



NEWS RELEASE

GREENE COUNTY PROSECUTING ATTORNEY

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March 21, 2016

FOR IMMEDIATE RELEASE

USE OF DEADLY FORCE BY SPRINGFIELD POLICE OFFICERS JUSTIFIED
IN SHOOTING MAN WHO WAS ATTEMPTING TO ESCAPE ARREST
USING A DEADLY WEAPON

SPRINGFIELD, Mo. – Dan Patterson, Greene County Prosecuting Attorney, announced today his finding that the use of deadly force by Springfield Police Sergeant Ryan Russell and Springfield Police Officer Thomas Gross was justified in the November 4, 2015, shooting of Joseph M. Tyndall, 30, of Webb City, Missouri. Mr. Patterson stated, “the officers’ use of deadly force was justified because the officers reasonably believed it was necessary to arrest Tyndall and prevent his escape and because they also reasonably believed that Tyndall was attempting to escape by means of a deadly weapon and because they reasonably believed that Tyndall would otherwise endanger life or inflict serious physical injury unless arrested without delay.”

Attached is a copy of the letter sent to Springfield Police Chief Paul Williams detailing the facts and legal analysis that formed the basis for this conclusion. This matter was submitted to the Greene County Prosecuting Attorney’s Office for review the first week of March, 2016.

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Chief Paul Williams
Springfield Police Department
321 E. Chestnut Expressway
Springfield, Missouri 65802

RE: Justified use of deadly force on November 4, 2015, by Sergeant Ryan Russell and Officer Thomas Gross, SPD #15-44203

Dear Chief Williams,

The shooting of Joseph Tyndall by Springfield Police Sergeant Ryan Russell and Officer Thomas Gross during the course of a moving stand-off that ended at 2000 E. Kearney on November 4, 2015, was a justifiable use of deadly force by law enforcement officers. Their use of deadly force was justified because the officers reasonably believed it was necessary to arrest Tyndall and prevent his escape and because they also reasonably believed that Tyndall was attempting to escape by means of a deadly weapon and because they reasonably believed that Tyndall would otherwise endanger life or inflict serious physical injury unless arrested without delay.

This conclusion was reached after a thorough investigation by the Springfield Police Department's Criminal Investigation Division and a review of that investigation including an examination of the facts in light of applicable Missouri law. This letter sets forth the legal analysis I conducted and sets forth a timeline of events upon which the analysis is based. The sole responsibility of the Prosecuting Attorney in this case is to determine whether the officers committed a criminal act by using deadly force or whether the officers justifiably used deadly force and, therefore, did not commit a criminal violation under the law of this State.

Any circumstance in which a law enforcement officer uses his or her firearm is appropriately the subject of close scrutiny. At the same time, we all recognize that the use of deadly force by a law enforcement officer invites second-guessing of difficult decisions that must be made in a split-second during the most trying of circumstances. The facts of each case must be kept firmly in mind as we judge the reasonableness of an officer's actions. An officer's conduct in these situations cannot be fairly evaluated by hindsight speculations.

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THE LAW

Missouri Revised Statutes Section 563.046 provides that an officer may use deadly force in effecting an arrest when the officer “reasonably believes that such use of deadly force is immediately necessary to effect the arrest and also reasonably believes that the person to be arrested”:

- “Has committed or attempted to commit a felony;” or
- “Is attempting to escape by use of a deadly weapon;” or
- “May otherwise endanger life or inflict serious physical injury unless arrested without delay.”

The test to determine if the officer’s conduct is within this statute is found in the Missouri Approved Criminal Instruction Number 306.14. It states in pertinent part:

A law enforcement officer can lawfully use force to make an arrest or to prevent escape if he is making a lawful arrest or an arrest which he reasonably believes to be lawful. An arrest is lawful if the officer had reasonable grounds to believe that the person being arrested had committed or was committing a crime.

In making a lawful arrest or preventing escape after such an arrest, a law enforcement officer is entitled to use such force as reasonably appears necessary to effect the arrest or prevent the escape.

A law enforcement officer in making an arrest need not retreat or desist from his efforts because of resistance or threatened resistance of the person being arrested. But in making an arrest or preventing escape a law enforcement officer is not entitled to use deadly force, that is, force which he knows will create a substantial risk of causing death or serious physical injury, unless he reasonably believes that the person being arrested is attempting to escape by use of a deadly weapon or that the person may endanger life or inflict serious physical injury unless arrested without delay.

