



## OFFICE OF THE PROSECUTING ATTORNEY

JEFFREY S. GETTING  
PROSECUTING ATTORNEY  
227 WEST MICHIGAN AVENUE  
KALAMAZOO, MICHIGAN 49007  
PHONE 269/383-8900  
FAX 269/383-0475

### RE: W.D. TRICE JR OFFICER INVOLVED SHOOTING

#### SUMMARY

On Friday, May 21, 2021, shortly before 2:00am, Kalamazoo Department of Public Safety (KDPS) Sgt. Joseph Hutson was on directed patrol in the area of Florence St. and Woodbury Ave, in the City of Kalamazoo. The patrol was in response to a shooting that had taken place in that area at approximately 11:00pm, on May 20, 2021.

While on Florence St., Sgt. Hutson observed what appeared to be a heated confrontation in a front yard. As he approached, he was told that one of the people involved had a gun in his hand. Sgt. Hutson directed his attention to the man with the gun and continued his approach. He saw the gun in the man's hand. Sgt. Hutson gave verbal command to drop the gun. The man failed to comply, instead turning towards Sgt. Hutson, while continuing to hold the gun.

In order to protect himself and the other people present, Sgt. Hutson fired his gun one time, striking the person later identified as W.D. Trice Jr., in the left hip. Mr. Trice survived the shooting.

The gun possessed by Mr. Trice was recovered at the scene. The incident was captured on both in-car video and on the body camera worn by Sgt. Hutson.

#### INJURY RECEIVED

Mr. Trice was provided immediate first aid by Sgt. Hutson and other members of the KDPS until the arrival of Life EMS. Mr. Trice was transported by ambulance to Bronson Methodist Hospital.

Medical personnel at Bronson Hospital treated Mr. Trice for a single gunshot wound to his left hip. The bullet entered through the left anterior hip area. There was no exit wound. There was no evidence of other injury.

Lab results from the hospital showed Mr. Trice to be intoxicated at the time of his admission to the hospital. His bodily alcohol content was reported to be .16%.

Mr. Trice was discharged from Bronson Hospital at 4:30pm on May 21, 2021.

## **W.D. TRICE JR RELEVANT BACKGROUND INFORMATION**

Mr. Trice has multiple prior criminal convictions. These include felony convictions for Controlled Substance Violation, 10/28/1992, and Unarmed Robbery, 10/28/1992, as well as misdemeanor convictions and other arrests.

## **OFFICER INVOLVED**

The only law enforcement officer involved in the shooting was Kalamazoo Department of Public Safety Sgt. Joseph Hutson.

Sgt. Hutson has been employed with the Kalamazoo Department of Public Safety for nine years. He is currently assigned to the Operations Division as a Patrol Supervisor.

Sgt. Hutson has had extensive relevant training during his career. This includes trainings in de-escalation and use of force.

During his career Sgt. Hutson has received over fifteen written commendations and awards for his service to the community.

## **INCIDENT**

On May 21, 2021, Kalamazoo Department of Public Safety Sgt. Joseph Hutson was assigned to directed patrol of the area near Florence St. and Woodbury Ave. The patrol was in response to a shooting that took place three hours earlier in the same area. This area of the city suffers from regular calls for police service related to noise, crowds, fights, drug trafficking, gunfire and other issues.

While on patrol, at approximately 2:00am, Sgt. Hutson observed a heated verbal confrontation between a group of men and women in the front yard of 606 Florence St. He parked his fully marked police car on the road, east of the driveway, and approached the group on foot. Sgt. Hutson was dressed in a police uniform and easily identifiable as an officer. He was alone. As he exited his car he heard a man shouting multiple times that the police were there.

Sgt. Hutson continued to approach the group of people. As he did, a man separated from the group, telling Sgt. Hutson that "He got a gun in his hand."

Sgt. Hutson immediately identified the person with the gun, later identified as W.D. Trice Jr. He drew his gun while giving commands to Mr. Trice to drop the gun. Other people in the group began to run away. Mr. Trice did not drop the gun. Mr. Trice turned towards Sgt. Hutson with the gun still in his hand. Fearing for his safety and for the

safety of the others present, Sgt. Hutson fired his gun. A single shot was fired striking Mr. Trice in the hip.

After the shooting, Sgt. Hutson first seized the gun that Mr. Trice possessed. He then began providing first aid until other officers arrived on the scene to assist. Mr. Trice was transported by Life EMS to a local hospital where he was treated for the gunshot wound and later released.

