



OFFICE OF THE
SCOTT COUNTY ATTORNEY

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September 14, 2010

Chief Gordon Ramsay
Duluth Police Department
411 West First Street, Room 104
Duluth, MN 55802

RE: ICR 10339646

Dear Chief Ramsay:

As you are aware, on August 5, 2010, an officer of the Duluth Police Department was involved in a shooting resulting in the death of Joseph Anthony Carl. The Minnesota Bureau of Criminal Apprehension (BCA) was contacted to conduct the investigation into this officer involved shooting. The BCA investigation has been completed and the report submitted to this office for review of potential wrongdoing or criminal charges against the officers involved.

The facts which lead up to the shooting started earlier in the evening at approximately 10:41 p.m. when Officers Keast and Tomlin responded to a loud party in the area of 90th Avenue West. It was reported that there was a loud party in progress with a large bonfire. As the officers approached the bonfire, they observed approximately five people. As the officers approached the party, two individuals, one being Joseph Carl, walked towards a truck and threw beer cans underneath it. Joseph Carl blew a .105 on a PBT and Officer Keast gave him a citation for underage consumption of alcohol. Officer Keast determined that he needed to release Joseph Carl to a parent or responsible adult. Joseph Carl stated that his father was home and attempted to call him but no one answered the call. Officer Keast then drove Joseph Carl to his residence. The whole transport to the Carl residence was audio and video recorded and there are no indications that Joseph Carl was in any way agitated or a danger to himself or others. Officer Keast and Joseph Carl engaged in a brief conversation on the way to the residence. Officer Keast stated that Joseph Carl was cooperative throughout his interaction with him up to releasing him to his father. When they arrived at the Carl residence, Joseph's dad answered the door, and Officer Keast informed him that Joseph had been issued an underage consumption ticket. Prior to leaving the residence, Officer Keast stated he walked over to the couch where

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Joseph Carl had sat down, shook his hand, patted him on the shoulder, and told him that it would be okay. Officer Keast stated that Joseph Carl did not appear to be upset, angry, or distraught, while he was at the home. Officer Keast stated that Joseph Carl's father did not display any emotion while he was at the home and he never got the feeling that there was going to be a problem between the two.

At approximately 11:34 p.m., Officer Keast was dispatched to an overdose on Boyd Avenue. Officer Tomlin was just clearing a call on Commonwealth at that time and responded to the overdose to assist Officer Keast. Both officers arrived at the same time at approximately 11:39 p.m. At that time, dispatch requested any available West squad stating a caller advised that the police had just dropped off his son, Joseph Carl, and that he was currently in the house breaking everything with a baseball bat, including televisions and windows. It was reported that no one was in the home with Joseph Carl. It was decided, as Officer Keast had already dealt with Joseph Carl that evening, he would respond to the disturbance while Officer Tomlin handled the attempted suicide. As Officer Keast was responding to the Carl residence, he heard dispatch state they were receiving numerous calls of glass being broken and that the individual had not assaulted anybody yet but that he was out of control. Officer Keast stated that he knew his partner was dealing with the overdose and the only other available squad was coming from downtown so he knew he was going to be alone for a while.

While Officer Keast pulled up near the Carl residence, he observed a male in dark clothing walking on the same side of the street as the Carl residence. As Officer Keast was arriving at the scene, he put his spotlight on and observed Joseph Carl come out from between two vehicles with a baseball bat. Officer Keast described Joseph Carl as having a crazy, almost demonic, look in his eyes, like he wasn't there anymore. Officer Keast had already put his car in park when Joseph Carl starts to run at the car. Officer Keast attempts to put the car in reverse but hit neutral and his engine revs. Officer Keast watches Joseph Carl smash the windshield and he stated that it seemed to him as if Joseph Carl was trying to get through the windshield so he could hit him (Officer Keast) with the bat. Officer Keast stated that he is scared for his life and also knows that there is at least one other person outside in the area. Officer Keast doesn't know if Joseph Carl will continue to come at him with the bat or turn his attention to the other person in the area. Officer Keast gets his squad into reverse and starts to back up and Joseph Carl chases after the squad car and continues to strike it. Officer Keast states that he drew his weapon, while seated and buckled in, and points the weapon at Joseph Carl through the windshield but Joseph Carl continues to hit the squad. Officer Keast is backing up trying not to hit anybody or anything and still keep his eye on Joseph Carl. Officer Keast does hit a car and cannot back up any further. Joseph Carl kept coming at the squad and swung at the passenger side. Officer Keast stated that it was clear to him that Joseph Carl was intent on getting in the squad and killing Officer Keast. Joseph Carl makes his way around to the driver's side of the squad and breaks out the driver's side window just missing striking Officer Keast in the head. Officer Keast states he now knows for sure that Joseph Carl is trying to kill him. Officer Keast states "he cocks back again like he's going to swing through the window at me." Officer Keast is telling Joseph Carl to drop the bat. He does not, and Officer Keast fires one shot. Officer Keast observes Joseph Carl, with the bat still in his hand, grab his chest with his other hand, stagger, finally drop the bat, and then fall himself. Officer Keast then attempts life saving measures by applying pressure to the wound and beginning CPR.