TIMELINE

- October 18, 2015
 - A flat bed semi-truck is stolen from Herman Lumber Company in Joplin, Missouri.
 - The truck is recovered in Tulsa Oklahoma.
 - Joseph Tyndall is arrested by the Oklahoma Highway Patrol after a foot pursuit.
 - A methamphetamine pipe, an empty gun holster and a 9mm magazine are found on Tyndall; and
 - A 9mm pistol is found along the path Tyndall ran.
 - Tyndall denied involvement in the truck theft and said he ran because he had warrants in Missouri.
 - Methamphetamine is located in the truck.

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- October 25, 2015 – A Seacamp LWS .380 pistol is stolen along with other firearms during a commercial burglary of Outdoor Xperience at 2050 S. Campbell Avenue, Springfield, Missouri.
- October 30-31, 2015 – A red 2016 Jeep Cherokee was stolen from Frank Fletcher Auto Group in Joplin, Missouri.
- November 3, 2015 – A Joplin Firefighter, Scott Hubler, reported to the Webb City Police Department that his vehicle had been broken into while parked at his residence overnight and that a duffle bag containing his Joplin Fire Department uniforms had been stolen.
- November 4, 2015
 - Tyndall was driving the red 2016 Jeep Cherokee stolen in Joplin.
 - At approximately 12:41 am, Tyndall was driving east in the inner lane on Kearney Street in Springfield at the intersection with Glenstone Avenue when he had a minor traffic accident striking the rear of a motorcycle that was stopped at the red light. (No one was injured and the motorcycle operator did not drop the stopped motorcycle).
 - After agreeing to exchange insurance information with the motorcycle operator, Tyndall fled the scene in the Jeep Cherokee without exchanging information. It appeared, however, that he was driving with his emergency brake on as his front wheels were spinning excessively for his speed and his rear wheels did not appear to be spinning.
 - Springfield Police Sergeant Ryan Russell was stopped in the outer westbound lane of Kearney Street at Glenstone Avenue. Sergeant Russell heard squealing tires and then saw the red Jeep Cherokee driven by Tyndall make a right hand turn south on to Glenstone from the right eastbound lane rather than using the turn/merge lane.
 - Sergeant Russell followed Tyndall into the America's Best Value parking lot activating his emergency lights and heard someone yell "that's the guy that just rear ended me."
 - Tyndall exited the Jeep Cherokee leaving the door open and began running south along the west side of the building.
 - Sergeant Russell noticed that Tyndall was wearing a thick dark colored coat and dark pants. (These clothes would turn out to be Scott Hubler's stolen Joplin Fire Department uniform).
 - Sergeant Russell pursued Tyndall on foot calling out to stop while identifying himself as a Springfield Police Officer. Sergeant Russell continued the foot pursuit and notified dispatch of the pursuit.
 - Tyndall fell into some bushes near a breezeway at the Inn while running, Sergeant Russell again commanded him to stay on the ground but Tyndall quickly regained his footing and continued running. Sergeant Russell

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contemplated using his TASER but did not do so due to the obstruction provided by the shrubs.

- Sergeant Russell continued to follow Tyndall maintaining his distance as he waited for other officers to arrive.
- As they reached Glenstone Avenue, Tyndall continued south on the sidewalk when he fell again (visible on Officer Harbin's dashcam in vehicle 1318 as he arrives at 12:42:34). Sergeant Russell again ordered Tyndall to stay on the ground and to show his hands. Sergeant Russell closed the distance to about ten feet and was about to use his TASER when Tyndall rolled over and Sergeant Russell observed a small silver handgun in Tyndall's right hand. As Sergeant Russell called out "he's got a gun," Tyndall pointed the gun to his head and told the officers to get back or he would kill himself. Tyndall then walks across Glenstone Avenue with the gun to his head followed by Sergeant Russell and Officer Harbin. (Visible on Officer Harbin's dashcam in vehicle 1318 at 12:42:57 am). After seeing the handgun, both Sergeant Russell and Officer Harbin holstered their TASERS and drew their duty weapons. (Tyndall's handgun would turn out to be the silver Seacamp LWS .380 pistol stolen from Outdoor Xperience on October 25, 2015).
- Tyndall walked eastbound across Glenstone and then southbound in the northbound lanes of Glenstone and then eastbound on Turner Street followed by the Officers. The Officers gave Tyndall multiple commands to put down the gun and told him they just wanted to talk to him.
- A white SUV approached from the east on Turner Street but could not pass through the intersection onto Glenstone because the officers were in the roadway on Glenstone. Tyndall walked up to the vehicle and attempted to open the passenger door (Captured on Officer Lockett's dashcam in vehicle 1306 at 12:43 am). The Officers yelled at the vehicle to leave and it did so. Tyndall continued to repeat that he would kill himself and then began to walk north on the west side of the K-mart parking lot.
- Officer Helms arrives in car number 1478 and he joins the foot pursuit. When he catches up with the other officers, Tyndall can be heard stating, "Get me a phone . . . my mom is dying." (12:44:47 am – Helms dashcam audio) Officers can be heard talking to Tyndall and then continuing to tell him to put the gun down. Tyndall can also be heard stating, "I'm going to do it, come on, let me go, I got court in four days." (12:45:04 on Helms dashcam audio). Tyndall then tells the officers, "I'm trying to be reasonable, please guys, come on, you don't understand" and an officer tells Tyndall "you know we can't just let you go." (12:45:21 am – Helms dashcam audio). Tyndall then tells the officers "You got to or I am going to kill myself," to which an officer responds and then Tyndall states, "No you won't. I tried to work with you guys. Do you know what they did to me? I got set up. Guys you don't understand." (12:45:30 am – Helms dashcam audio). An officer can be heard saying "stop and talk to us" and Tyndall responds "please let me go." (12:45:44 am – Helms dashcam audio) (Note Helms walks out of recording range at approximately 12:46 am).
- Officer Dockins arrived parked his car near the K-mart parking lot and joined

