimony cannot be compelled by the courts.

The following is a summary of Officer X’s interview with police:

On October 8, 2014, he saw a group of individuals walking near Shaw Market, one of whom was bouncing a basketball. When he was able to look again, he saw the basketball bouncing alone and the individual who had been bouncing it was running away, holding his arm near his waistband, which indicated to the officer he may be carrying a firearm. Officer X followed the person, first in his car, then on foot. He saw the individual jumping a fence. Officer X told investigators he announced himself as police and that he was attempting to place the individual under arrest. Officer X said he lost sight of the man, looking around the area with a flashlight. He came up on a group of men walking on Shaw Blvd. Officer X said one of the men looked like the man who had just run from him. The individual (later revealed to be Myers) was putting on a dark-colored hoodie. Officer X told investigators: “the one individual who I’d just chased was kind of amped up, probably because he just been (sic) in a foot pursuit with police and he was walking a little bit faster than the other two behind him.”¹ Officer X told investigators that he approached and identified himself as police and said “man, let me talk to you.” Officer X said he was under the assumption that the man would run again, but he didn’t. The officer said he made commands for the man to get on the ground, and the man ignored his commands. Officer X said Myers backed up and grabbed his waistband and said “f*** you,” repeatedly. Officer X said Myers’ friends also started to approach. Officer X said he believed Myers had a gun on him, because he was holding his waistband. Officer X had his weapon drawn. Officer X said that Myers started to come towards him with both hands out. Officer X says he holstered his weapon, because he said he knew there was about to be a “wrestling match.” Officer X said he tried to force Myers to the ground and he wrestled with him for five to seven seconds. Officer X said Myers slipped out of his jacket and started running west. Officer X told investigators that he again initiated a foot pursuit, yelling at the suspect that he was under arrest.

Officer X said he chased Myers as Myers ran up a really steep incline on the grass in front of a home on Shaw Blvd. He said Myers slipped and fell down and Officer X yelled at him to “get on the ground.” Officer X said he had his weapon drawn again at this time. Officer X said he was on the

¹ Quotations from police report.

sidewalk when Myers reached in front of his waistband and pulled out what he believed to be a firearm. Officer X said Myers turned his entire body to point the gun at him and he slipped again.

Officer X told investigators that “because of the climate going on right now in Ferguson, I mean, I clearly saw the silver slide, I couldn’t identify it necessarily as the shape of a firearm, because he was so quick, but I was a hundred percent positive that it was a silver, what I was thought was a silver firearm, but I wanted to be, you know, I mean if it was all black and it was just a phone, I didn’t want to be wrong in my shoot. I knew it was a gun but, I just, I, I wanted to be certain. So I didn’t shoot, I hesitated.”

Officer X said Myers picked himself off the ground and scurried up the hill on his hands and legs. Officer X said he also tried to get up the hill, but Myers turned around with both hands on the firearm and started shooting. Officer X said he slid and ducked down as quickly as he could and “just put my gun up and just shoot back as fast as I can.”

Officer X said they were 12-15 feet away from each other. He said that he was trying to duck and use the hill as cover. He said he saw Myers run into the gangway and said he continued to shoot. He could see the rounds blowing up the grass in front of him. Officer X said that he then came up the hill and could see Myers laying down on his left side, still holding the gun in his right hand, pointing it over his legs. Officer X said he fired a few more times and used the building as cover. He said he did a magazine change, telling Myers to show him his hands. Officer X says that Myers was yelling expletives. Officer X said he looked around the building and Myers was still pointing the gun at him. Officer X told investigators he thinks he fired two more rounds, as he moved to the next house, using the porch as cover this time. There, he saw that Myers no longer had the gun in his hands.

Officer X told investigators that other people were yelling at him and he yelled at them to get back. The officer said they threatened to kill him, so he was going back and forth with his gun trying to cover the other men and Myers. He said that he radioed for help. He retrieved Myers’ weapon and noticed that it was jammed. Officer X was taken to a police car and sat in a passenger seat.

Investigators asked Officer X multiple follow-up questions during the interview and Officer X’s replies to questions appear to remain consistent throughout the interview.

Three men present at times with Myers on date of incident – Prosecutors repeatedly requested cooperation from three specific witnesses that private attorneys identified as having critical information relative to the shooting. At the request of the witnesses’ attorneys Jermaine Wooten and Jerryl Christmas, prosecutors agreed to interview these alleged witnesses with their attorneys present. A meeting was scheduled for February 25, 2015. A follow-up confirmation fax was sent by prosecutors to Wooten and Christmas for the meeting. Christmas responded with a voicemail stating that the witnesses were not going to attend the meeting, and prosecutors would need to rely solely on previous statements given to police.

Without volunteered cooperation with the investigation, prosecutors resorted to utilizing the subpoena power of the grand jury to attempt to compel testimony. Three witnesses were subpoenaed to appear to testify before the grand jury. Two of the witnesses (Acquaintances 2 and 3) were officially served; Acquaintance 1 could not be located upon multiple attempts to serve him with the subpoena. Christmas communicated to prosecutors in a voicemail that the two witnesses would appear pursuant to their subpoenas and would be asserting their 5th amendment privilege. The witnesses appeared at the CAO with both Christmas and Wooten. The witnesses then asserted their 5th amendment privilege before the grand jury.

See appendix with correspondence between prosecutors and private attorneys.

Without the ability to interview them, prosecutors reviewed the recorded statements from the three individuals gathered by police and relied solely upon those interviews. Below is a summary of their statements.

Acquaintance 1 – Acquaintance 1 told police that he was outside with Acquaintance 2 on Castleman Ave. when another subject on a bicycle said that a “Hi-Tech Security Guard” was chasing someone. Acquaintance 1 said that they then walked to the store at Klemm St. and Shaw Blvd. There they saw several people, one of whom Acquaintance 1 knew as “Droop” (VonDerrit Myers, Jr.), and two others. After speaking with these people, they all started walking east on Shaw Blvd. Acquaintance 1 said he was ahead of the group when he saw a “Hi-Tech Security Guard” standing in the gangway between houses on the south side of Shaw Blvd. Acquaintance 1 walked passed the security guard. Acquaintance 1 said he heard yelling and turned around and saw the security guard chasing someone. He said he saw the guard grabbing Myers’ jacket and Myers pulling out of the jacket. He said he heard Myers saying “let me go, let me go.”

Acquaintance 1 said he did not see what happened next until he heard the gunshots. He later learned from others that Myers had been shot. He came back down the street and saw the guard with his flashlight out. Acquaintance 1 said he could not see Myers. He saw Acquaintance 2 and Acquaintance 3 trying to approach the guard, who was telling them to stay back. Acquaintance 1 said that he could hear a separate witness yelling at them to stay back. He said he did not know that Myers had a gun.

Acquaintance 1 said he did not see what occurred in the gangway that evening.

Acquaintance 2 – Acquaintance 2 stated that he was with Myers, his brother, and his cousin, Acquaintance 3, at a house located on Castleman Ave. The group decided to walk to the store, located at Shaw Blvd. and Klemm St. As they were walking, they observed a white “Hi-Tech Security” vehicle travelling north on Klemm St. and then, later, they saw the vehicle on Castleman Ave. The security vehicle was parked at the north curb and the officer ran north, out of sight, through a gangway.

The group continued walking north on Klemm St. They entered the store and purchased sandwiches, soda and cigarettes.

When the group left the store, they walked east on Shaw Blvd. A “security officer” walked out of the gangway, toward them, pointing a handgun in their direction and ordered them to “stop.” Acquaintance 2 described the officer as wearing a dark-colored shirt and a badge.

As the officer approached, Acquaintance 2 ran north and then west a short distance before stopping. He observed Myers running and the officer chasing after him. He saw Myers run up a hill and saw the “sparks” of a gun illuminating from the bottom of the hill. Acquaintance 2 says he saw the officer fire multiple times. He said he heard yelling, which might have been coming from a porch.

Acquaintance 2 says he heard multiple gunshots, followed by a pause and then additional gunshots. He believes he heard a total of 16 shots. He said he did not see any flashes other than the guard’s flashes. Acquaintance 2 said every time the guard shot, the guard took cover. He said the guard told them not to come closer, and then the guard shot again.

He did not see a struggle between the officer and Myers prior to the shooting.

This acquaintance has a misdemeanor criminal conviction for resisting arrest related to an incident in which Myers was also charged with unlawful use of a weapon and resisting arrest (see additional information related to this charge under section “Global Positioning System.”)

Acquaintance 3 – Acquaintance 3 advised that he, Myers, and an unknown African American male were standing on Castleman Ave. at Klemm St. when they observed a “security guard” driving a vehicle on Castleman Ave. and then Klemm St. He told police that he went to the store with Myers and the other person and they ordered sandwiches. They left the store and began walking to meet another friend. As they were walking down Shaw Blvd., he observed the “security guard” come out of a gangway and say “Freeze, freeze.” The officer was directing his attention at Myers who was asking “What’s wrong, what did we do?” Acquaintance 3 says the guard grabbed Myers, and then Myers grabbed the guard’s arm, at which time the guard holstered his weapon and began to “tussle” with Myers.