### **SUBSEQUENT INVESTIGATION**

After the officer involved shooting, the Michigan State Police (MSP) Fifth District were called. They assumed jurisdiction of the scene and began an immediate investigation. This was done at the request of the Kalamazoo Department of Public Safety. The investigation was led by D/F/Lieutenant Chuck Christensen of the MSP 5<sup>th</sup> District. D/F/Lieutenant Christensen has conducted numerous officer involved shooting investigations.

As part of the investigation, Sgt. Hutson's weapon was seized and placed in evidence. Sgt. Hutson was removed from the scene. Personnel from the Michigan State Police Crime Lab in Grand Rapids were called to process the scene.

The investigation conducted by the Michigan State Police, with assistance from the Kalamazoo Department of Public Safety, included documenting the scene, photographing the scene and physical evidence, interviewing all police witnesses, interviewing neighbors, interviewing all other persons who had information relevant to the shooting, seizing all physical evidence from the scene, seizing all video evidence from the scene, and any necessary testing of all evidence seized.

Sgt. Hutson provided a written statement to the Michigan State Police documenting his actions during the event.

Relevant evidence that was seized included Sgt. Hutson's gun, the gun possessed by Mr. Trice, video recording from Sgt. Hutson's car, video recording from camera at the address of the shooting, and body camera evidence from Sgt. Hutson.

The MSP interviewed Silvia Williams shortly after the incident. Ms. Williams lives at 606 Florence. She is the registered owner of the gun possessed by Mr. Trice. Mr. Trice is the father of three of Ms. William's children.

Ms. Williams was noticeably intoxicated at the time of the incident. According to Ms. Williams, she, her two brothers, and Mr. Trice had all been drinking. There was an argument that got so heated that she got her gun in order to make Mr. Trice leave. As Sgt. Hutson arrived, Mr. Trice grabbed the gun away from her. She heard Sgt. Hutson yell "put the gun down" and then heard a shot.

Mr. Trice was interviewed by the MSP while at the hospital. Mr. Trice told them that he had been drinking with Ms. Williams at her house. According to Mr. Trice, Sylvia's brothers were also drinking and using marihuana. They were all arguing. Mr. Trice admitted to having grabbed the gun from Ms. Williams just before he was shot. Trice stated, "As soon as he grabbed it from her, he threw it, and as soon as he grabbed it from her, he got shot. He also stated, "He didn't even know the police were there and doesn't blame the officer because he did grab the gun and threw it."

Review of Sgt. Hutson's body worn camera confirms his description of the incident. As he approaches 606 Florence, a male voice is heard saying "he got a gun at her head." Sgt. Hutson then draws his gun. He can be heard saying "drop it, drop the gun" and then fires a single shot. Sgt. Hutson then can be seen seizing the gun dropped by Mr. Trice and placing it in his patrol car.

The gun possessed by Mr. Trice is a Taurus 9mm semi-automatic. It was equipped with a high capacity magazine capable of holding 33 rounds. The magazine was loaded with 12 9mm rounds. The MSP crime lab examined the gun and found it to be in operable condition.

### **LEGAL ANALYSIS**

By law it is my responsibility as the Kalamazoo County Prosecuting Attorney to review the actions of the officer who fired his weapon in this incident. The purpose of this review is to determine if any criminal charges are warranted against any person involved in the shooting of W.D. Trice Jr. In considering the actions of the officer, I have thoroughly reviewed and taken into consideration the investigation reports provided by the Michigan State Police and the Kalamazoo Department of Public Safety. I have examined every photograph. I have examined the video recordings placed in evidence. I have reviewed the medical records provided by Bronson Hospital. I have been to the location of the shooting in order to form my own impression of the scene. In short, I have thoroughly reviewed all of the evidence in the case.

I have reviewed and considered the law that is applicable to police use of force. In doing so, I have considered decisions authored by the United States Supreme Court, including its most recent opinions regarding police use of deadly force, *Kisela v Hughes*, 584 US \_\_\_, 138 S Ct 1148 (4/2/2018) and *County of Los Angeles v Mendez*, 581 US \_\_\_, 137 S Ct 1539 (5/30/2017), decisions of the Federal Court of Appeals for the 6<sup>th</sup> Circuit, and decisions of the State of Michigan's Supreme Court and Court of Appeals. I have considered the Self Defense and Defense of Others jury instructions provided by the Michigan State Bar for use and consideration of a justification defense at trial.