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the other officers on foot walking with Tyndall. The officers and Tyndall can be seen walking northbound in the distance on Officer Dockin's dashcam in vehicle 1474. At approximately 12:49:14 am, the recording picks up the officers telling Tyndall to put the gun down, Tyndall stating he is going to kill himself and then at approximately 12:49:28 am Tyndall telling the officers to kill him and the officers responding they are not going to do that and continuing to tell Tyndall to put the gun down.

- Multiple officers were now on scene (10+) following Tyndall through the parking lot on foot. Tyndall crossed over Kearney Street to the north and into the Walmart parking lot where there were multiple vehicles and citizens near the front door. Tyndall mentions calling his mother and officers tell him he can if he will put the gun down. Officers yelled to the citizens to get back in their vehicles and leave. While Tyndall was walking backwards he approached a truck on the south side of the lot and attempted to open the driver's side door but was unsuccessful. At 12:49:41 am, an unknown officer radioed that Walmart was locking their doors. At one point, Tyndall states, "The sad thing is, if I go back, I ain't going to get out again." (Audio captured on Officer Dockins's dashcam at 12:50:03) Tyndall tells the officers "Get back, get back, unlock the door, don't do it, I'll f****n kill myself" (12:50:20 am – Dockins's dashcam audio).
- Tyndall backed away and then stopped, moving the handgun from his head to his mouth. Tyndall removed the gun from his mouth then put the gun in his mouth and it appeared he tried to pull the trigger. Tyndall then moved the gun out of his mouth, shook it, and fired one round straight up into the air. Tyndall again placed the gun to his right temple and began to walk eastbound backwards away from the officers. Tyndall was then struck by several less lethal bean bag rounds fired by officers but they were not effective in stopping him or causing him to drop the gun. (The bean bag deployments and the indistinguishable shot by Tyndall can be heard on Officer Dockins's dashcam audio at approximately 12:50:30 am). Officers also deployed their TASERS but they also were not effective. (Note by 12:52:00 am, Officer Dockins had traveled out of audio recording range).
- Tyndall turned and continued to walk east across an access road on the east side of Kearney and walked across a parking lot and then between the O'Reilly's Automotive Store and strip mall at 2005 E. Kearney. At 12:51:58 am, Officer Harbin radioed that they were behind the O'Reilly's building. Officer Harbin transitioned to his TASER and deployed it. One probe struck the heavy jacket and the other struck Tyndall in the leg – the TASER, however, was not effective.
- Tyndall walked behind the building (east side) and then began walking south. Officers continued to give Tyndall commands to drop the gun but he refused to do so. Tyndall then turned from the officers and began to jog south towards Kearney. Another officer deployed less lethal bean bag rounds striking Tyndall but they were ineffective. Tyndall continued back across Kearney and onto the parking lot of the Rest Haven Motel at 2000 E. Kearney. At 12:54:00 am, an

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unknown officer radioed that they needed someone on Kearney in front of the Rest Haven Motel and that Tyndall was walking in that direction.