Acquaintance 3 says during the struggle, Myers’ hooded sweatshirt came off and Myers began to run away. Myers ran onto a porch, at which time Acquaintance 3 lost sight of Myers. He observed the guard firing shots. Acquaintance 3 says the first shot he heard and saw came from the guard. He described being very close to the shooting and saw Myers on the porch. Upon further questioning, Acquaintance 3 changed his statement and said that Myers ran into the gangway when the guard was shooting. He later re-described the events of the shooting and said there was a bush that obstructed his view of the gangway into which Myers ran. When asked again where he was, he changed his story again.

Acquaintance 3 said that prior to the shooting, they went to a house on Castleman Ave. to get jackets because it was getting cold.

This acquaintance has a criminal conviction for two counts of attempted first-degree robbery and one count of resisting or interfering with arrest.

Additional Witnesses – Attorneys Christmas and Wooten have made public statements as to the existence of other witnesses, who claim to possess additional facts and information. Attorneys Christmas and Wooten indicated they were aware of witnesses who would attest that Myers was fleeing and “begging for his life” before the officer walked up and delivered the final shot. These claims are unsubstantiated and unproven by any witness interviewed by police or by prosecutors. Prosecutors have repeatedly asked, in writing, for attorneys to furnish information relative to these witnesses. To date, these requests have been denied and witnesses have not come forward.

Private Pathologist Hired By Myers’ Family – On October 23, 2014, Dr. Cyril Wecht, a private pathologist, announced to the public that he had performed an autopsy on Myers’ body. That same day, Dr. Wecht was served by SLMPD with a subpoena to appear before the grand jury on November 7, 2014. Dr. Wecht did not appear, nor did he provide any documentation of the autopsy, as required by the subpoena. To date, Dr. Wecht has not produced a report or documentation related to his findings. From a review of statements made to the media, however, prosecutors concluded that Dr. Wecht’s findings and those of the Medical Examiner do not appear to be scientifically divergent.

3. AUTOPSY REPORTS

According to the City of St. Louis Medical Examiner’s report, there were eight entrance wounds and three exit wounds on Myers’ body. The bullets recovered from Myers’ body matched the gun issued to Officer X. The bullet that hit Myers in the right side of his head was the fatal wound. There was no

soot or stippling present on Myers' body, indicating that the shots were not made at very close or "point-blank" range.

Six of the entrance wounds were located in the back of Myers' legs. The Medical Examiner concluded that all six of these wounds had an upward track, indicating that the bullets came from a lower angle and moved upward through the body.

Two additional entrance wounds were located on the right side of Myers' body, one in the head and one in the hip area. The track of the bullet in the hip is upward. The track of the bullet to the head is leftward.

4. BALLISTICS REPORTS

The ballistics reports confirm the existence of two distinct firearms at the scene. The ballistics reports and analysis further confirm the weapons were fired from separate locations, with bullet trajectories fired from opposite directions. The location of bullets, casings, bullet tracks and damage are consistent with Officer X's and other witnesses' version of events.

Officer X's gun

Officer X was carrying a 9mm SLMPD-issued Beretta handgun. Investigators recovered eight bullets from the incident, three from the scene and five from Myers' body. Officer X is unclear exactly how many times he shot, but believes he shot approximately 12-16 times, reloaded with a new magazine and then fired twice at Myers in the gangway, when he stated he believed Myers still had a weapon.

Bullets from Officer X's weapon were recovered in the gangway.

Officer X was firing Winchester ammunition with nickel cartridge casing.

See plotted map of bullets recovered from the scene.

Smith and Wesson located next to Myers' body

A 9mm Smith and Wesson semi-automatic pistol was immediately recovered next to Myers' body by Officer X. Upon retrieval, Officer X noted that a shell casing had jammed inside the gun, rendering it unable to continue firing.

Investigators recovered four cartridge casings and three bullets matching the Smith and Wesson handgun located at the scene between the gangway and the sidewalk on Shaw Blvd.

The 9mm Smith and Wesson was registered to a person named C.E. The gun was reported stolen by C.E. on September 30, 2014 after discovering it missing from where he had placed it on September 26, 2014. C.E.'s brother, M.E., later told police he stole the gun from his brother.

M.E. claimed to have been robbed of the stolen gun by "Droop," also known as VonDerrit Myers, Jr. and others, sometime between September 26, 2014 and October 1, 2014. M.E. identified Myers in a sequential photo lineup as the person who stole the Smith and Wesson from him.

Local news media reported that Myers was seen in social media photographs holding a silver-slide Smith and Wesson semi-automatic pistol. It is unconfirmed that this is the exact weapon used during the shooting involving Officer X. *See appendix for pictures.*

Several individuals made statements to the media saying that Myers did not have a gun in his possession at the time of the incident. None of those statements were made by people who personally witnessed the incident.

The SLMPD initially indicated the gun was a 9mm Ruger. This was incorrect information, later corrected by the department in public communications.

Myers was firing Winchester ammunition with brass cartridge casing.

Damaged bullets/casings

A bullet fragment was recovered from a vehicle parked on Shaw Blvd. The car was located behind the position from which Officer X stated he was firing his weapon. Ballistics analysts state that the bullet was significantly damaged from its impact with the vehicle. Therefore, they cannot definitively determine the exact caliber of weapon from which it was fired. It could have been fired from several firearms, the most common of which are Coonan Arms, Smith and Wesson and some Hi-Point firearms.

On December 11, 2014, Attorney Christmas produced to prosecutors a bullet fragment that had been recovered from Myers' body during a privately-commissioned autopsy. In the presence of prosecutors, Christmas turned the fragment over to a police sergeant who conveyed it to the crime lab. Ballistics analysts concluded that, due to its tiny size and condition, it is unsuitable for microscopic comparison.

5. SURVEILLANCE VIDEO

Surveillance video from Shaw Market was obtained by police. Cyber analysts later determined that the timestamp on the video was nine minutes behind real time. According to the video, Myers and other people enter the store at 7:03 p.m., real time. Myers is seen moving about the store, making selections and a purchase. He is wearing a black, graphic t-shirt and a red shirt underneath it. He is not wearing a jacket or hooded sweatshirt. He is then seen leaving the store at about 7:13 p.m. real-time while he was eating a sandwich. Approximately seven other males appear on the video at various times within the approximate 10 minutes Myers is in the store.

6. GUNSHOT RESIDUE REPORTS

Analysts confirm that gunshot residue was on Myers' hands and clothing. Testing indicated up to 17 unique particles of gunshot residue on Myers' hands. They also identified four unique particles on Myers' jeans. Areas tested on the jeans included the inner waistband and inside of both the front and back pockets. Gunshot residue was also located on Myers' shirt. Analysts cannot determine when the gunshot residue was left on the clothing.

Gunshot residue analysts cannot definitively determine where the gunshot residue came from and how it got on Myers' body. The St. Louis Police Officers Association released public statements concluding the gunshot residue confirms the account of the officer. Prosecutors conclude the gunshot residue analysis neither confirms nor denies any person's account of the incident.

7. GLOBAL POSITIONING SYSTEM (GPS) MONITORING DEVICE

On June 27, 2014, VonDerrit Myers, Jr. was charged with Unlawful Use of a Weapon and Resisting Arrest in the 22nd Judicial Circuit Court for an incident that occurred the same day. Charging documents state that Myers was the passenger in a vehicle involved in a high-speed chase. After it crashed, Myers exited the vehicle and took off running. Officers said Myers retrieved a previously fully concealed firearm and discarded it in a sewer drain. The gun was recovered and it was found to be a loaded Hi-Point .380 caliber semi-automatic pistol.

On July 7, 2014, Myers posted bond and was ordered by a judge to comply with various bond requirements, including participation in an electronic monitoring system. Myers agreed, as a condition of bond, to wear a GPS monitoring device around his ankle. As a condition of bond, Myers agreed to be on court-mandated house arrest. A judge ordered him not to leave his residence except for work, court appearances, meetings with attorneys and other court officials. He was not to have contact with co-defendants, or attend parties or engage in "hanging out." He was to abide by random drug testing; he was to follow all rules at home and report within 24 hours of release to a probation officer. He was to maintain attendance at a job, school or GED program.

The GPS device tracked Myers' movements on the evening of the Shaw shooting. Prosecutors reviewed minute-by-minute reports from the device before, during and after the shooting. Based on this GPS information, it appears Myers was not the person Officer X was chasing on Castleman Ave., east of Klemm St. Officer X maintains throughout his interview with police that Myers was the person who he had chased, based on physical description.

The GPS device confirms Myers' presence at Shaw Market. At approximately 7:13 p.m., according to the GPS, Myers appears to leave the market in the direction of a house on Castleman Ave. At 7:17 p.m., he arrives at the home. At approximately 7:21 p.m, according to the GPS, he leaves and heads toward Shaw Blvd. and Klemm St. The confrontation with Officer X appears to begin at approximately 7:24 p.m. The shooting takes place at approximately 7:25 p.m. GPS appears to confirm Myers' location, both on the hill near the home where Officer X says the first exchange of gunfire occurred and in the gangway, where Officer X says he fired two more rounds, upon seeing the gun still in Myers' hand.