The altercation between Joseph Carl and Officer Keast was captured on Officer Keast's squad video. The video shows Joseph Carl emerging from behind a car at 23:43:06 and charging after Officer Keast's squad with a raised baseball bat and begin smashing the squad's windshield. Officer Keast's engine can be heard revving as he tries to put his squad into reverse. During this time, Joseph Carl strikes the windshield three times with the bat causing the windshield to crack (spider web) but remain intact. While Officer Keast begins to reverse, Joseph Carl continues to strike the squad and hits the hood. Joseph Carl then chases after the squad car while Officer Keast is reversing. While the squad is still reversing, Joseph Carl catches up to the squad and strikes the passenger side, smashing the side mirror, strikes the windshield two more times, and one more strike into the hood before running to the driver's side of the squad. As Joseph Carl runs to the driver's side of the squad, Officer Keast yells "put it down" twice. After the first "put it down" the bat striking the body of the squad can be heard. Officer Keast then orders Joseph Carl a second time to "put it down" and then the driver's side window can be heard being smashed. Officer Keast then fires his weapon. The shot is fired at 23:43:33. The whole altercation takes place over 27 seconds.

During the investigation into the shooting, numerous witnesses were interviewed by the Duluth Police Department and the Minnesota Bureau of Criminal Apprehension. One witness described Joseph Carl as being "in a rage" and "he was just crazy, he was acting crazy" and saying words to the effect of "come get me pig." Another witness states he heard Joseph Carl yelling "come on you fucking pigs, if you want me." Several witnesses heard Joseph Carl say words to the effect of "fucking pig" while chasing the squad car. One witness who had just parked on the street observed Joseph Carl "smashing the hell out of" his dad's car and house and observed Joseph Carl saying "stupid pig," using curse words and saying "really angry stuff." One witness observed Joseph Carl was almost up to the door of his house and when he went running through the yard into the street and went crazy, yelling "come on pigs," "call all your other ones," "I'll take all you fuckers on and take all you guys out," "come on, bring it on fuckers." He was described as being on a rampage and kept repeating "bring it on you fucking pigs," "I'll take all you fuckers on and put every one of you out of your misery." His voice was described as "demonish."

Anthony Carl, Joseph's father, stated that after Officer Keast dropped Joseph off, Joseph became agitated and he tried to defuse the situation. Anthony stated that Joseph went to his bedroom and got a bat so he left the house. Anthony stated he was walking down the street contemplating what to do when he heard the smashing in the house and he decided to call 9-1-1. Anthony observed Joseph smashing his truck with the baseball bat and then saw him yelling and swinging at the squad car with the bat. Anthony was yelling "Joey, Joey, stop, stop please."

The Final Pathologic Diagnoses is that Joseph Carl died of a gunshot wound to the chest with perforation of proximal aorta and exsanguination. The entrance wound is in the left axilla. The bullet passed through the second and third inner space, left chest wall, near the anterior axillary line. Toxicology indicated a blood alcohol content of .115, a urine drug screen positive for THC.

Pursuant to Minnesota Statute Section 609.066, subd. 2:

...the use of deadly force by a peace officer in the line of duty is justified only when necessary:

- 1) to protect the peace officer or another from apparent death or great bodily harm;
- 2) to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- 3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

Officer Keast was dispatched to the location of the shooting and the only information he had was that the juvenile male he had previously dropped off was out of control and smashing things with a baseball bat. Officer Keast arrived at the location and was immediately set upon by Joseph Carl. Joseph Carl immediately attacked the squad car, smashing the windshield, passenger mirror, and hood. Joseph Carl then proceeded to chase the squad car as Officer Keast attempted to reverse out of the situation and put some distance between himself and Joseph Carl. While Officer Keast was attempting to drive his squad in reverse, Joseph Carl continued to strike the side, windshield, and hood of the squad. When Officer Keast struck another vehicle and was no longer able to move, Joseph Carl proceeded to the driver's side of the squad as Officer Keast ordered Joseph Carl to put the bat down. Joseph Carl ignored the Officer's demands and smashed out the driver's side window narrowly missing Officer Keast's head. As Joseph Carl was in the process of swinging at Officer Keast's head again, Officer Keast discharged his weapon and struck Joseph Carl in the chest, right under his left armpit. This is the portion of the body that a right-handed batter, as Joseph Carl was, would be exposed if the person were in the cocked position to swing. Officer Keast stated that Joseph Carl was in the cocked position when he made the decision to shoot. Officer Keast's statement is supported by the location of the shot and the autopsy. Officer Keast's belief that he was in immediate danger of being killed is supported by the squad video of the altercation, the damage to the squad car, and the facts obtained from the witnesses as to what they saw Joseph Carl do and what they heard him saying about the police.

Given the facts of this situation, this office concludes that Officer Keast appropriately utilized the use of deadly force pursuant to Minnesota Statute § 609.066, subd. 2.

Sincerely,

A handwritten signature in blue ink that reads "Pat Ciliberto". The signature is fluid and cursive, with a large initial "P" and "C".

Pat Ciliberto
Scott County Attorney

PC:sdh

cc: Melanie Ford, St. Louis County Attorney
Agent Paul Gherardi, BCA