

Commonwealth's Attorney
Colin D. Stolle

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COMMONWEALTH OF VIRGINIA



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September 16, 2019

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Chief James Cervera
Virginia Beach Police Department
2509 Princess Anne Road
Virginia Beach, VA 23456

RE: Discharging of firearm by Officer Bradley S. Colas

Dear Chief Cervera:

Enclosed is the formal report of our independent investigation into the events in which Officer Bradley S. Colas discharged his firearm on February 9, 2019.

Sincerely,

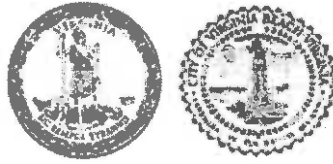
A handwritten signature in black ink, appearing to read 'Colin D. Stolle', written over a white background.

Colin D. Stolle
Commonwealth's Attorney

/adh

Cc: Tom Leahy, Acting City Manager

Report of the Commonwealth's Attorney



City of Virginia Beach

In Regards to the Officer-Involved Shooting that Resulted in the Death of Jeffery Tyree

The Office of the Commonwealth's Attorney for the City of Virginia Beach has completed its own independent investigation as well as a review of the Virginia Beach Police Department's investigation into the use of deadly force by Virginia Beach Detective Bradley Colas. The purpose of this investigation is not to determine the appropriateness of any police policy, procedure, or tactic but solely for the purpose of determining if a criminal act was committed in the killing of Jeffery Tyree. The investigation into this matter consists of extensive reports containing numerous interviews, diagrams, photos, audio recording, video recordings and other pertinent information prepared by Investigator J.R. Bailey of the Office of the Commonwealth's Attorney and Sergeant Mark Laino of the Virginia Beach Police Department. Additionally, this office reviewed the Death Investigation conducted by the Office of the Chief Medical Examiner related to Mr. Tyree. After reviewing all of the information in these investigations it is clear that Detective Colas was acting in defense of another officer on scene when he discharged his firearm. Based upon the law and the substantial evidence in this matter, it is my opinion that the Detective was within his legal authority and was justified in the use of deadly force in the situation as it presented itself; therefore, no criminal charges will be brought against Detective Colas for the death of Jeffery Tyree.

Summary of the Facts

In the days leading up to February 9, 2019, Jeffery Tyree's family had several concerning encounters with him. Mr. Tyree had decided that he was not happy with the care that his mother was receiving. This resulted in several hostile confrontations and threats to family members by Mr. Tyree. His anger was mainly directed towards his brother who was the primary caregiver for their mother. He had made it clear that if he got an opportunity to do so he intended to "kick his

[brother's] butt." A physical altercation did occur on the morning of February 8, 2019 between Mr. Tyree and his brother. As a result, the brother tried to seek assistance. According to his family, Mr. Tyree had previously received inpatient mental health treatment. Based on his history, and his current behavior, Mr. Tyree's brother attempted to obtain an emergency committal order, but since he had no documentation of a mental condition, he was unsuccessful in doing so. On the morning of February 9, 2019, Mr. Tyree's sister found him sitting on the porch of 5701 Paiute Road, the house where his brother and mother lived (the mother was in the hospital and the brother was with her). Mr. Tyree became very confrontational with his sister. He again discussed his anger at his brother and he was described as "ranting and raving." He threatened to harm himself, and stated he wasn't going to jail and he would be going to the morgue. He then began to push his sister and spit in her face while yelling profanity at her. She left the residence and it was at this time that the Virginia Beach Police Department was called.

Officer S. Beaton and MPO M. Burnette arrived at 5701 Paiute Road at 11:11am on February 9, 2019. The officers tried to make contact with someone at the residence, but it did not appear that there was anyone home. Eventually, Mr. Tyree's brother arrived at the residence. He started to walk the officers towards the side of the house when Mr. Tyree appeared. He had a large knife in his hand and was agitated. He began to order the officers off of the property and demanded to know why they would have brought his brother to the residence. Mr. Tyree placed the knife to his own throat and threatened to kill himself. He was in a waist high chain link fenced in area of the yard and remained in that area as the officers began to back away. The officers called for assistance, and that was the beginning of what would turn into a roughly two and a half hour standoff between the Virginia Beach Police Department and Mr. Tyree.

Officer Beaton began talking with Mr. Tyree in an attempt to get him to put the knife down. He quickly formed a rapport with Mr. Tyree, even though other officers had arrived on scene, Officer Beaton was the individual with whom Mr. Tyree preferred to communicate. One of the officers to arrive at the scene was Detective B. Colas. Detective Colas responded to the scene because he is a member of the Crisis Negotiation Team with specific training on dealing with barricade situations. Additionally, he is a Crisis Intervention Team instructor who trains other officers on how to de-escalate these types of confrontations. Detective Colas began assisting Officer Beaton in his conversations with Mr. Tyree.