8. DNA AND FINGERPRINT ANALYSIS

Myers' DNA is on the jacket that came off during the struggle with Officer X. Officer X's DNA was not located on Myers' clothes, nor was Myers' DNA located on the uniform of Officer X. This is not atypical of a "tussle" or physical altercation.

Analysts swabbed the trigger, grip, rough areas of the firearm, top and bottom of the magazine, the base of the cartridge and the cartridge case for DNA on Myers' weapon. Neither Myers' nor Officer X's DNA were confirmed on the weapon or the other items.

Lab analysts were also unable to pull any identifiable fingerprints off the Smith and Wesson semi-automatic pistol. Therefore, laboratory analysts could not confirm Myers', Officer X's, nor any other person's fingerprints from the gun.

Lab analysts and evidence experts confirm that it is rare to retrieve useable fingerprints or DNA from a weapon. This is due to a number of factors, including but not limited to the material, surface and shape of the weapon, and the frequency with which guns change hands.

9. ADDITIONAL EVIDENCE

Prosecutors reviewed police dispatch recordings, 911 calls, and photos and videos from the scene. *See appendix for some of the pictures from the crime scene.*

IV. DISCUSSION

1. ISSUE

Prosecutors have reviewed all available witness statements, physical evidence and forensic evidence related to the shooting death of VonDerrit Myers, Jr.

The role of the CAO is to review the evidence and determine if a violation of Missouri law occurred. The CAO will not make comment regarding the efficacy of police policies, procedures, training or other aspects of police conduct outside of the laws of the State of Missouri. To pursue criminal prosecution, prosecutors must have the evidence to prove a crime occurred beyond a reasonable doubt. Therefore, in this case, prosecutors considered the following issue:

Did Officer X commit a crime under Missouri law, and if so, can the crime be proven beyond a reasonable doubt?

2. APPLICABLE MISSOURI LAW

To answer this question, prosecutors reviewed all applicable Missouri criminal statutes, including those for homicide. Two specific Missouri laws emerged as critically relevant to the case: those governing an officer's authority to use deadly force when making an arrest and the authority to use force in self-defense. Those two laws are outlined, in summary, below. *For the actual language of the statutes, see the appendix.*

Law enforcement officer's use of force in making arrest (563.046)

Non-Deadly Force: Police officers are entitled by Missouri law to make an arrest. An officer may use force to make the arrest, but only the level of force he or she reasonably believes is necessary.

Deadly Force: The times when an officer is allowed under Missouri law to use deadly force to make an arrest are more limited. Under the law, officers are allowed to use deadly force only when:

“The officer reasonably believes^[1] that such use of deadly force is immediately necessary to effect the arrest **AND** the officer also reasonably believes that the person to be arrested has done at least one of three things:

- 1.) The person being arrested has committed or attempted to commit a *felony* OR
- 2.) The person being arrested is attempting to escape by use of a deadly weapon OR
- 3.) The person being arrested may otherwise endanger life or inflict serious physical injury unless arrested without delay.”

Use of force in defense of persons (563.031)

^[1] Missouri approved jury instructions (306.06A) define the term “reasonably believes” as a belief, based on reasonable grounds that could lead a reasonable person in the same situation to the same belief. The standard does not depend upon whether the belief turned out to be true or false.

Physical Force: According to Missouri law, a person may use physical force upon another person when he or she reasonably believes such force to be necessary to defend himself or herself.

Deadly Force: The law allows a person to use deadly force when he or she reasonably believes^[2] that such deadly force is necessary to protect himself or another person from death, serious physical injury or any forcible felony.

To use physical and/or deadly force, the law states that the person claiming self-defense cannot be the “initial aggressor” in the incident, unless that person is a law enforcement officer. It does not matter who first produces a weapon; a police officer, under the law, is entitled to self-defense even if he or she is the initial aggressor.

3. ANALYSIS

Prosecutors applied Missouri law to the facts and evidence available in this case, including witness interviews, physical evidence and forensic evidence. The following is a summary of their analysis and application of the laws considering the available evidence.

Law enforcement officer’s use of force in making arrest

Officer X was within his legal rights to patrol the neighborhood and attempt to secure the safety of all citizens. Officer X was acting as a police officer while working a department-approved secondary shift.

Upon seeing a group of individuals who had appeared to run from him, Officer X pursued a person. Based on his recorded statement to police, Officer X believed the person he first chased was the same person he later shot. That appears to be incorrect. A GPS device located on Myers’ person appears to confirm Myers’ presence at home on Castleman Ave. at the time Officer X told investigators he was pursuing a person.

Prosecutors reviewed every aspect of the incident and determined Officer X’s actions were reasonable under Missouri laws, for the following reasons.

Officer X encountered Myers and Myers’ acquaintances on Shaw Blvd. a short time after the initial pursuit. Officer X was met with hostility from Myers and Myers did not comply with the officer’s commands. Myers was grabbing at his waistband, according to Officer X, giving the officer reasonable suspicion that Myers had a firearm. The officer, therefore, had the legal right to attempt to detain Myers for further questioning. Myers’ acquaintances confirm that Myers and the officer engaged in a physical altercation, and they confirm that Myers ran away. At that point in time, Officer X had probable cause to give chase in an attempt to detain Myers for assault on a law enforcement officer.

Officer X did not have the legal right to use deadly force *at this point in time*. As soon as Myers produced a gun, however, under the law, *the officer’s rights changed*.

For a number of reasons, prosecutors concluded Myers produced a gun. Witnesses confirm there was gunfire coming from both directions and from two different guns at the scene. Ballistics evidence confirms that two different guns were fired at the scene. There is no evidence that Officer X was the person who fired both guns. No witness claims to have seen Officer X alter evidence in

^[2] Same jury instructions apply.

any way, such as throw down a gun, wipe away evidence, fire a weapon in any direction other than towards the gangway or scatter casings. Additionally, there are witnesses that describe how Myers came into possession of the Smith and Wesson firearm.

There is no evidence to suggest that Myers had anything else in his hands at the time of the incident. Though Myers had purchased a sandwich at a store shortly before the shooting, an acquaintance of Myers confirmed Myers had fully consumed it prior to the confrontation with the officer.

At the moment Myers pulled the gun, Officer X could have reasonably believed under the law that deadly force was necessary to effect the arrest. Further, Officer X had reasonable belief that Myers had committed or was attempting to commit a felony, and/or that Myers was attempting to escape by use of a deadly weapon and/or that Myers was otherwise endangering life. Officer X, however, did not fire his gun when he first saw Myers draw his weapon. He told investigators that he hesitated to make sure that it was a gun.

Officer X, as a law enforcement officer, was lawfully allowed to use deadly force at that moment, but he chose not to do so. While not legally necessary, Officer X waited until he was fired upon. Therefore, self-defense was considered as well.

Use of force in defense of persons

Prosecutors applied the same set of facts, evidence and interviews as outlined above when considering self-defense laws in this case. Officer X's interview with police established a self-defense claim. Officer X stated in his interview with the FIU that he did not fire his weapon until after he was fired upon. He told investigators that he believed he saw a weapon in Myers' hand, but hesitated to fire, because he said he wanted to be certain. He said that he returned fire only after Myers fired first.

The ballistic and physical evidence prove there were shots fired at or near Officer X from a weapon other than his own. Evidence shows Officer X also fired his weapon. Autopsy reports are consistent with Officer X's account. Officer X said that as soon as Myers fired his weapon, the officer returned fire. Myers remained armed and turned to run away. The Medical Examiner notes six entrance wounds in the back of Myers' legs. All have upward trajectories. This is consistent with Officer X's recorded statement that he was at the bottom of the hill and Myers was at the top of the hill. It is also consistent with Officer X's statement that Myers had turned to run into the gangway as Officer X returned fire.

After this initial exchange of gunfire, Officer X said he approached the gangway between two properties. Officer X said that Myers refused to comply with commands to drop the weapon. Officer X told investigators that, at this point, he still perceived Myers as a threat and fired two more times.

Contrary to statements made to the public at the time of the incident, there are no witnesses and no physical or forensic evidence to suggest that Myers attempted to surrender at any point or that he was begging for his life. Prosecutors have repeatedly asked, both in person and in writing, for private attorneys to furnish information relative to any witnesses making these statements. To date, these requests have been unanswered and no additional witnesses have come forward. In fact, a witness located very near the shooting, and interviewed by prosecutors and CAO staff, instead said that it was he/she who was screaming and that Myers was not.

Officer X later determined, once he recovered Myers' weapon, that a spent shell casing had jammed in Myers' weapon. Until it was made safe, Officer X believed the gun to be capable of lethal use.

Officer X had reasonable belief at several stages that deadly force was necessary to protect himself against death or serious physical injury. It would be the prosecutor's duty to prove beyond a reasonable doubt that Officer X was not acting in self-defense. A reasonable belief self-defense claim could not be overcome in a court of law.

