



OFFICE OF THE SAINT LOUIS COUNTY ATTORNEY

MARK S. RUBIN COUNTY ATTORNEY

February 22, 2012

St. Louis County Sheriff Ross Litman  
St. Louis County Courthouse  
Duluth, MN 55802

Re: Review of Investigative Reports Involving the Officer Involved Shooting  
on January 24, 2012, Babbitt, St. Louis County Minnesota

St. Louis County ICR No. 12-013371

Dear Sheriff Litman:

Our office has received and reviewed the following material regarding the officer-involved shooting of Derek Nathan Klingfus on January 24, 2012, in Babbitt, Minnesota.:

1. Investigative Reports Prepared by the St. Louis County Sheriff's Office
2. Investigative Reports Prepared by Agents of Minnesota Bureau of Criminal Apprehension
3. Transcripts of Tape Recorded Witness Interviews
4. Recordings of all 911 dispatch calls
5. Photographs of the incident scene taken by BCA agents
6. Medical records of a juvenile female N.W., DOB: 7-13-08

Vernon D. Swanum, a prosecutor with over 30 years of experience, and I have reviewed the material to determine whether or not Officer Jonathan Shenett of the Babbitt Police Department was justified in using deadly force against Derek Nathan Klingfus.

Based upon the foregoing, it is our conclusion that Officer Shenett was authorized by law and certainly justified under the circumstances in using deadly force by discharging his firearm resulting in Mr. Klingfus being wounded.

On the afternoon of January 24, 2012, residents of the Ash Boulevard neighborhood in Babbitt, Minnesota, observed and became concerned with what they termed to be unusual behavior exhibited by a man later identified as Derek Nathan Klingfus who had been staying at 53 Ash Boulevard. The behavior included such things as yelling at cars that were driving by, wandering the driveway area

DULUTH COURTHOUSE  
100 N. FIFTH AVE. W., #501  
DULUTH, MINNESOTA 55802  
218-726-2923

GOVERNMENT SERVICES CENTER  
320 W. SECOND ST., #403  
DULUTH, MINNESOTA 55802  
218-726-2034

VIRGINIA COURTHOUSE  
300 S. FIFTH AVE., #222  
VIRGINIA, MINNESOTA 55792  
218-749-7101

HIBBING COURTHOUSE  
1810 TWELFTH AVE. E., #107  
HIBBING, MINNESOTA 55746  
218-262-0158

Sheriff Ross Litman

Page 2

February 22, 2012

of his home, confronting passers-by with nonsensical statements and accusations, and apparently not attending to a young child who lived at the house.

Shortly after 5:00 p.m. on that date, one of the neighbors contacted 911 emergency dispatch out of concern for the child living at the residence more than anything else. As the neighbor was on the phone, the neighbor observed Mr. Klingfus come out of the residence carrying the child, and appearing to be swinging the child around. He returned the young child to the home but came out moments later holding what appeared to be a puppy or small dog by the scruff of the neck and swinging the animal around.

Officer Jonathan Shenett, a licensed peace officer in Minnesota and a three-year veteran of the Babbitt Police Department, responded in his squad car. As Officer Shenett, in uniform, approached the house, Mr. Klingfus came out and displayed a knife. The officer removed his service firearm from his holster and ordered Mr. Klingfus to drop the weapon, which Mr. Klingfus initially did. However, Mr. Klingfus quickly picked up the knife and retreated into the house.

Officer Shenett called for back up assistance then approached the house. Moments later, Mr. Klingfus came out of the house leading a small girl ahead of him, clutching her around the head and shoulder area, while brandishing a knife at the girl's throat. Officer Shenett ordered Mr. Klingfus to drop the knife and let the child go. Instead, Mr. Klingfus began to advance on Officer Shenett still holding a knife to the young child. Officer Shenett discharged his taser at Mr. Klingfus, causing Mr. Klingfus to loosen his grip on the girl but not disabling him. It did offer Officer Shenett the opportunity to separate the girl from Mr. Klingfus but Mr. Klingfus held fast to the knife and again began to advance towards Officer Shenett, brandishing the knife. Officer Shenett stated that he was afraid for the child's safety, believing in his mind that Klingfus intended to "slice her throat." In response, Officer Shenett discharged his service pistol and shot Derek Klingfus one time, causing him to fall to the ground, ending the threat to both his and the child's safety. Back up arrived shortly thereafter and Mr. Klingfus received immediate medical attention and survived the shooting. The young girl, N.W., was found to have suffered a serious knife wound to the torso area of her body.

The issue before us is whether Officer Shenett was justified in using deadly force under the circumstances.

Sheriff Ross Litman  
Page 3  
February 22, 2012

Minnesota Statute Section 609.066 authorizes a police officer to use deadly force in the line of duty to:

1. To Protect the officer or others from apparent death or great bodily harm;
2. To effect the arrest of a suspect that the officer knows or has reasonable grounds to believe has committed a felony involving the use or threatened use of deadly force;  
or
3. To effect the arrest or capture of a person who the officer knows or has reason to know has committed a felony, if the officer reasonably believes the person will cause death or great bodily harm if the apprehension of the person is delayed.

The facts outlined above are supported in all respects by critical evidence, established by a thorough and objective investigation by the Minnesota BCA and the St. Louis County Sheriff's Department. It is our legal opinion, based upon a careful review of the credible evidence outlined above, that the actions of Officer Jonathan Shenett on the evening of January 24, 2012, were reasonable and lawful under the circumstances.

Officer Shenett had reason to believe that not only had Derek Klingfus committed a felony assault upon the child, and was possibly involved in the ongoing act of kidnapping of the child, but that Derek Klingfus continued to be a deadly threat to the child and the officer. When the deployment and use of non-lethal force caused Klingfus to only release his grip on the child but not to drop the knife and while Klingfus continued his attack, Officer Shenett was fully justified in using deadly force against Derek Klingfus to protect the life of not only the child but also himself.

Officer Shenett demonstrated professionalism and concern for the safety and well being of the three-year old child. He tried to control the situation with alternatives to deadly force, but in the end made a tough, admirable judgment call in a very dangerous situation.

Sincerely,



MARK S. RUBIN  
St. Louis County Attorney

MSR:ymk

cc: BCA  
Chief Chad Loewen, Babbitt Police Department  
Officer Jonathan Shenett, Babbitt Police Department