

# Utah County Attorney

## Criminal Division



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December 16, 2015

Chief Steve Adams  
Spanish Fork City Police Department  
789 West Center Street  
Spanish Fork, UT 84660

Re: August 28, 2015, Officer Involved Shooting of William Evans

Dear Chief Adams:

As you know, pursuant to Utah Code Section 17-18a-401, I am charged and authorized to "conduct, on behalf of the state, all prosecutions for a public offense committed within [the] county." Pursuant to Utah Code Sections 26-4-6, -7 and -21, I investigate Utah County deaths that occur, among other reasons, as a result of violence, gunshot, or accident. I am to "determine if the decedent died by unlawful means" and I am to "determine if criminal prosecution shall be instituted." Additionally, pursuant to Section III(A)(11)(c)(3) of the Utah County Officer Involved Incident Protocol (the "Protocol"), I will, after the completion of a criminal investigation involving an officer's "intentional or accidental use of any other dangerous or deadly weapon against another person," "analyze the facts of the incident as well as the relevant law to determine if criminal laws have been broken." See also Protocol Sections I(A)(1) and (2). If I find the officer has violated criminal laws, I am to "prosecute as appropriate or arrange for a special prosecutor." Protocol Section III(A)(11)(c)(3).

The Utah County Law Enforcement Officer Involved Incident Protocol Task Force has concluded its investigation involving the August 28, 2015 shooting of Mr. William Evans by Spanish Fork City Police Officer Lance Rudd. After reviewing the results of that investigation and the pertinent statutes and case law, I find that Officer Rudd was legally justified in his use of deadly force against Mr. Evans. Therefore, this office will not institute a criminal prosecution against Officer Rudd.

The following is a brief factual summary of what I believe occurred and a short analysis of how I arrived at my decision.

## FACTS

On August 28, 2015, at approximately 2:53 p.m., Mr. Russell Evans ("Russell") contacted the Utah Valley Dispatch Center to request a welfare check on his brother, William Evans ("William"). Russell informed dispatch that he had received a call from his and William's mother, Ms. Debbie Evans ("Debbie"), because William had told Debbie he was suicidal. Russell stated he did not know exactly where William was but thought he might be at the home of his girlfriend, Kaitlyn Wilson.

Spanish Fork City Police Officers made contact with Ms. Wilson at her residence located at 288 East Center Street in Spanish Fork. Ms. Wilson was very evasive in her responses to officers about what was happening and where William was located.

At 3:12 p.m., Debbie called dispatch and advised that her son might be in possession of a handgun. Ms. Wilson told the officers on scene that the handgun might be in her car. Officers searched Ms. Wilson's residence for William and then searched her car for the handgun. The officers did not locate either William or the handgun.

Debbie told dispatch that she had recently spoken with William via phone and he wanted to know why police officers were at Ms. Wilson's home. Debbie surmised that William was close enough to Ms. Wilson's home that he could see the police officers.

At 3:25 p.m., after Spanish Fork Police Officers had searched and not located the handgun, they expanded their search for William.

Ms. Wilson had previously informed the officers that William had taken her (Ms. Wilson's) cell phone with him. Therefore, at 3:26 p.m., officers initiated a "ping" on Ms. Wilson's cell phone. The ping indicated that William was within about 900 meters of 303 North 300 East in Spanish Fork. A second ping of the cell phone showed that William was in the immediate vicinity of 55 South 300 East.

During this time, Spanish Fork Police Officer Lance Rudd was one of the officers actively looking for William Evans. Officer Rudd was on duty, wearing his patrol uniform, driving a marked Spanish Fork Police patrol car, and was driving in the area of Spanish Fork Center Street. As Officer Rudd drove through an alley on the South side of the LDS Church located at approximately 55 South and 300 East Center Street, he observed a person laying down in the northwest corner of an alcove of the Church building. (This person was later determined to be William.) Officer Rudd noted that this person was wearing clothing matching the description of William, the person's hands were underneath him, and he had a bag or backpack under his head. Officer Rudd had previously been notified by dispatch that William was possibly armed and might be suicidal.

Officer Rudd stopped his car and saw William move his right arm toward the bag. Officer Rudd quickly got out of his car and moved a couple of steps towards William. Because dispatch had informed officers that Williams may be armed, and because William was reaching into his bag, Officer Rudd yelled at least twice to William: "Show me your hands!" and William did not comply.

Officer Rudd observed William as he started to stand from his lying down position. As William started to rise, Officer Rudd saw a gun in William's right hand being removed from a black holster. Officer Rudd yelled, "Drop it! Drop it!" William, nonetheless, continued to draw the gun from the holster. Officer Rudd then fired one or more rounds at William. As Officer

Rudd fired, William continued to draw the gun from the holster and point it toward Officer Rudd. Officer Rudd then fired additional rounds at William, firing until William fell to the ground.

Officer Rudd indicated, when interviewed, that after William failed to comply with his commands to "show me your hands" and "drop it," and because he continued to draw his gun from its holster and eventually point it in Officer Rudd's direction, he believed his life was in imminent danger.

At 3:28 p.m., Officer Rudd called out over the radio, "Shots fired." Multiple officers responded to where William and Officer Rudd were located. Officers immediately initiated CPR and requested an ambulance. Spanish Fork City Emergency Medical Services arrived quickly but by 3:39 p.m., had determined that William was deceased. The Utah State Medical Examiner later determined that William died as a result of multiple gunshot wounds.