4. CONCLUSION

The fact that Officer X shot Myers and that Myers died as a result of these injuries is not in dispute. It is a tragedy that a life was lost in this incident.

As is their role, prosecutors must only determine if a violation of criminal law occurred. Given all the available facts, witness statements, physical and forensic evidence, and for the reasons outlined in the discussion above, prosecutors have determined a criminal violation could not be proven beyond a reasonable doubt. Therefore, charges will not be filed in this case.

V. APPENDIX

1. PHOTOS FROM CRIME SCENE, LABORATORY REPORTS, SURVEILLANCE AND SOCIAL MEDIA



View from Shaw Blvd. towards gangway where Myers' body was located.



View from sidewalk towards gangway where Myers' body was located. Flags denote ballistics evidence in the hilltop. Three bullets recovered from the hill were matched to Myers' Smith and Wesson semi-automatic pistol.



Flags in the ground at the top of the hill denote bullets.



Crime scene investigators dug into the berm of the hill and located three bullets. Three bullets recovered from the hill were matched to Myers' Smith and Wesson semi-automatic pistol.



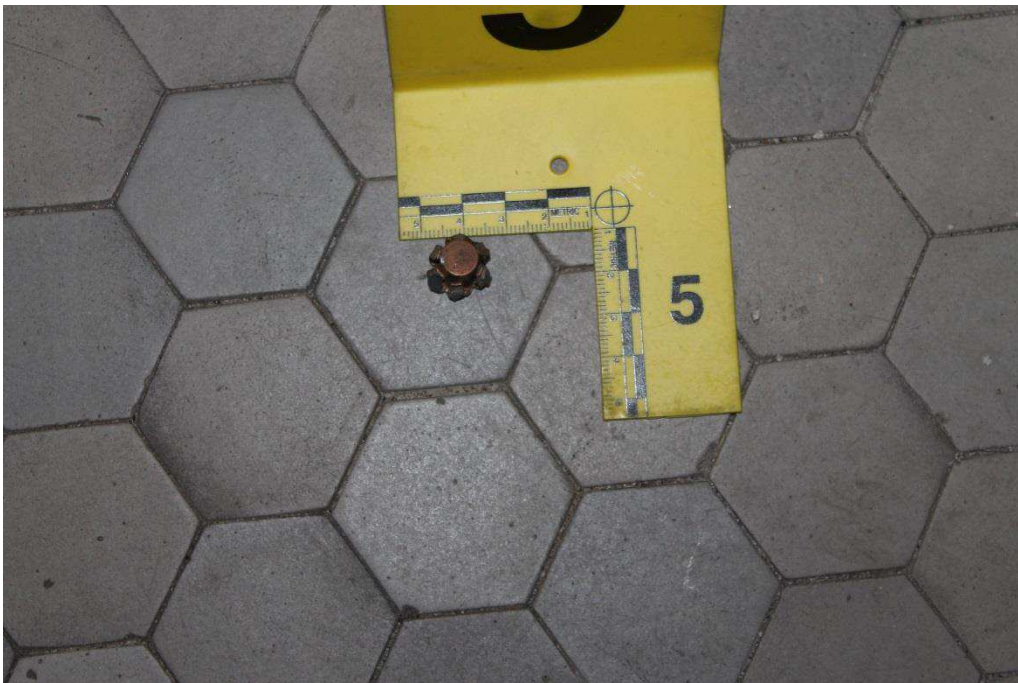
Ballistics markers located near the gangway. Markers 3 and 4 denote shell casings confirmed to have come from Myers' Smith and Wesson. Markers 13 and 14 were casings that were determined to likely have come from Officer X's rounds of fire.



A shell casing confirmed to match Myers' Smith and Wesson semi-automatic pistol.



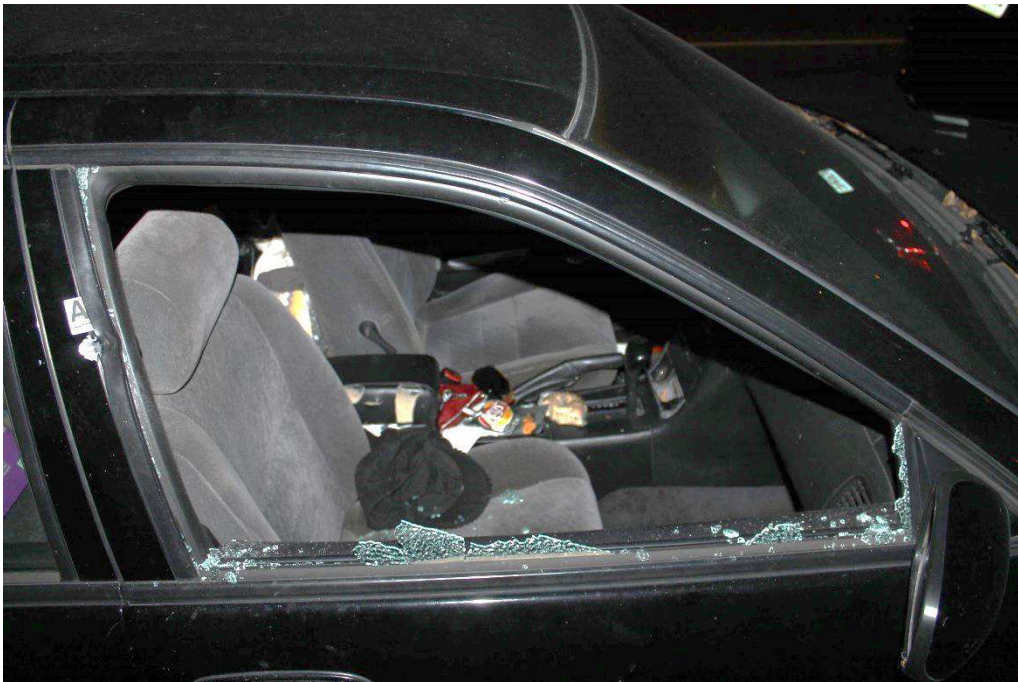
View at the top of the hill.



Bullet confirmed to have been fired by Officer X's Beretta handgun.



Nissan Maxima parked on Shaw Blvd. northeast of where the shooting took place.



Window of the Nissan Maxima damaged by gunfire. The bullet was significantly damaged from its impact with the vehicle; however, the bullet could have been fired from several firearms, the most common of which are Coonan Arms, Smith and Wesson and some Hi-Point firearms makes.



Myers' hooded jacket. Officer X and additional witnesses said Myers slipped out of it during the physical altercation with Officer X. The markings note areas tested for DNA. Myers' DNA is on the jacket. Officer X's DNA was not located on Myers' clothes.



Officer X's blue uniform shirt. The markings note areas tested for DNA. Myers' DNA was not located on Officer X's clothes. This is not atypical for a "tussle," as described by witnesses.



The 9mm Smith and Wesson semi-automatic pistol recovered next to Myers' body by Officer X, shown here with the slide back. This gun was registered to a person named C.E. The gun was reported stolen by C.E. on September 30, 2014 after discovering it missing from where he had placed it on September 26, 2014. C.E.'s brother, M.E., told police he stole the gun from his brother.

M.E. claimed to have been robbed of the stolen gun by "Droop," also known as VonDerrit Myers, Jr. sometime between September 26, 2014 and October 1, 2014. M.E. identified Myers in a sequential photo lineup as the person who stole the Smith and Wesson from him.



Myers was depicted on social media accounts to be in possession of what appears to be a Smith and Wesson gun, which appears very similar to the one used during the incident.