In Michigan, the law allows the police to use force, including deadly force, in the performance of their job. They may use that degree of force that is reasonable under the circumstances to effectuate an arrest. They may take reasonable action to protect themselves in the course of making an arrest.

What constitutes reasonable force depends on the facts in a particular situation. The reasonableness of the force used must be considered in the light of the circumstances as they appear to the officer at the time he/she acted. A police officer has discretion, within reasonable limits, to determine the amount of force that the circumstances require and is not guilty of any wrongdoing unless she/he abuses that power.

A determination of whether the force used is reasonable under the 4<sup>th</sup> Amendment requires a careful balancing of the intrusion on the person's 4<sup>th</sup> Amendment interest and the opposing governmental interest at stake. Ultimately, the police may use the force that is necessary, including deadly force, if they have sufficient evidence to believe that a suspect poses a threat of serious physical harm to the officer or others.

A police officer has the same rights as a private citizen to use the force that is reasonably necessary to defend themselves or others. A police officer may use deadly force if he/she has a reasonable belief that she/he or others may be killed or seriously injured.

A person accused of a crime, including a police officer, may assert justification, or self-defense, to explain their actions. In Michigan, any person may use that degree of force necessary to defend themselves or others under certain circumstances. To determine whether a person acted in lawful self-defense, their action must be judged according to how the circumstances appeared to them at the time they acted. Deadly force in self-defense is appropriate if a person has an honest and reasonable belief that they were in immediate danger of being killed or seriously injured. A belief of only potential minor injury would not justify killing or seriously injuring another person. If their belief was honest and reasonable, a person can act at once to defend themselves, even if it turns out later that the person was wrong about how much danger they were in.

In determining whether the action was appropriate, all of the surrounding circumstances must be considered including the conditions of the people involved, their relative strength, whether the other person was armed with a dangerous weapon, or had some other means of injuring others, the nature of the other person's attack or threat, and whether the actor knew about any previous violent acts or threats made by the attacker.

Lastly, the actor must have an honest and reasonable belief that what they did was immediately necessary. Under the law, a person may use as much force as they believe is needed at the time to protect themselves.

Ultimately, the actor does not have to prove that they acted in self-defense, instead it is the Prosecution's responsibility to prove beyond a reasonable doubt that the actor did not act in self-defense.

## APPLICATION OF THE LAW

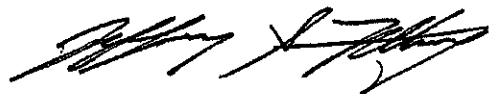
In applying the law to the facts of this particular situation, it is important to do so from the proper perspective. In this case, that perspective is set forth by the United States Supreme Court in *Graham v Connor*, 490 U.S. 386, 109 Supreme Ct. 1865, 18721, 104 L. Ed. 443 (1989). In *Graham*, the court stated "the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...police officers are often forced to make split second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation."

On May 21, 2021, Sgt. Hutson was faced with the tense, uncertain, rapidly evolving circumstances anticipated by the United States Supreme Court. He was patrolling a high crime area. A person had been shot only three hours earlier in the same neighborhood. At 2:00am, he saw a loud confrontational group outside in a front yard. When he approached, alone, he was told that a person had a gun. He saw the man holding the gun. Verbal commands to drop the gun were not successful. Then the man turned toward him still holding the gun in his hand.

The actions of Sgt. Hutson when Mr. Trice turned towards him while armed with a gun must be judged from the "perspective of a reasonable officer on the scene." They cannot be judged from the standpoint of someone who was not involved and who has the "20/20 vision of hindsight." At that moment, in the dark, engaging persons who moments before were involved in a loud confrontation, faced with a man armed with a gun, who refused verbal commands, who turned towards him, any "reasonable officer" would have a honest and reasonable belief that they were in immediate danger of serious injury or death. The action taken by Sgt. Hutson was immediately necessary to protect himself and others from the danger posed by Mr. Trice. His actions may have saved his life and the life of others.

## CONCLUSION

For these reasons, it is the decision of the Kalamazoo County Office of the Prosecuting Attorney that Kalamazoo Department of Public Safety Sgt. Joseph Hutson was justified in his use of force to stop the immediate extreme threat posed by W.D. Trice Jr. As a result, no charges will be filed by this office.



Jeffrey S. Getting  
Kalamazoo County Prosecuting Attorney  
July 28, 2021