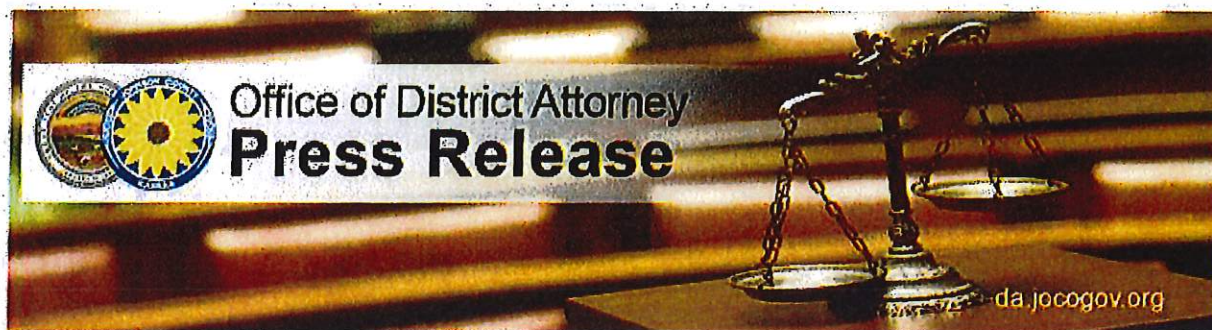




MEDIA FACT SHEET- OFFICER INVOLVED SHOOTING

From: Steve Howe
(Olathe, KS)

Date: April 19, 2019

District Attorney Steve Howe announces that his office has completed a review of the March 1, 2019 officer involved shooting that occurred at 4631 W. 62nd St. in Fairway, Kansas, which is across the street from Highlands Elementary School. It is the determination of the District Attorney that the officers' use of force was justified under Kansas law. Therefore, no criminal action will be taken against the officers.

SUMMARY OF FACTS AND FINDINGS

Highlands Elementary School (Shawnee Mission School District) is located on Roe Boulevard near 62nd Street in Mission, Johnson County Kansas.

On 3/1/19, a Mission Kansas police officer was at the school teaching DARE.

At approximately 1330 hours, the officer was summoned to the playground. A staff member told the officer that several children and teachers reported hearing gunshots while they were playing outside. The officer walked around the playground but found nothing of concern. While he was outside, the school principal called him and asked him to report to a second floor classroom.

The officer entered the classroom and noticed right away that it was damaged: the east window had what appeared to be a bullet hole in it, and there was glass and a bullet on the floor. None of these things had been present a mere hour or two earlier when the officer had taught DARE in the same classroom. No one had been inside when the window was shot, and no one at the school was hurt. A decision was made to dismiss students early due to the apparent shooting. The officer asked for assistance in

investigating this crime and for security during dismissal of the school children. This dismissal continued to occur as law enforcement investigated the incident.

At approximately 1445 hours, the Mission Officer received a call from a Johnson County Sheriff's deputy. The deputy had heard the radio traffic about the shooting at the school and told the Mission Officer he had information that may be relevant to the shooting. He reported that on the previous day, he had been parked across the street from Highlands grade school on 62nd Street, in Fairway. The resident of 4631 W. 62nd street, later identified as Dylan RUFFIN was seen shooting an airsoft pellet gun at a passing vehicle. The Deputy showed his badge to Ruffin, but did not approach him. The deputy believed that Ruffin fired a pellet at his undercover vehicle. As the Deputy left the area, Ruffin pointed a weapon at the police vehicle. The deputy notified the Fairway PD of this incident. A Fairway officer later made contact with Ruffin, who said that he was shooting at squirrels and road signs with his airsoft because he was bored. Ruffin denied intentionally shooting at or pointing his weapon at any law enforcement officer. Ruffin was cited for unlawful discharge of a pellet gun in the city limits and the airsoft pellet gun was seized.

After receiving this information, officers attempted to contact the resident of 4631 W. 62nd Street, but no one answered the door. In addition to the apparent bullet damage to the second story classroom at Highlands, police officers at the scene found a van parked in the east lot of the school that had shattered windows, consistent with bullet damage.