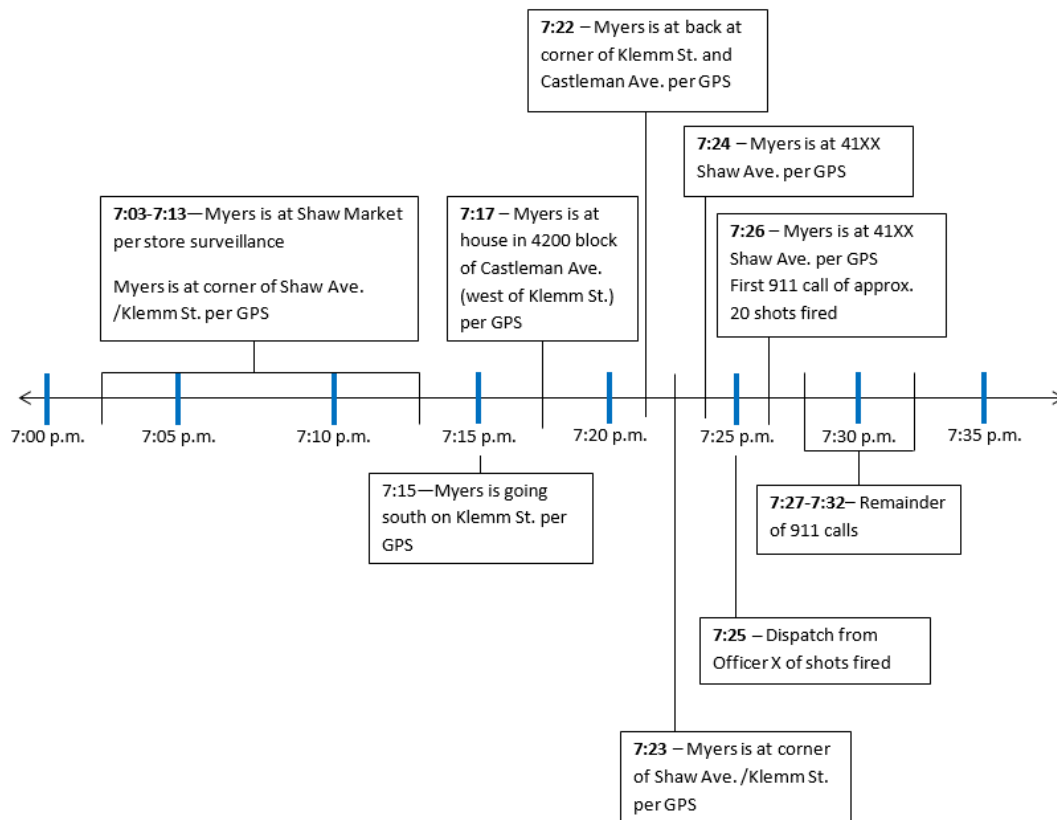


Myers is seen on surveillance video from Shaw Market. He is not wearing a jacket or hooded sweatshirt. He is seen purchasing a sandwich and begins to consume it while inside the store.



Surveillance video depicts Myers sharing a part of the sandwich with at least two friends.

2. STATE'S TIMELINE OF EVENTS:*

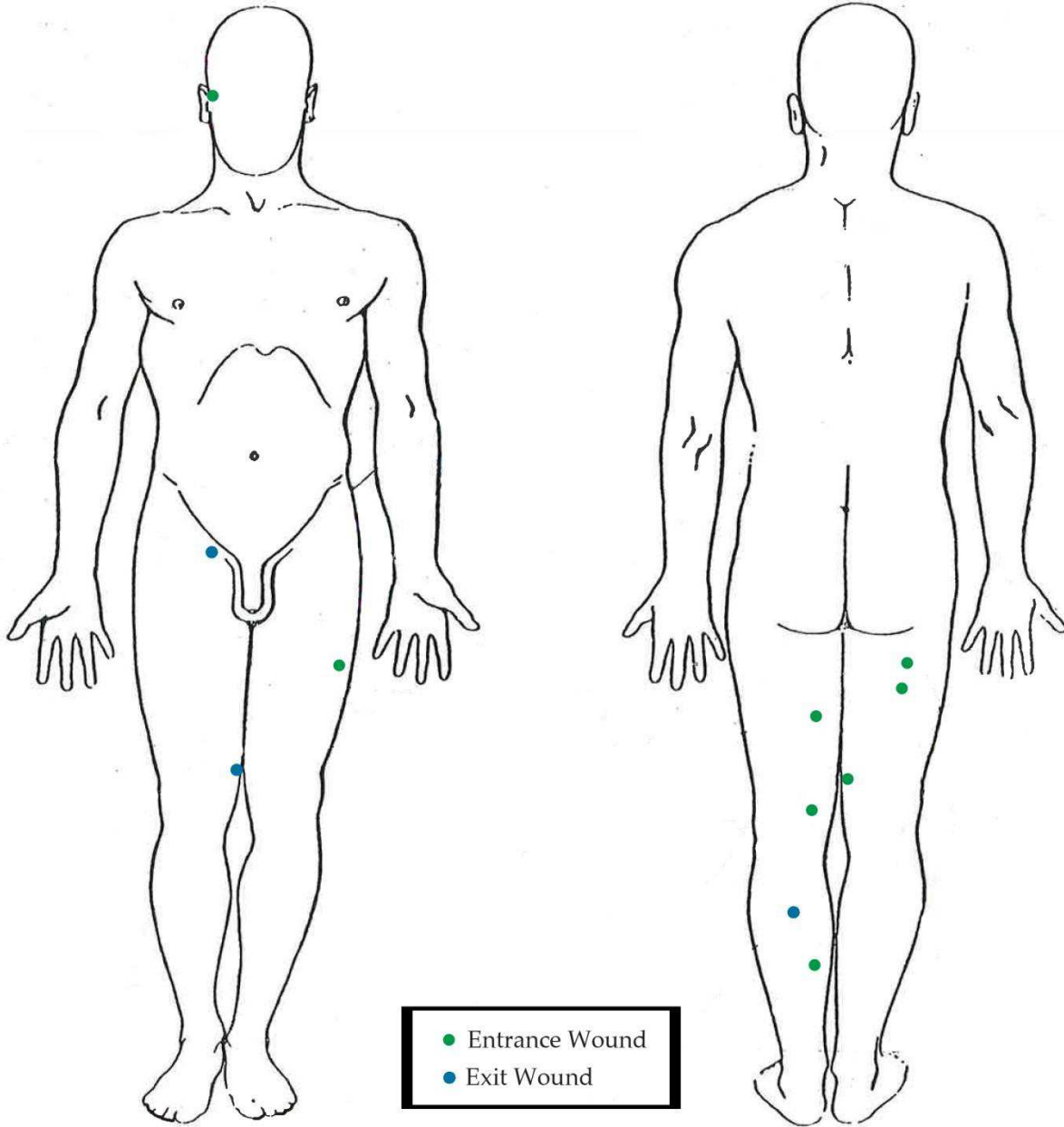


*Based on approximate information from surveillance video, what appears on the GPS system, dispatch and 911 calls.

3. STATE'S RENDERING: MAP OF THE BALLISTICS



4. STATE'S RENDERING OF MEDICAL EXAMINER'S AUTOPSY



5. ANALYSIS OF PUBLIC STATEMENTS

<u>Statements Made Public</u>	<u>Evidence</u>
<p>Myers did not have a gun. He had a sandwich.</p>	<p>Ballistic evidence shows that there were two different firearms. Witness 1 attests to seeing muzzle flashes coming from two opposing directions. A number of witnesses confirm there was gunfire from two separate guns. One of Myers' acquaintances confirms that the officer was ducking after shooting. Witnesses claim Myers stole the Smith and Wesson used in this incident prior to the altercation with this officer.</p> <p>Analysts confirm that gunshot residue was on Myers' hands and clothing. Testing indicated up to 17 unique particles of gunshot residue on Myers' hands. They also identified four unique particles on Myers' jeans. Areas tested on the jeans included the inner waistband and inside of both the front and back pockets. Gunshot residue was also located on Myers' shirt. Analysts cannot determine when the gunshot residue was left on the clothing.</p> <p>Surveillance video confirms the fact that Myers purchased and began consuming a sandwich. An acquaintance confirms that Myers had fully consumed the sandwich before the officer approached the group on Shaw Blvd.</p>
<p>Myers was "begging for his life" before the officer walked up and delivered one final shot.</p>	<p>This is inconsistent with witness statements and 911 callers. Witness 2 told CAO staff that Myers never screamed at all. The witness claims it was he/she who was screaming for the shooting to stop. Private attorneys have provided no witnesses to confirm this statement.</p>
<p>Officer X was not dressed like a police officer and/or he did not identify himself.</p>	<p>Multiple witnesses said they saw the officer in a police uniform that night. Prior to taking the officer's clothing that night to the lab, he was photographed in his clothing, a SLMPD uniform. The police officer says he identified himself as a police officer several times. Witnesses confirm that it was clear the officer was in a police uniform. One of Myers' acquaintances said the officer had a badge.</p>
<p>Myers was only running away. He did not face the officer and fire a weapon.</p>	<p>Myers was shot six times in the back of his legs. The Medical Examiner concluded that all six of these wounds had an upward track. This means that the bullets came from a lower angle and moved upward on the body. This can occur when a person is shooting at someone who is located at a higher elevation. This is consistent with the</p>

	<p>officer’s statement that Myers shot directly at him, and then Myers ran up the hill. The officer stated he shot immediately after Myers shot at him.</p> <p>Two additional entrance wounds were located on the right side of Myers’ body, one in the head between his ear and cheek and one in the hip area. The track to the bullet in the hip is upward. The track of the bullet to the head is leftward. This is also consistent with Officer X’s statements.</p> <p>The ballistics reports confirm the existence of two distinct firearms at the scene. The ballistics reports and analysis further confirm the weapons were fired from separate locations, with bullet trajectories fired from opposite directions. The location of bullets, casings, bullet-tracks and damage are consistent with Officer X’s and other witnesses’ version of events.</p> <p>The Medical Examiner’s report was consistent with the other physical evidence and Officer X’s statements of events.</p>
<p>If Myers had been carrying a gun, it would have his DNA on it.</p>	<p>Analysts swabbed the trigger, grip, rough areas of the firearm, top and bottom of the magazine, the base of the cartridge and the cartridge case for DNA. Neither Myers’ nor the officer’s DNA were located on the weapon.</p>
<p>Police planted evidence.</p>	<p>No witness told investigators or prosecutors that they witnessed Officer X or any other police officer attempt to alter evidence. No witness saw Officer X throw down a gun or fire a weapon in any direction other than the gangway.</p>
<p>The officer was standing over Myers and telling everyone else to get back.</p>	<p>Witness 2 saw an officer standing with his gun pointed toward the gangway. According to the witness’ statement, the officer appeared frozen. Witness 2 was able to identify the officer as a police officer. This witness retrieved a flashlight and shined it down on a body in the gangway. The witness saw a young African American male lying on his side. The witness told CAO staff that the officer never moved towards the body. When he/she came back from getting his/her flashlight, the officer was in the same position. The officer eventually approached Myers body to retrieve Myers’ gun. The officer did state that he told Myers’ associates to get back, as they were approaching him and yelling at him. The officer did point his weapon towards Myers’ associates. No witnesses, including Myers’ associates, claim that the officer fired any additional shots after telling Myers’ associates to get back.</p>

