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July 2, 2023

Chief Andrew Burton
Saratoga Springs Police Department
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Re: *Police shooting involving Christopher Sallee* (OICI Case No. 23CI02)

This case involves the officer-involved critical incident (OICI) occurring on January 9, 2023, at a residence located at 792 North Canterbury Court, Saratoga Springs, Utah. On that date, Christopher Sallee (D.O.B. 06/08/1972) suffered fatal injuries from shots fired by three Saratoga Springs police officers—Taylor Robertson, Seth Llorens, and Daniel Rapkay. The officers fired on Sallee after he refused their repeated commands to show his hands, get on the ground, and drop the gun, then tried to break into a residence not his own.

An OICI Task Force Investigative Team—led by Lt. Chris Chambers of the Provo Police Department—investigated the incident in accordance with Utah Code § 76-2-408 (2022) and the Utah County OICI Protocol. On March 17, 2023, the OICI case officer—Cameron Nelson of Provo Police Department—submitted the results of the investigation to the Utah County Attorney, Jeffrey S. Gray.

After a comprehensive review of the OICI investigation, I have concluded that Officers Taylor Robertson, Seth Llorens, and Daniel Rapkay were legally justified in using deadly force. Accordingly, no criminal charges will be filed against them. For the same reasons, I have concluded that the officers' use of deadly force did not violate Sallee's constitutional right against unreasonable seizures.

* * *

Under Utah law, a police officer is justified in the use of deadly force when that officer “reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect.” Utah Code § 76-2-404(2)(c) (2022). Under those circumstances, an officer's legally justified conduct is a complete “defense to prosecution for any [criminal] offense.” Utah Code § 76-2-401(1)(a) (2022). Based on the evidence presented, that is the case here. Similarly, the officers' use of deadly force did not violate Sallee's Fourth Amendment right against unreasonable seizures because, based on those same facts, the officers had “probable cause to believe that [Sallee] pose[d] a threat of serious physical harm, either to the officer[s] or to others.” *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).



Contextual Background

Just before 11:15 p.m. on January 9, 2023, a Lehi City canine handler (“K9 officer”) made a traffic stop of a white GMC Yukon XL (“SUV”) in front of Lehi Roller Mills. Sallee, the driver of the SUV, handed the officer an Idaho identification card, but no driver’s license, registration, or proof of insurance. After briefly asking Sallee about his travels, the K9 officer deployed his drug dog around the outside of Sallee’s SUV. The dog alerted to the presence of narcotics. The K9 officer then put his dog back in the police cruiser, approached the SUV’s driver’s side door, and asked Sallee additional questions about his travels that day. While Sallee answered those questions, a backup officer apparently noticed that the SUV’s parking lights were not on. The backup officer opened Sallee’s front passenger-side door and told Sallee to “put it back in park.” Instead, Sallee sped off. With sirens and lights activated, Lehi City police officers pursued Sallee until he turned north onto Redwood Road from Pioneer Crossing, leaving Lehi City limits.

Saratoga Springs police officers picked up the pursuit after Sallee fled northbound on Redwood Road. At one point or another, Officers Llorens, Robertson, and Rapkay (“subject officers”) joined that pursuit. Because the three subject officers did not make statements following the shooting, it is unclear whether, or to what extent, they knew the circumstances that precipitated Sallee’s flight from police. Accordingly, those circumstances are not relevant to a determination as to whether the three officers were justified in later using deadly force. *See State v. Sorbonne*, 2022 UT 5, ¶2, 506 P.3d 545 (holding that justification defense depends on the known “relevant circumstances”). Those facts do, however, provide context to an understanding of what took place on the night of the shooting.

Facts and Circumstances Known to Subject Officers

Based on the radio traffic recorded on body cameras, we know that the subject officers were aware that Sallee had fled Lehi City police after he committed some crime there and that Saratoga Springs police officers had picked up that pursuit. Several minutes into the pursuit, a commanding officer directed officers to terminate their hard pursuit of Sallee and thus, the officers turned off their lights and sirens. Officers nevertheless continued to either look for Sallee or follow him from a distance without lights and sirens—what I will refer to as a “soft pursuit.”¹

After Sallee entered Bluffdale city limits on Redwood Road, just past Camp Williams, he made a U-turn and proceeded southbound back into Saratoga Springs. Officer Robertson spotted Sallee shortly after and picked up the pursuit. After first reporting to dispatch that

¹ The terms, “hard pursuit” and “soft pursuit,” are not terms of art used by law enforcement, but descriptive phrases only. What I refer to as “hard pursuit” is what law enforcement merely refers to as “pursuit,” and it includes the activation of lights and sirens. What I refer to as “soft pursuit,” which does not include the activation of lights and sirens, is not a term of art used in law enforcement; indeed, it is not considered a police “pursuit” at all.



