



## **Larry R. Schwartz, Cowley County Attorney**

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119 S. Summit St  
Arkansas City, KS 67005  
Ph. 620-441-4540  
Fax. 620-442-8582

**Deputy County  
Attorneys**  
Ian T. Otte  
Christian Fazel  
Kaitlin M. Dixon

311 E. 9th Ave  
Winfield, KS 67156  
Ph. 620-221-5485  
Fax. 620-221-9461

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### **CLOSING REPORT OF THE COUNTY ATTORNEY IN REFERENCE TO THE SHOOTING DEATH OF ANDREA CLAUDETTE BARROW**

#### **Duty of the County Attorney**

By operation of law, the County Attorney is responsible for making the criminal filing decision in all officer involved shootings. The same standard that is used in all criminal cases is applied to the review of officer involved shootings. The filing decision analysis involves reviewing the totality of the facts developed in the criminal investigation and applying the pertinent Kansas law to those facts. The facts and the law are then analyzed in relation to the criminal case filing standard.

For charges to be filed, the County Attorney must find that there is a reasonable likelihood that all elements of the crime charged can be proven beyond a reasonable doubt, unanimously, to twelve jurors, at trial, after considering all reasonable defenses. If this standard is met, then charges will be filed. If the standard is not met, then charges will not be filed.

It is the County Attorney's role to only investigate and determine whether any violation of criminal law may have occurred. It is not the purpose of the County Attorney's Office to determine whether any officer violated police policy or procedure; or committed any act which would be subject to civil sanctions.

At the conclusion of the investigation, if charges are to be filed, they will be filed like any other criminal charges would be. If no charges are to be filed, the County Attorney's Office will issue a closing report summarizing the findings of the investigation.

#### **Summary of Events**

On April 15, 2022, at around 11:00 a.m., Cowley County dispatch received a complaint of a suspicious vehicle in the 10,000 block of 101<sup>st</sup> Road in rural Cowley County. The vehicle was described as a black Jeep with the driver possibly being under the influence of drugs.

Sheriff officers responded to the area. Master Deputy Cory Sunnenberg responded to the area in his marked patrol vehicle. He was dressed in his sheriff's office issued uniform with all equipment he would normally carry including a body camera. Corporal John Van Royan also

responded to the area in his marked patrol car. He was wearing his sheriff's office issued uniform with all usual gear including a body cam. Deputy Brian Young responded with Van Royan. Young was in phase one of his field training. Young also appeared in his sheriff's office issued uniform with all issued equipment, including a body camera.

Each officer was carrying his sheriff's office issued 9 mm Glock pistol and X-26 taser. Each officer was current on his firearm and taser qualification requirements. All three officers' body cameras recorded the events surrounding the discharges of the firearms.

Upon arriving at 101<sup>st</sup> road, Sunnenberg met the individual who had made the 911 call. This individual further described the suspicious vehicle as a black Jeep with very dark windows, an Oklahoma tag, and very low tire pressure. He stated that the driver was a female. The individual stated that the female drove the Jeep into his driveway where he talked to her. He said she didn't seem to make any sense. At one point she told him she was out of gasoline, so he gave her a gallon. He further reported that his trashcans, which were still up by the road for collection, were upset and that it was strange that he had not received mail that day, but his neighbors had. He said he usually receives a lot of mail. Finally, he said that he saw the Jeep stop by his neighbor's place where the neighbor confronted her as well.

The officers began patrolling the area in search of the described vehicle. A second 911 call came through dispatch reporting a suspicious vehicle on 122<sup>nd</sup> Road. Sunnenberg located a vehicle matching the description on 122<sup>nd</sup> Road approximately one-eighth of a mile west of U.S. Highway 77. He parked his patrol vehicle some distance away due to the condition of the graveled road, activated his body camera, and approached the black Jeep on foot.

Sunnenberg's body camera showed he arrived at the driver's side window of the Jeep at one minute and 25 seconds after it was activated. At the Jeep, he encountered a female, alone, sitting in the driver's seat with the window down. She would later be identified as Andrea Claudette Barrow. Barrow told Sunnenberg she was coming from El Dorado, which she later said was in New Mexico, headed toward a city she tried to pronounce but could not. When asked where she was, Barrow stated she was near Wellington which is near Texas. She stated she was headed to see a friend whose name she tried to pronounce, but then said she could not say it because it is a foreign name which is difficult to pronounce. This dialogue continued for a little over two minutes. During this time Sunnenberg notices a Kansas license plate with a Cowley County sticker in the Jeep. Barrow is appearing to move the license plate to a place where Sunnenberg would not be able to see it.

At about the 3 minute 33 second mark on Sunnenberg's body camera, officers Van Royan and Young arrive and take positions around the Jeep. Van Royan walks around the Jeep and sees a partially opened pocket knife on the seat in between Barrow's legs. Sunnenberg continues to speak with Barrow and at the 4 minute 55 second mark on his body camera, he asks her to give him the license tag. Barrow refuses. At the 5 minute 18 second mark, Sunnenberg asks Barrow to step out of the vehicle. Barrow becomes increasingly agitated, refusing to comply with Sunnenberg's requests. Barrow told Sunnenberg the Kansas license tag was for the Jeep. Sunnenberg tells her the Jeep already has a tag. Sunnenberg offers to "run" the license plate.