<p>Myers was not wearing a hooded sweatshirt.</p>	<p>Store surveillance video confirms that Myers was not wearing a hoodie or jacket when he entered Shaw Market. Myers’ acquaintances say the men went to a house on Castleman Ave. to get jackets because it was a cool evening. GPS confirms the men went to the home after the market and prior to the altercation. Myers’ acquaintance saw Myers trying to get out of the jacket during the tussle. Myers’ DNA was located on the jacket.</p>
<p>Officer X was looking for someone who robbed a house.</p>	<p>When CAO staff attempted to ask the witness who made this public statement to verify and discuss the statements, the witness denied ever speaking to news reporters. There is no evidence that the officer was looking for a robbery suspect that evening.</p>
<p>Officer X used a Taser.</p>	<p>No witnesses who spoke to CAO staff claim to have seen a Taser used, including Myers’ associates, or the officer. The officer did not have a Taser that evening.</p>
<p>Myers’ handgun was 9mm Ruger.</p>	<p>Police initially told the public this piece of misinformation. Myers’ weapon was a Smith and Wesson.</p> <p>The gun was registered to a person named C.E. The gun was reported stolen by C.E. on September 30, 2014 after discovering it missing from where he had placed it on September 26, 2014. C.E.’s brother, M.E., told police he stole the gun from his brother.</p> <p>M.E. claimed to have been robbed of the stolen gun by “Droop,” also known as VonDerrit Myers, Jr. sometime between September 26, 2014 and October 1, 2014. M.E. identified Myers in a sequential photo line-up as the person who stole the gun from him.</p>
<p>Gunshot residue confirms the officer’s account.</p>	<p>Gunshot residue analysts cannot definitively determine where the gunshot residue came from and how it got on Myers body. They cannot say if he shot a gun or was shot at.</p>

6. CORRESPONDENCE WITH PRIVATE ATTORNEYS



CIRCUIT ATTORNEY
CITY OF ST. LOUIS

JENNIFER M. JOYCE

CARNAHAN COURTHOUSE
1114 Market St. Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

December 5, 2014

Mr. Jerryl Christmas
4625 Lindell Blvd
Suite 500
St. Louis, MO 63108-3729

VIA U.S. MAIL and FACSIMILE: 314-361-2525

Dear Mr. Christmas:

I am sure you have learned that the St. Louis Metropolitan Police Department's Force Investigation Unit has delivered the results of their investigation into the shooting of VonDerrit Myers to the Circuit Attorney's Office. As the Police Department did not request a warrant in this matter, we will immediately begin our independent review, interviews and analysis to determine whether there is evidence to support probable cause. While we understand that you and the Myers family are anxious for an outcome, we cannot give you a specific timeframe as we do not know what additional investigation will be necessary and how long that might take. We want to be confident that we have conducted a comprehensive and thorough review and investigation before any conclusions are reached.

To that end, you have made statements in the media which indicate you know of witnesses who may or may not have spoken with the police investigators. We encourage you to direct any such witnesses to our office as soon as possible so that we can speak with them. Further, if you are in possession of anything that would be important to review or are aware of such items, please direct us to those as well.

Sincerely,

REDACTED



CIRCUIT ATTORNEY
CITY OF ST. LOUIS

JENNIFER M. JOYCE

CARNAHAN COURTHOUSE
1114 Market St. Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

December 12, 2014

Mr. Jerryl Christmas
4625 Lindell Blvd
Suite 500
St. Louis, MO 63108-3729

VIA U.S. MAIL and FACSIMILE: 314-361-2525

Dear Mr. Christmas:

As a follow-up to our meeting yesterday, I wanted to thank you for bringing the bullet fragment that was recovered from the private autopsy and turning it over to the police department for preservation. I also want to thank you in advance for your assistance in procuring a copy of the private autopsy report and providing it to us. I understand that the police department subpoenaed the report but has not yet received it.

Based on our conversation, we understand that you will contact us and let us know if you have directed any potential witness(es) to us as well as provide them with my phone number. I would encourage you to make a list of people you believe it is important for us to talk to (whether or not the police interviewed them) and forward it to us as soon as possible.

I know that you were hoping that we could disclose the documents that are currently under review, but because there is a pending investigation we are unable to do so. Please follow the Sunshine Law procedures for the future disclosure of any documents. For our office, you can direct such requests to Tim Boyer, head of the White Collar Unit.

Please let me know if you have any questions following our meeting.

Sincerely,

REDACTED



CIRCUIT ATTORNEY
CITY OF ST. LOUIS

JENNIFER M. JOYCE

CARNAHAN COURTHOUSE
1114 Market St. Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

February 23, 2015

Mr. Jerryl Christmas
4625 Lindell Blvd
Suite 500
St. Louis, MO 63108-3729

VIA FACSIMILE: 314-361-2525

Dear Mr. Christmas:

This letter is to confirm that you and/or Mr. Wooten will be providing Mr. Mayes, Mr. Ming and Mr. Murphy this Wednesday, February 25 at 10:00 a.m. at the Circuit Attorney's Office for an interview as part of our independent investigation. Please let me know if anything has changed.

To date, the police department has not received Dr. Wecht's report pursuant to their subpoena. Assuming that you have a copy, would you please bring us one when you come this Wednesday? Feel free to e-mail or fax it in advance.

Sincerely,

REDACTED



CIRCUIT ATTORNEY
CITY OF ST. LOUIS

JENNIFER M. JOYCE

CARNAHAN COURTHOUSE
1114 Market St. Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

February 25, 2015

Mr. Jerryl Christmas
Mr. Jermaine Wooten
4625 Lindell Blvd
Suite 500
St. Louis, MO 63108-3729

VIA FACSIMILE and U.S. MAIL: 314-361-2525

Dear Mr. Christmas and Mr. Wooten:

During the course of your representation of the Myers' family, the two of you have made statements regarding eye witnesses to the shooting that resulted in VonDerrit Myers' death. To date, you have not advised us of the names and contact information of those witnesses. I have documented below the media accounts of the statements you have made. Please provide my office with the names of these witnesses by March 6 so that we may complete our investigation.

"Even witnesses who did not like Vonderrit, who were very adamant and said even though I don't like the kid, I did not see him with a gun," Wooten said.
<http://fox2now.com/2014/12/05/no-charges-for-police-officer-in-shooting-death-of-vonderrit-myers/>

Jerryl Christmas, one of the Myers family lawyers, said witnesses told their investigator that Myers was fleeing and "begging for his life" before the officer walked up and delivered the final shot.
http://www.stltoday.com/news/local/crime-and-courts/private-autopsy-suggests-vonderrit-myers-was-shot-while-fleeing-st/article_ab007919-9bf9-50e2-8dd2-8f5b45088440.html

The family said witnesses told their investigator that Myers, who was black, had no weapon and died begging the white officer for his life.
http://www.stltoday.com/news/local/crime-and-courts/lawyer-identifies-st-louis-officer-who-killed-vonderrit-myers-jr/article_47600cab-5fdb-53d4-bb11-9ced3090263a.html

According to Wooten, eyewitnesses have said that Myers was unarmed when the officer, a 32-year-old white male with six years on the force, fired 17 shots at him.

Witnesses also have said the officer was also not dressed in a police uniform as police officials claimed, according to Wooten.

http://www.stlamerican.com/news/local_news/article_aaaa0b5c-5b11-11e4-8b2c-ffa5bf7c7d4b.html

Attorney Jermaine Wooten said according to eyewitness testimony, Myers was "screaming on the ground...begging this officer to stop. The officer then runs up the hill, approaches Vonderrit, and then we hear one single shot. Vonderrit is not screaming anymore."

<http://news.stlpublicradio.org/post/myers-family-attorney-private-autopsy-disputes-police-account-shaw-shooting>

Eyewitnesses to Myers's shooting told Wooten that the officer, who was off-duty and working a second job as a security guard, had come out from a gangway and never identified himself as he chased Myers and a handful of people with him that night.

<http://www.msnbc.com/msnbc/why-vonderrit-myers-matters>

Wooten says VonDerrit Myers pleaded with the officer. "Stop, stop. Don't shoot." That's what witnesses heard him say, Wooten tells me.