William had in his possession a Ruger .22 magnum caliber revolver. It was loaded but the cartridges were of a type used for pest control. It does not appear that William fired any rounds from the revolver.

Present in this case are a few facts tangential to my findings, but important to note. First, it is apparent that William was probably intending to commit suicide, whether through drug overdose or another means. During a 3:14 p.m. phone call with his mother wherein she asked William to promise he would not kill himself "today," he told her that he couldn't promise that. In fact, he told her in that phone call: "If the cops come for me, there's going to be a shootout." Additionally, in the days prior to this incident, William told his mother he would rather die than go back to jail.

Second, it is apparent that William was not in a "right" state of mind. His girlfriend, Ms. Wilson, believed he was presently undergoing an episode of a previously diagnosed mental illness. While speaking with his mother on the phone immediately prior to the shooting, William apparently had slurred speech, was talking slowly, and seemed to have trouble paying attention. During his phone call with his mother it also appears he may have been actively consuming heroin. The Medical Examiner found Williams had "acute mixed drug intoxication" with evidence of alprazolam, cocaine, codeine, methamphetamine, amphetamine, morphine and THC in William's bodily fluids.

Finally, I note that while Officer Rudd was equipped with a body worn camera, that camera was not activated during the incident. Officer Rudd indicated that because the incident occurred so rapidly, he didn't think to activate his camera. (Note that Spanish Fork City Police Department policy allows officers to disregard the activation of cameras when the officer's life is in immediate danger due to a rapidly evolving incident.)

## LAW

The pertinent sections of law are Utah Code Sections 76-2-402 and -404. Section 76-2-404 states:

(1) A peace officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when: . . . (c) the officer reasonably believes that the use of

deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

Section 76-2-404(2) also states that, “[i]f feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).” Similarly, Utah Code Section 76-2-402(1) states:

A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that force is necessary to defend himself or a third person against such other's imminent use of unlawful force. However, that person is justified in using force intended or likely to cause death or serious bodily injury only if he or she reasonably believes that force is necessary to prevent death or serious bodily injury to himself or a third person as a result of the other's imminent use of unlawful force, or to prevent the commission of a forcible felony.

And 76-2-402(5) states:

In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors: (a) the nature of the danger; (b) the immediacy of the danger; (c) the probability that the unlawful force would result in death or serious bodily injury; (d) the other's prior violent acts or violent propensities; and (e) any patterns of abuse or violence in the parties' relationship.

## ANALYSIS

Officer Rudd was justified in using deadly force against William Evans if he reasonably believed "that the use of deadly force [was] necessary to prevent death or serious bodily injury to the officer or another person" or he reasonably believed that "force [was] necessary to defend himself or a third person against such other's imminent use of unlawful force."

As noted above, Officer Rudd was searching for William in order to check on his welfare. When Officer Rudd found William at the LDS Church building on 300 East, William, despite commands to show his hands, reached into his backpack and withdrew a handgun. Despite commands to drop the gun, William continued to draw it from its holster and point it in the direction of Officer Rudd. In the context of a very rapidly evolving incident, these orders from Officer Rudd to William--to show his hands and drop his gun--comply with the mandate in 76-2-404(2) ("If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c)").

Notwithstanding these commands, William continued to draw and then point his gun toward Officer Rudd. Officer Rudd immediately shot William because Officer Rudd believed his use of deadly force was necessary to prevent death or serious bodily injury to himself. Officer Rudd also believed that the danger posed by William, aiming toward him what appeared to be a handgun, posed an immediate danger that was highly probable to cause death or serious bodily injury. See Section 76-2-402(5).

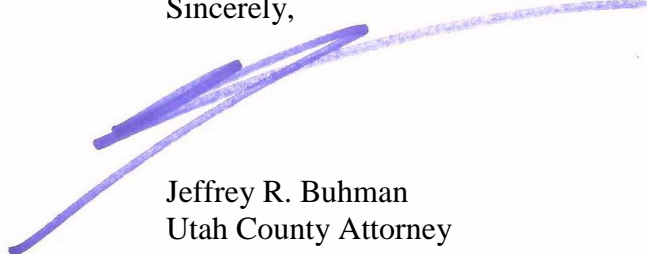
Because William drew and pointed a handgun at a police officer after ignoring multiple commands, I find that Officer Rudd's belief that William intended to use imminent and unlawful deadly force against him was reasonable and justified. I further find that Officer Rudd's use of deadly force was reasonable and necessary "to prevent death or serious bodily injury to the officer or another person" and was "necessary to prevent death or serious bodily injury to himself or a third person as a result of the other's imminent use of unlawful force." See Sections 76-2-402(1) and -404(1).

### **CONCLUSION**

For reasons stated above, I conclude that Spanish Fork City Police Officer Lance Rudd was legally justified under Utah Code Sections 76-2-402 and -404 in his use of deadly force against Mr. William Evans. Pursuant to Utah Code Section 17-18-1 and the Utah County Law Enforcement Officer Involved Incident Protocol, I determine that this office will not institute a criminal prosecution against Officer Rudd.

Please call me if you have any concerns or questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey R. Buhman", is written over a light blue horizontal line. The signature is slanted upwards from left to right.

Jeffrey R. Buhman  
Utah County Attorney

cc: Officer Lance Rudd  
Ms. Debbie Williams

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