- The Rest Haven Motel is laid out such that the lobby and rooms form a horse shoe shape. The parking lot entrances are on the north side of the horseshoe on the south side of Kearney Street. The rooms all have exterior doors that open into the parking lot that also forms a horseshoe paralleling the contours of the building. The lobby is connected to the motel structure and sits at the northwest end of the horseshoe.
- Tyndall entered the Rest Haven Motel parking lot and stood on the north side of the lot just north of Motel Lobby at the mouth of the motel's horseshoe shaped parking lot. The lights were on inside the lobby and the "open" sign was illuminated.
- Sergeant Russell was about 10 yards from Tyndall in the motel parking lot and to Tyndall's right (east) when Tyndall turned to face the other pursuing officers that were to his north. Sergeant Russell called out to Tyndall telling him that Tyndall could go no further and that he would not let Tyndall get any closer to the motel lobby. Tyndall did not reply to Sergeant Russell's statement but began to turn toward Sergeant Russell. As Tyndall was turning Sergeant Russell saw Tyndall's hand with the gun move away from his head in a downward motion. Fearing for his safety and that of the other officers, Sergeant Russell fired one round striking Tyndall. Tyndall flinched, did not drop his handgun and continued to turn toward where Sergeant Russell was positioned. Sergeant Russell then fired an additional round at Tyndall. Contemporaneously with Sergeant Russell's second shot, Officer Gross fired a round at Tyndall from his duty weapon. Tyndall fell to the ground and his handgun flew to ground southwest of him. Officer's immediately took Tyndall into custody and began administering first aid. At 12:55:03, Lieutenant Eutsler radioed that they needed EMS and shots had been fired.
- Sergeant Russell explained that he shot Tyndall because Sergeant Russell was concerned that:
 - Tyndall's demeanor seemed like it was getting harder to read;
 - Tyndall had already fired his handgun once;
 - Tyndall had refused to follow commands;
 - Tyndall had not reacted to being struck by less lethal bean bag rounds and TASER deployments;
 - There would be people in the motel lobby and Tyndall would try to go to the lobby.
 - He knew based on his training and experience that if Tyndall chose to fire at officers there would not be adequate time to respond to prevent the shot;
 - That when Tyndall turned toward him and began to move the gun from his head that he was in fear for the safety of himself and the other officers.
- Officer Gross explained, "Once I heard the shot, I watched as the male brought his right hand, which had the handgun still in it, down from his head and he then

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being to point it towards Sgt. Russell and myself. I was extremely fearful that the male was going to fire his weapon at me and my fellow officers in an attempt to take one of our lives.”

- December 4, 2015 – Missouri State Highway Patrol Laboratory Report
 - Three bullets recovered at autopsy could have been fired from either Sergeant Russell’s or Officer Gross’s duty weapons but there were insufficient individual characteristics for identification or elimination of a specific weapon.
 - The .380 cartridge casing recovered from the Walmart parking lot was confirmed to have been fired by the stolen Seacamp model LWS 380 pistol possessed by Tyndall.
 - The Seacamp 380 pistol functioned when fired eight times during testing but experienced two feed failures during the testing.
- January 6, 2016 – Autopsy Report. Greene County Medical Examiner Dr. Jeff Harkey, stated that:

It is my opinion that Joseph Tyndall, a 30 year old male, died of thoracic injuries due to multiple (three) gunshot wounds of the chest and back due to an armed confrontation with police. Methamphetamine addiction is considered to have contributed to the circumstances of his death.

- Gunshot wounds observed (numbered in order of observation at autopsy)
 - #1 – Entrance wound left side of chest, lateral to the left nipple;
 - #2 – Entrance wound left side of chest, lateral to the left nipple;
 - #3 – Entrance wound lower left side of the back of the chest.
- Three bullets collected (see MSHP lab report referenced above).
- Nine injuries consistent with bean bag projectiles.
- Two injuries consistent with TASER barbs (six barbs collected from clothing at autopsy).
- Toxicology Report: positive for amphetamine, methamphetamine and cannabinoids.

ANALYSIS

Applying the Missouri Criminal Code, as well as case law, to these facts, I make the following specific findings:

1. Mr. Tyndall was knowingly attempting to escape from law enforcement officers by means of a deadly weapon. After pulling the handgun, Mr. Tyndall constantly exhibited the handgun to keep officers at bay as he attempted to find means of escape either on foot or by stealing a vehicle.
2. Once Mr. Tyndall attempted to carjack the vehicle on Turner Street and attempted to steal another parked vehicle Tyndall was known to the officers to be a fleeing felon.
3. At the time of the shooting, Sergeant Russell and Officer Gross reasonably believed that

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the use of deadly force was immediately necessary to effect Tyndall's arrest and also reasonably believed that Tyndall was attempting to escape by use of a deadly weapon and would otherwise endanger life or inflict serious physical injury unless arrested without delay.

4. The use of deadly force by Sergeant Ryan Russell and Officer Thomas Gross was legally justified.

There will be no further action by this office with regard to the conduct of the officers in this case.

A handwritten signature in dark ink, reading "Dan Patterson". The signature is written in a cursive, flowing style with a large initial "D".

Dan Patterson
Prosecuting Attorney