<http://www.cnn.com/2014/11/24/us/ferguson-vonderrit-myers/>

Please provide the names of these witnesses to my office via letter, e-mail or telephone. The office mailing address is on the letterhead, the office fax numbers are 314-622-3369 or 314-641-8688 and my email address is krugc@stlouiscao.org. I look forward to receiving them no later than March 6, 2015.

Sincerely,

REDACTED

Voicemails from Attorneys

Call received 4:50 p.m. Tuesday, February 24. 40 seconds.

To listen, press zero. (Beep.)

“Hey XXXXXXXXX, this is Jerryl Christmas calling you back about the meeting tomorrow. I talked to the young men and they’re not comfortable with giving another statement to the Circuit Attorney’s Office, so you all are going to have to rely on the recorded statements that you have already I believe from the St. Louis City Police Department.

But give me a call back when you pick this message up, I’m in the office. XXX-XXXX, XXX-XXXX.”

Call received 3:43 p.m. Wednesday March 11. 40 seconds.

To listen, press zero. (Beep.)

“Hey XXXXXXXXX, this is Jerryl Christmas, calling you in reference to VonDerrit Myers. You have the witnesses subpoenaed to come down tomorrow and I wanted to give you a heads up that they are going to invoke their 5th amendment rights. So, I just wanted to find out the process for doing that. If you just want them to come down so we can just formally do it or if you still want them to come down knowing that they’re going to invoke their 5th amendment rights.

I’m assuming you still want them to come down since you have them under subpoena. Give me a call back when you get the opportunity. XXX-XXXX, XXX-XXXX.

7. MYERS' BOND DOCUMENTS

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
CITY OF ST. LOUIS

STATE OF MISSOURI,
Plaintiff

Cause No. 1422-CR 02533

Vs

Division 25

Von Derriit Myers
Defendant

FILED
JUL - 7 2014

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY

COURT ORDER

Defendant shall be monitored by EMASS with the following conditions:

1. Maintain job, school or GED program.
2. No contact with co-defendants or victims.
- ~~3. Curfew at 5:00 p.m. except during work hours (NO EXCEPTIONS).~~
4. No parties, clubs or hanging out.
5. Random drug testing.
6. Follow all rules at home.
7. Report within 24 hours of release to Jason Biss at 497-0876 or 664-9555.

ENTERED

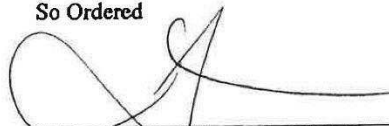
JUL - 7 2014

DW

Complete the GPS Monitoring Program. Must be placed on GPS system within 24 hours of release from custody.

House Arrest -- may not leave residence at 4226 Castleman Ave
St Louis, MO 63110 except for work, school, court appearances, meetings with attorney and meetings with EMASS. All of the listed reasons for leaving the residence must be pre-approved by EMASS.

So Ordered



Judge Theresa Counts Burke

**MISSOURI CIRCUIT COURT
TWENTYSECOND JUDICIAL CIRCUIT**
(St. Louis City)

STATE OF MISSOURI,)
Plaintiff,) Cause No: 1422CR2533
vs.)
VON DERRIT MYERS,) Division: 25
Defendant.)

ORDER

1. A Motion to Modify the conditions of release had been made by:

- The State the Defendant the Court
 Movant has given notice of this hearing to all parties.
 The Circuit Attorney has given notice to the victim.

FILED
JUL - 7 2014

2. Appearing is:

- The State the Defendant the Victim BY _____ DEPUTY

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE

3. The Court finds:

- New, different, or additional requirements for release are necessary.
 The conditions for release that have been set are excessive.
 The accused has failed to comply with or has violated the conditions of release.
 The accused has been convicted of the offense charged.
 The accused poses a danger to a crime victim, the community, or another person.

ENTERED

JUL - 7 2014

4. The Court orders:

- The conditions shall remain the same.
 The conditions be modified as follows:
 Bail is denied.
 Written promise to appear.

Bond in the amount of \$ _____
Secured by: Cash Surety

Bond in the amount of \$ 10,000 with 10 % cash.

Other: GPS/HOUSE ARREST TAW EMAS
ON CASTLEMAN ADDRESS

DW

See attached order for conditions of release

STATE OPPOSED!

[Signature]
Assistant Circuit Attorney

[Signature]
Pre-Trial Release Commissioner

[Signature]
Attorney for Defendant

JUDGE

Date

7/7/14

SO ORDERED:

White - Court File; Yellow - Pre-Trial Release Commissioner/Bonding; Pink - Defense Attorney; Goldenrod - State's Attorney
310-072 (ML4/11)

8. MISSOURI STATUTES:

563.046. Law enforcement officer's use of force in making an arrest.

1. A law enforcement officer need not retreat or desist from efforts to effect the arrest, or from efforts to prevent the escape from custody, of a person he reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, he is, subject to the provisions of subsections 2 and 3, justified in the use of such physical force as he reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

2. The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.

3. A law enforcement officer in effecting an arrest or in preventing an escape from custody is justified in using deadly force only

(1) When such is authorized under other sections of this chapter; or

(2) When he reasonably believes that such use of deadly force is immediately necessary to effect the arrest and also reasonably believes that the person to be arrested

(a) Has committed or attempted to commit a felony; or

(b) Is attempting to escape by use of a deadly weapon; or

(c) May otherwise endanger life or inflict serious physical injury unless arrested without delay.

4. The defendant shall have the burden of injecting the issue of justification under this section.

563.031. Use of force in defense of persons.

1. A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he or she reasonably believes such force to be necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

(1) The actor was the initial aggressor; except that in such case his or her use of force is nevertheless justifiable provided:

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) He or she is a law enforcement officer and as such is an aggressor pursuant to section 563.046;
or

(c) The aggressor is justified under some other provision of this chapter or other provision of law;

(2) Under the circumstances as the actor reasonably believes them to be, the person whom he or she seeks to protect would not be justified in using such protective force;

(3) The actor was attempting to commit, committing, or escaping after the commission of a forcible felony.

2. A person may not use deadly force upon another person under the circumstances specified in subsection 1 of this section unless:

(1) He or she reasonably believes that such deadly force is necessary to protect himself, or herself or her unborn child, or another against death, serious physical injury, or any forcible felony;

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person; or

(3) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter private property that is owned or leased by an individual claiming a justification of using protective force under this section.

3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining. A person does not have a duty to retreat from private property that is owned or leased by such individual.

4. The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

5. The defendant shall have the burden of injecting the issue of justification under this section. If a defendant asserts that his or her use of force is described under subdivision (2) of subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable doubt that the defendant did not reasonably believe that the use of such force was necessary to defend against what he or she reasonably believed was the use or imminent use of unlawful force.

(L. 1977 S.B. 60, A.L. 1993 S.B. 180, A.L. 2007 S.B. 62 & 41, A.L. 2010 H.B. 1692, et al. merged with H.B. 2081)

INTERVIEW OF W1:

1/28/2015 @ 3:30 PM

CAO: Attorney

CAO2: Attorney

CAO3: Investigator

INTERVIEW OF W1:

14-046844

1/28/2015 @ 3:30 PM

CAO: Alright, today is January 28, 2015. This is CAO, also in the room is CAO2 and CAO3, and we are speaking with secret witness #1. For the record we are recording this because our entire review team is not able to be at this interview, and we want to talk with you about what happened on October 8th of 2014 if that's alright.

W1: Sure.

CAO: Can you tell us what you were doing earlier in that day?

W1: I finished work and I went to work out. And I was on the way home.

CAO: Alright. And when you were on the way home were you – how were you getting from working out to home?

W1: I was biking. On a bicycle not a motorcycle.

CAO: Okay, and as you were riding your bicycle did something unusual happen that caught your attention.

W1: Yes, and so perhaps not the smartest thing to do, I was wearing my headphones and talking to my brother at the time, as I was biking. And what grabbed my attention is that I heard popping sounds that were not very well distinguished, but they were, they seemed to be coming ahead of me. If I could triangulate the location, ahead and to the left. And that's when I looked in that direction.

CAO: Okay and where were you physically, like where was you bike located, on which street going which direction?

W1: My bike was located on Klemm Street, between DeTonty and Shaw Blvd. facing south. Probably about half way the street, maybe I would say, more like, farther up the street, closer to Shaw than to DeTonty.

CAO: Okay, and it's at that point when you believe you heard gun shots ahead of you and off to your left?

W1: I heard popping sounds. I'm not sure about gun shots. But at that point I looked because I thought it was either my head phones on the left side of my ear or something else, and that's why I

looked to the front and to the left to where I did see that there was shooting. And yes, at that point I did recognize those initial sounds to be gun shots.

CAO: And what is the first thing that you saw that alerted you that was a shooting?

W1: There was a person that was running towards the west on Shaw, the pedestrian side, which is actually on the south side of the street. Running up one of the lawns of the houses, and pointing a gun forward.

CAO: Can you describe that person?

W1: That person was probably in his late, perhaps late to early – late 30's early 40's, a white – or Caucasian male, wearing a uniform.