Sallee's two passenger-side tires were flat, Officer Robertson tried to make a stop by re-initiating a hard pursuit of Sallee with lights and sirens activated. As he did, Officer Robertson saw Sallee toss objects out the passenger side window. Just over a minute later—after reporting that Sallee had completely lost his rubber tires—Officer Robertson terminated the hard pursuit. While continuing to throw items out his window, Sallee slowed to 45 miles per hour, then to 35 miles per hour. During Sallee's southbound travel on Redwood Road, officers reported seeing Sallee at times drive in the wrong lane of travel, drive into the path of a semi truck for a time, and narrowly miss a head-on collision at another point.

An officer thereafter reported seeing Sallee turn into the Smith's shopping complex at approximately 689 North Redwood Road. Hoping to detain Sallee there, officers were dispatched to the shopping complex but directed not to re-initiate a hard pursuit. The three subject officers converged on the area. Apparently spotting the officers, Sallee drove out of the Smith's parking lot, nearly hitting a police vehicle in the process. The three subject officers thereafter followed Sallee from a distance but did not activate their lights or sirens. After entering a nearby residential neighborhood east of Redwood Road, Sallee turned north onto Canterbury Court, rounded the circle at the end of the dead-end road, and stopped with the SUV facing south. Then, with the SUV's engine still running, Sallee fled on foot to the northeastern-most house on the circle (a Ring security camera recorded Sallee pounding on the front door repeatedly yelling for help).

Officer Llorens was the first officer to turn onto Canterbury Court and Officers Rapkay and Robertson did so immediately after. As Officer Llorens exited his car, he saw Sallee ascend the porch steps leading to the home's front door. With gun drawn, Officer Llorens quickly advanced towards the front porch steps while repeatedly shouting at Sallee to show his hands. Instead, Sallee turned facing Officer Llorens, descended the front-porch steps with his right hand behind his back, then turned and walked back up the stairs. (Unbeknownst to the officers, Sallee was holding a Ruger SR22 handgun). In the meantime, Officer Robertson—with gun drawn—also approached the foot of the porch steps. As both officers repeatedly yelled at Sallee to show his hands, Sallee first faced the officers then turned facing the house, while intermittently turning his head back toward the officers. As Officer Llorens made his way to the west side of the porch, Officer Rapkay—also with gun drawn—approached the front of the porch to the left of Officer Robertson.

Some fifteen seconds into the officers' verbal encounter with Sallee, they saw the gun he had been concealing from them. On seeing it, the officers repeatedly yelled at him to drop the gun and get on the ground, or he would be shot. But Sallee ignored their clear commands. While crouching down, Sallee looked back at the officers, all the while trying to cover his head with his left arm. Then, turning his gaze to the house, Sallee broke the window on the east side of the door with the butt of his gun—an apparent attempt to enter the home. Upon seeing this, all three officers fired their weapons at Sallee. At least ten rounds hit him, several of which



were fatal. In a span of three to four seconds, Officer Robertson fired eight to nine rounds, Officer Rapkay fired six to seven rounds, and Officer Llorens fired two rounds.

Legal Conclusion

The subject officers' use of deadly force was justified under Utah law and did not violate Sallee's Fourth Amendment rights. Specifically, based on my review of the evidence presented, the officers reasonably believed the use of deadly force was "necessary to prevent death or serious bodily injury" to the officers or occupants inside the home. Utah Code § 76-2-404(2)(c); *accord Garner*, 471 U.S. at 11 (same). Between Officers Llorens and Rapkay, Sallee was told twelve times to show his hands. He never did. Officer Robertson may very well have also demanded that Sallee show his hands, but the evidence thereof is lacking because his body camera was not running during the encounter. And once the subject officers could see that Sallee was in fact holding a gun, Officer Rapkay demanded that he drop the gun three times, also warning him that he would be shot (if he didn't comply). Officer Robertson can be heard demanding that Sallee "drop the gun now!" Again, Sallee never complied. Still, the officers did not fire. Only when Sallee busted the home's front window with the butt of his gun—some seven seconds after their first demand that he drop the gun—did the officers fire at him. They reasonably believed that he not only represented a serious danger to them, but also to any occupants inside the house, justifying their use of deadly force.

The mere fact that Sallee did not appear to point the gun at the subject officers or anyone else does not undermine the reasonableness of their use of deadly force. As the Tenth Circuit Court of Appeals has aptly explained, "[a] reasonable officer need not await the glint of steel [from the barrel of a gun] before taking self-protective action; by then, it is often too late to take safety precautions." *Estate of Larsen v. Murr*, 511 F.3d 1255, 1260 (10th Cir. 2008) (cleaned up).

I also conclude that the subject officers' repeated demands that Sallee show his hands and drop the gun, together with Officer Rapkay's warning that Sallee would be shot if he didn't comply, satisfied their statutory obligation to give, "[i]f feasible, a verbal warning ... prior to any use of deadly force." Utah Code § 77-2-404(3).

Given the foregoing conclusions, this case is now closed.

Respectfully,

A handwritten signature in blue ink that reads "Jeffrey S. Gray".

Jeffrey S. Gray

UTAH COUNTY ATTORNEY

cc: Lt. Chris Chambers, Provo City Police Department