



Timothy J. McGinty
CUYAHOGA COUNTY PROSECUTOR

October 6, 2015

Calvin D. Williams, Chief of Police
Division of Police – City of Cleveland
1300 Ontario Street
Cleveland, OH 44113

Re: Use of Deadly Force Investigation in re Death of Theodore Johnson
RMS: 2015- 0064438| U.D.F.I.T.: 2015-02

Dear Chief Williams:

After reviewing the Cuyahoga County Sheriff's Use of Deadly Force Investigation into the March 11th, 2015 shooting death of Mr. Theodore Johnson, the Cuyahoga County Prosecutor's Office has concluded that the use of deadly force by Cleveland Division of Police Officers Michael Surtz, John Jarrell, John Lyons, and Timothy Hannon was justified. Evidence also indicates Police Officers Brandon Melbar and David Muniz were present, but did not discharge their firearms.

On the evening of March 11th, 2015, Mr. Johnson and his wife, Juliette Johnson, were at their home located at 6902 Ottawa Avenue in Cleveland. 6902 Ottawa is an upstairs unit of a duplex. Mr. Johnson was drinking and engaged in verbal abuse of Mrs. Johnson throughout the evening. At this point, Mr. Johnson grabbed his firearm and made threats to shoot Mrs. Johnson and their landlady, Ms. Peggy Lee, who lived in the downstairs unit. Mrs. Johnson waited until Mr. Johnson fell asleep and fled the home. Realizing she left her phone, Mrs. Johnson went to the Fourth District Lobby of the Cleveland Division of Police to report the threats.

Mrs. Johnson signed into the visitor's log of the Fourth District and reported Mr. Johnson's actions to officers. At approximately 8:47 p.m., Police Officers David Muniz and John Lyons received a code one (high priority) radio assignment to respond to the Johnson residence. At approximately 8:50 p.m., Officers Muniz, Lyons, Michael Surtz and Timothy Hannon arrived at 6902 Ottawa to assist. Shortly after, they were joined by Officers John Jarrell and Brandon Melbar.

Officers called out and knocked repeatedly on the Johnsons' door to no avail. They then went to the front of the home and knocked on the door of the Johnsons' neighbor, who let them in. The landlady led Officers through her home to the back stairs that led to the second floor, where the Johnsons lived.

After a short conversation, Officers Muniz and Hannon - with body cameras on - headed up the stairs calling out "Police!" As Muniz reached the mid-landing and turned left to continue up the stairs, Mr. Johnson jumped out of his apartment and rapidly fired two shots at Muniz, striking him once in the ballistic vest. The second shot traveled through the side window and entered the wall of a neighboring home.

Officers Muniz and Hannon quickly retreated back down the stairs, and joined the other officers who had taken defensive positions after hearing the shots. Mr. Johnson came back out his door and down the stairs with gun in hand. For one minute and thirty-four tense seconds, Mr. Johnson stood facing the police officers with his gun at his side. He refused to comply with repeated police orders and pleas to drop his gun. He told Officers: "I'm shooting. I'm dying." Officers attempted to negotiate with Mr. Johnson to drop the weapon, including Officer Muniz who told Mr. Johnson, "I know you shot me, but I'm not going to shoot you." Mr. Johnson continued to disobey police orders. It was only when he raised his gun towards the patrolmen that Officers Surtz, Jarrell, Lyons and Hannon fired their weapons.

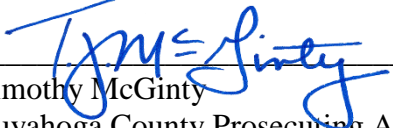
These Officers, confronted with an active shooter, who had already shot and hit Officer Muniz, tried to reason with Mr. Johnson to peacefully resolve the situation. In light of these events, these officers were justified in their use of deadly force because Mr. Johnson posed an immediate and continuing threat to the lives of the Officers and innocent citizens. The shooting was reasonable and necessary. The Officers in fact showed remarkable restraint and went above and beyond their duty to seek a peaceful end to a situation that would likely have been deadly to at least one officer were it not for his ballistic vest.

These Officers are commended for responding with courage, and for heroically fulfilling their duty to protect the public. As the officers had their body cameras on and operating, the evidence is indisputable. The evidence demonstrates Mr. Johnson attempted to murder a police officer and then was bound and determined to be killed by the police. Despite police pleading with him to drop his gun, Mr. Johnson purposely raised it again after being warned of the consequences. The officers were left without a reasonable alternative.

The Grand Jury has been presented with the evidence in this case, declining the opportunity to indict.

This case is closed.

Sincerely,



Timothy McGinty
Cuyahoga County Prosecuting Attorney