CAO: Okay. And could you see a gun in his hand?

W1: Yes.

CAO: And I just assumed it was a male, was it a male?

W1: It was a male.

CAO: Which hand did you see the gun in?

W1: I think he was holding it with both hands.

CAO: Both hands. And you said the gun was pointing forward?

W1: Yes.

CAO: Was it pointing in the direction of anyone – that you could see?

W1: I could not see anybody at that point. But it was pointing kind of – I would say southwest direction. Kind of southwest.

CAO: Okay, and if you could orient me a little bit, is pointing towards southwest, is that toward building structures, is that towards the street?

W1: It was pointing towards one of the building structures. The last house on Shaw Blvd. on the south side of Shaw Blvd. and Klemm Street.

CAO: Was that person saying anything?

W1: Not at that time.

CAO: What's the next thing that you saw or heard?

W1: I saw 2 gun shots, I think, fired from the person wearing the uniform.

CAO: And then after that?

W1: And after that I saw three gun shots. That were fired from a level below a standing individual between the 2 houses that I just described. The last house on the south side of Shaw and Klemm, and

the house next to it going east. This was probably at – I can't exactly tell the height, it was dark and there I could not see the individual, I just saw the spark of the muzzle or the fire.

CAO: Okay.

W1: There were 3 shots.

CAO: You saw sparks from 2 different weapons?

W1: Yes.

CAO: Okay, and did they sound similar or different in any way?

W1: They did sound different.

CAO: Is there a way that you feel like you could describe them?

W1: It's hard, I'm not a musician and I was wearing my ear buds, so the only thing – that's why I initially described it as popping sound. I believe that the – the gun shots from the person with the uniform were of a higher pitch than the gun shots fired from the person who was between the buildings.

CAO: After the 3 shots from between the buildings, what did you see or hear?

W1: At – the person with the uniform shot multiple times.

CAO: Did you see or hear any additional shots from between the buildings?

W1: No.

CAO: About how many more shots would you say you could distinguish from the officer – person in uniform?

W1: It's hard to say, but I think it was – I'm pretty sure it was the remainder of his magazine.

CAO: And so, could you count a number or did you just – it stopped after many?

W1: It was a very rapid sequence of fire – gun fire that culminated with him finishing his magazine, so there were at least 5, but more for sure.

CAO: And during the course of the shooting did you hear either the man in uniform or the person between the buildings saying anything?

W1: All of this transpired probably in total of 2 seconds – and so I don't think there was anything spoken at that time. The person in uniform leaned against the wall of the building – the second – I think it was the second building from the most westward side of Shaw and next to Klemm Street, and reloaded his gun. At that point there were several people on the other side of the street and one was on the same side of the street, pedestrian walk, that were yelling, "You shot him", and started to come closer to the person in uniform, at which point he stated – to move back, I don't exactly remember the words.

CAO: And at that point as far as your location, were you closer to the intersection of Klemm and Shaw than when you first heard the pops?

W1: I – I probably – I would say that I was either right at the intersection or a few feet still north of there.

CAO: And the people who were out on the street, where were they located?

W1: I can't say exactly how many there were, there were either 3 or 4 I believe, there was one that was – There were 2 at least I think on the north side of the street on Shaw. There were several – there was one person also down the street on Shaw – I think he was on the same side of the sidewalk as the shooting, so on the south side. And I think there was another person that was – that came maybe slightly later from the west side of Klemm or near Klemm Street, and at that point also there was several people that came out from the little mini mart.

CAO: From the market on the corner?

W1: Um-hum.

CAO: Did you get the impression that the people who were on the street were associated with each other? Could you tell at all?

W1: I – I can't tell. I'm sure they were people who live there.

CAO: Okay, and did you get the impression that the people who were on the street – the group of 3 or 4 that you saw, that they were acquainted with either of the people shooting?

W1: I believe so. Based on what they were saying, one could imagine or assume that that was the case, because he said, they said "He shot him. He shot him." And it seemed like they, they knew each other.

CAO: After you saw the man in uniform reload his gun, did he shoot anymore shots?

W1: No.

CAO: Did he ever point the gun toward anyone other than the man between the buildings?

W1: Yes.

CAO: And when did he do that?

W1: When I think what happened was there were several of the people I just mentioned, that were coming towards him, he reloaded, pointed the gun at them, and said, "Stay back".

CK: Did he fire any shots at that point? Or thereafter?

W1: Not that I saw.

CAO: Okay, so were the only shots that he fired toward that gangway – where that other shooter was?

W1: Yes.

CAO: Okay.

W1: That I saw, once again.

CAO: Anyone who you saw out that night, when you were on your way, on your bicycle, did you recognize them from anywhere else?

W1: At the time I did not recognize anybody except for perhaps the shop owner that came out.

CAO: The shop owner?

W1: Um-hum.

CAO: Is that a store that you are familiar with?

W1: I have been there maybe a couple of times.

CAO: Okay. And I believe you have talked to the police about this?

W1: Yes.

CAO: Is that fair to say? And who else have you spoken with about this?

W1: My girlfriend, who was at the house at the time.

CAO: Your brother who you were on the phone with – did you stay on the phone with him through the entire thing?

W1: No, I hung up on him.

CAO: At what point did you hang up?

W1: As soon as I heard the popping and I realized there was shooting I said I need to hang up, and I hung up.

CAO: Okay, and did you tell him what happened?

W1: Subsequently, yes.

CAO: Okay.

W1: Because he was worried.

CAO: Do you all have any other questions?

CAO2: I just want to – I don't want to assume anything so I want to clarify something that you probably have already clarified, but I just want to make sure for my own satisfaction. The expression, "I saw gun shots," you kind of used that phrase – I think I know what you mean by that, but can you explain what you mean by you – you -- both the man in the uniform and man, the person or individual between the gangway – What do you mean when you use the phrase "I saw gun shots"?

W1: As I mentioned I heard and I saw gun shots. And some of those are related. In other words I saw and I heard the gun shots associated in time.

CAO2: Okay.

W1: The other ones I heard – I did not see the gun shots.

CAO2: Okay, and so, and by seeing gun shots I believe you referred to a muzzle flash, is that what you called it?

W1: Yes.

CAO2: Okay, and at this - when you saw muzzle flashes you could also – were you also able to hear what sounded like gun shots?

W1: Yes.

CAO2: Okay. And did the gun shots that you saw were those – did those sound similar to the popping that you heard earlier?

W1: That I could not tell.

CAO2: Okay. Alright. Fair enough. Grand total, how many different individuals do you believe you saw firing a weapon that night?

W1: That I saw?

CAO2: That you saw.

W1: Two.

CAO2: Okay. Alright. And prior to seeing the individual in the uniform and the individual between the gangway with the muzzle flashes, you had only – prior to seeing – actually seeing and hearing the gun shots being fired at that point, you – the, the sounds you heard earlier do you believe they were gun shots or you're – you're certain they were gunshots?

W1: Um – and that's a good question. I mean, I think that what I heard was popping noises.

CAO2: Um-hum.

W1: And your brain, or one's brain can definitely associate the situation and what had transpired subsequently with the belief that these were gun shots. When you're talking on the phone and your attention is elsewhere I can only tell you that they were popping sounds. I presume that they were related to the original thing ... that any – that they came from the same location, so I would think that they were gun shots.

CAO2: Okay, and that makes total sense, because like I said, I didn't want to assume anything. That's what I wanted to clear up. That's all.

CAO: Sorry, lost my train of thought. How long did you stay at the scene?

W1: Not long at all. I saw what I just described, and then I was – I got off my bike. I initially went a little west on the north side of Shaw past Klemm towards Tower Grove Blvd., to kind of go away from

the scene, especially since there were other people and there was nobody, no police presence or anything at that time. Within probably 30 seconds to not even a minute, there was an undercover police car with the sirens on and a light on, but not otherwise – with no signs of police that came from the – on Shaw going east, so at that point there was a lot of other cops or police cars that were coming from the east of Shaw towards west, so kind of coming, converging on the same location. At which point I started – and things kind of quieted down, there was a lot of people who came out subsequently to look at what happened and I started walking back towards my house.

CAO: Okay, were you there when any other police officers approached the man in uniform or the body in the gangway?

W1: Ahh – that I do not remember. I was talking to my girlfriend to stay at home so I kind of ...

CAO: Were you talking with her – speaking with her on the phone?

W1: Um-hum.

CAO: Did you see or hear any other police officers say anything when they arrived?

W1: No.

CAO3: Between the time that you heard the initial popping sounds when you were on the phone, kind of interrupted your phone call, and the time that you – the gun shots, you saw the gun shots exchanged on the front of that home, how long was that? Between the initial popping sound and the end of the gun fire, when he unloaded, when he re-loaded?

W1: It was a very short time. I think the whole sequence of events was several seconds. Of course when something like this is happening, time is stretched tremendously but I still believe it was – the whole thing transpired in less than a few seconds.

CAO2: I have nothing further.

CAO: I don't think I do either. Do you CAO3?

CAO3: No.

CAO: Thank you.

(Interview ends)