

Callaway County Prosecuting Attorney

Benjamin J. Miller

5 East 2nd Street, Fulton, Missouri 65251 - Telephone: 573-642-0714 - Facsimile: 573-642-5725

Assistant Prosecuting Attorneys

Sandra J. Colhour Brittany J. Duke Rory V. Clay H. Keir McIntosh

MEMORANDUM

TO: Austin Kings and Nathan Shinkle, Missouri State Highway Patrol
AGENCY REPORT: 230419990
REVIEWING PA: Benjamin J Miller
DATE: February 7, 2024

RE: Decision in officer involved shooting on August 4th, 2023, at the Landing Apartment Complex in Columbia, Missouri.

Last year, I was appointed Special Prosecutor to review the officer-involved shooting that occurred on August 4, 2023, at the Landing Apartment Complex in Columbia, Missouri. The incident involved officers from the Columbia Police Department (CPD) who responded to a 911 call from a suicidal subject. During the initial contact, officers spoke with the subject and resolved the situation without incident after being told by the subject that he did not want to hurt himself or anyone else.

Later that same day, CPD officers responded back to the Landing Apartment Complex after the subject again called 911 asking for the officers to return. This time, the subject was armed with a handgun. During this second contact, the subject discharged his firearm approximately 8-10 times both in the air and in the direction of the officers, striking their patrol cars. He also made threats to shoot the officers if they did not shoot him. Despite the officers' repeated attempts at de-escalation, the subject persisted in his actions and ultimately pointed the firearm directly at CPD officers while telling them it was loaded. In response to these actions, the officers deployed lethal force to protect both themselves and nearby citizens. Officers immediately attempted to provide life-saving measures to the subject, but the subject died on scene. Officers were able to verify that the firearm the subject had pointed at them was still loaded.

After a thorough review of the incident and considering all available evidence, I have decided not to file charges against the CPD officers who discharged their firearms, leading to the death of the subject. My decision is based on the following reasons:

1. **Imminent threat to public safety:** The subject told officers his firearm was loaded, pointed it at them, and threatened to fire at the officers in the presence of civilians. This presented an immediate threat to public safety. Under such circumstances, the use of lethal force by the officers was authorized to protect both citizens and the other officers who were present. (*563.031, RSMo. and 563.046, RSMo.*)
2. **Efforts to de-escalate:** Prior to the use of lethal force, the officers made multiple attempts to de-escalate the situation. Eyewitness accounts confirm that the officers maintained a firm and professional demeanor in their efforts to persuade the subject to surrender his weapon. It was only when the subject raised his gun towards the officers,

explicitly indicating it was loaded, that they resorted to firing. At no point was their conduct reckless or negligent as contemplated by the statutes governing the offenses of manslaughter. (565.027, RSMo. and 565.024, RSMo.)

3. **Reasonable conduct based upon totality of circumstances:** Given the totality of the circumstances, it was reasonable for the officers to conclude that further de-escalation attempts would pose a significant risk to public safety.

My decision is based on an exhaustive review of all the facts. The actions of the CPD officers were in compliance with the legal standards governing the use of lethal force. I recognize the gravity of this incident and extend my deepest sympathies to all those affected by it.

Thank you,

Ben

Benjamin J. Miller
Prosecuting Attorney
Callaway County, Missouri