Officers then began discussing the next course of action as investigators processed evidence at the school. At approximately 1511 hours, officers were told that there were two 911 "hang-up" calls from 4631 W. 62nd street. A Fairway officer and several Mission police officers then approached the residence. When the group arrived at the house, they were met by Ruffin's mother. She told the officers that Ruffin was inside and he had a gun, but it was not loaded. During the conversation, which took place on the front porch of the house, the door slammed from the inside. Officers believed that they now had a barricaded subject, and escorted Ruffin's mother across the street to safety. Officers decided to move away from the front of the house to safer positions. They told other citizens in the area to take cover and move away from the house.

Officers then began ordering Ruffin to come out of the house with his hands up. Soon thereafter, Ruffin stepped out of the front door and pointed a handgun with an extended magazine towards multiple officers. Two Mission and one Fairway officer then fired their weapons at Ruffin. He was hit, and he was subsequently taken into custody.

Each officer who fired shots believed their life was in danger and fired their weapons to protect themselves and other individuals in the immediate area. Ruffin was treated and released to the jail, where he awaits disposition of the case filed against him for these events, 19CR584.

Ruffin's mother later told officers that Ruffin had told her in the past that he wanted to get in a gun fight with police so they could kill him. She told police Ruffin said he "wanted to die" earlier that day. She had been arguing with Ruffin just before the police knocked on her door.

Officers found what appeared to be bullet holes on the second story exterior wall of Ruffin's residence, facing Highland Elementary School. During the execution of a search warrant, officers saw multiple apparent bullet holes on the west wall of a second story bedroom, which is in the direction of Highland Elementary School.

Analysis

Police were lawfully at 4631 W. 62nd Street

Police had a duty to respond to the 911 hang-up calls at Ruffin's residence. By the time they did, and particularly after Ruffin's mother told them he had a gun, they had developed probable cause that someone inside 4631 W. 62nd Street had fired the bullets that hit the van and the school.

At the time that the shooting occurred, police were in the process of trying to get Ruffin outside to detain and/or arrest him. Police also knew of his encounter with a sheriff's deputy the day before. Police were authorized to be at the scene and had more than enough probable cause to detain/arrest Dylan Ruffin.

The use of deadly force was clearly justified in this instance

The resolution of this incident is governed by K.S.A. 21-5227, **Use of Force; Law Enforcement Officer Making Arrest.:**

A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance

or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

The facts of this incident also suggest invocation of *K.S.A. 21-5222, Defense of a Person*. The officers responding to the 911 hang-up at Ruffin's home were protected by Kansas law just like any other citizen who was lawfully on the property:

a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force.

(b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

An officer who is making a lawful arrest has no "duty to retreat." He may use any force which is reasonably necessary to complete the arrest. An officer may use *deadly force* when he reasonably believes that it is necessary to prevent death or great bodily harm to himself or another.

When Dylan Ruffin slammed the door and became a barricaded subject, officers had probable cause to believe that he was the one who fired a gun toward Highlands Elementary School—a felony crime. Minutes after they began to order Ruffin out of the house, he emerged, armed, and began pointing his gun toward police officers.

For citizens not making a "lawful arrest", Kansas law requires a two-step analysis in any deadly-force self-defense claim. The claimant must have an *actual (subjective)* belief that using deadly force was necessary to prevent imminent death or great bodily harm to the claimant or someone else. That belief must be *reasonable (objective)*. See *State v. McCullough*, 293 Kan. 970, 270 P.3d 1142 (2015).

Under the totality of the circumstances, it was reasonable for the involved officers to conclude that it was necessary to shoot Dylan Ruffin in order to stop an imminent threat to the lives of everyone in Ruffin's vicinity, including them. This use of deadly force was consistent with the actions of reasonable police officers.

Therefore, it is my conclusion that the use of deadly force by the three officers in question was justified as defense of self or others under Kansas law.