Over the next two hours, the officers continuously tried to negotiate with Mr. Tyree to put the knife down and they offered to get him help. Mr. Tyree refused to do so. They accommodated the reasonable requests that he made while continuously trying to get him to put the knife down. While he would, from time to time, place the knife down near his feet, he would quickly pick it back up again. He repeatedly put the knife to his own throat. During their conversations, Mr. Tyree told the officers about his anger towards his brother. He told them that he wanted his brother and sister to watch him die. He repeatedly stated that he was going to kill himself, and that while he did not want to hurt the officers he was more than willing to do so if they got any

closer. He told them that, if he needed to, he would harm an officer in order to get a “suicide by cop.”

The officers were finally able to convince Mr. Tyree to place the knife down in order to come to the fence to get a pack of cigarettes. As he approached the fence with the knife in hand, Detective Colas drew his firearm and kept it at a “ready low” position. Mr. Tyree very cautiously dropped the knife several feet from the fence and approached the officers for the cigarettes. Officer N. Tuft-Williams was in a position behind a shed in a neighbor’s yard where he could not be seen by Mr. Tyree. After seeing Mr. Tyree place the knife down and approach for the cigarettes, Officer Tuft-Williams hopped the fence and charged Mr. Tyree in an effort to keep him separated from the knife. Detective Colas saw Officer Tuft-Williams charge and tried to wave him off. Noticing Officer Tuft-Williams coming at him, Mr. Tyree was able to pick up the knife again prior to being tackled. After the collision, both Mr. Tyree and Officer Tuft-Williams ended up on the ground parallel to each other. Officer Tuft-Williams could see the knife in Mr. Tyree’s hand and was in fear for his life. Detective Colas and Sergeant A. Bernstein were standing next to each and both state that they saw Mr. Tyree raise his hand with the knife in a position that could strike Officer Tuft-Williams. Detective Colas, believing that Officer Tuft-Williams’ life was in danger, discharged his service weapon one time. The round struck Mr. Tyree in the top of his left shoulder. Officers rushed into the fenced area securing Mr. Tyree and the knife. The officers then began to provide medical attention to Mr. Tyree until the paramedics arrived. He was transported to the hospital where he was pronounced dead.

An autopsy by the Medical Examiner in this case reports that the cause of death for Mr. Tyree was a gunshot wound to the torso. The path of the bullet travelled from the top of the left shoulder and exited at the left mid back causing significant internal injuries.

Analysis

The controlling legal authority relating to officer-involved shootings states that the determination must be whether the officer’s actions were “objectively reasonable in light of the facts and circumstances confronting them.” Tennessee vs. Garner, 471 U.S. 1 (1985); Elliott vs. Leavitt, 105 F3d 174 (4th Cir. 1996). Four years after Garner, the United States Supreme Court said, “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.” Graham vs. Connor, 490 U.S. 386 (1989). “Before employing deadly force, police must have sound reason to believe that the suspect poses a

serious threat to their safety or the safety of others.” Lee v. City of Richmond, VA, 100 F. Supp. 3d 528, 541-542 (E.D. Va. 2015)

On February 9, 2019, the Virginia Beach Police Department was confronted with an individual in Mr. Tyree that was not only a danger to himself but those around him as well. It appears that he was suffering from mental health issues that produced significant rage towards his family members and a desire to commit suicide. He repeatedly told the officers that he wanted to die, that he was willing to hurt the officers, if he needed to, in order to accomplish that goal. After a two and a half hour standoff, Officer Tuft-Williams attempted to keep separate Mr. Tyree and his knife. Unfortunately, that did not happen, and the result was Officer Tuft-Williams on the ground next to an armed Mr. Tyree who was moving the knife in a threatening manner. Detective Colas had a very sound basis to believe that Mr. Tyree posed a very serious threat to the life of Officer Tuff-Williams.

Based upon the law and the substantial evidence in this matter, it is my opinion that the actions of Virginia Beach Police Detective Bradley Colas were reasonable, justified and legal under the circumstances presented to him on the day of February 9, 2019. His actions were initiated to protect another officer from serious bodily injury or death; therefore, no charges will be prosecuted against Detective Colas for the events that resulted in the death of Jeffery Tyree.

Colin D. Stolle
Commonwealth's Attorney
City of Virginia Beach