Body camera footage shows Sunnenberg' s disposition remained calm and respectful throughout the encounter.

At the 6 minute 57 second mark, Sunnenberg again asks Barrow to step out of the vehicle. She again refuses. Sunnenberg opens the Jeep door to get Barrow out. Van Royan moves to take a position by the front passenger side door and opens the door. Young had moved to a position to the right of Sunnenberg by the back driver's side door. Barrow still refused to exit the Jeep. She shifted herself to the right side of her seat and placed her right hand between her seat and the center console. Sunnenberg and Van Royan asked her what she was reaching for and told her multiple times to stop reaching. The officers drew their tasers on Barrow and asked her to comply, stating that they did not want to tase her. Sunnenberg then spent some time trying to talk to her with tasers still drawn. Sunnenberg explained to Barrow why she was being arrested. Barrow replied telling officers "Not to do this to her," with her right hand still between the seat and console.

By the 9 minute 07 second mark on Sunnenberg' s body camera, Barrow appears more agitated and appears to shift around in her seat nervously as though she is preparing to do something. Sunnenberg tells Van Royan to deploy the taser.

Within the next minute, Van Royan deployed the taser from his position in the front passenger doorway, striking Barrow. Sunnenberg moved in and attempted to get Barrow out of the vehicle by grabbing her left arm and shoulder. Van Royan, from the passenger side, sees Barrow has a gun in her right hand and hollers, "Gun!" multiple times.

At the 9 minute 13 second mark on Sunnenberg' s body camera, while coming out of the vehicle, Barrow falls to the ground on her back and right side. What sounds like a barrage of 4-5 gunshots can be heard. Barrow had shot her 9 mm pistol upward and hit Sunnenberg in the groin area, upward and more to her right and hit Young in the left arm, and back through the Jeep hitting Van Royan in the left index finger. Van Royan had fired one round through the Jeep at Barrow as she was firing. Sunnenberg sought cover by a pile of brush and limbs which was by the road. He reports seeing Barrow lean over the brush pile and briefly look at him and then return to the Jeep. Young took cover at the front passenger side of the Jeep, and Van Royan worked his way up the road for cover. After a short pause, more gunshots can be heard. Sunnenberg and Young reported they thought Barrow had returned to her Jeep to reload. Young fired multiple rounds into the windshield upon seeing Barrow get back into the Jeep on the driver's side and crawl across the console towards him. Shortly thereafter, at the 9 minute 32 second mark, Sunnenberg fired 18 rounds toward Barrow who at that time was partly inside the driver's door of the Jeep.

Officers were taken from the scene by emergency medical services. Barrow was pronounced dead at the scene.

### **Investigation**

Investigation of this matter was conducted by the Kansas Bureau of Investigation (KBI). The three Sheriff Officers involved in the shooting death of Andrea Claudette Barrow were

transported to receive medical services for their injuries. Each officer gave a voluntary recorded statement to investigators. The KBI interviewed other law enforcement officers and citizens whom the agency believed may have pertinent information. The body of Andrea Claudette Barrow was transported to the Sedgwick County Forensic Science Center for autopsy. All firearms were collected as evidence. Crime scene investigators processed the shooting location and collected evidence. All firearms, shell casings, and bullets collected were sent to the KBI for examination.

### **Kansas Law**

In Kansas all persons including law enforcement officers are entitled to defend themselves and others against the use of unlawful force. The law provides that a person is justified in the use of force against an aggressor when and to the extent it appears to him, and he reasonably believes that such conduct is necessary to defend himself or another against such aggressor's imminent use of unlawful force.

"Use of Force" includes words or actions directed at or upon another person or thing that reasonably convey the threat of force, the presentation or display of the means of force or the application of physical force, including by a weapon. "Use of deadly force" means the application of any physical force which is likely to cause death or great bodily harm to a person.

A law enforcement officer is justified in using force likely to cause death or great bodily harm only and to the extent that it appears to him and he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another person, or when such officer reasonably believes that such force is necessary to prevent an arrest from being defeated by resistance or escape and such officer has probable cause to believe the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

The use of deadly force in defending a person is judged on a "case by case" basis. Only such force reasonably needed to defend against another's imminent use of unlawful force will be legally permissible.

### **Analysis**

The three deputies answered a call to investigate a suspicious vehicle. The investigation led them to Barrow's Jeep where Sunnenberg attempted to engage Barrow in conversation. During his interaction with Barrow, Sunnenberg noticed a Kansas license plate with a Cowley County sticker which he reasonably believed to be stolen based on what he had learned from the reporting parties he had talked to earlier and based on his interaction with Barrow. Barrow was unable to explain why she had the license plate and was unwilling to allow Sunnenberg to possibly clear the matter up by running it through dispatch to reveal the owner. Under Kansas law a law enforcement officer may make an arrest for a misdemeanor if he has probable cause to believe it is occurring in his presence. Here, with the facts known to Sunnenberg at the time, he had probable cause to make an arrest for the crime of misdemeanor theft.

Barrow was uncooperative with Sunnenberg as he was trying to arrest her. Though Sunnenberg tried different ways to talk Barrow into complying, things escalated to the point where Barrow placed her hand in between her seat and the center console where officers could not see what she was doing. She would not reveal her hand and began to move in a manner which made officers feel the need to move forward with the taser. After the taser was launched, Barrow revealed her 9 mm pistol, shooting at and striking all three deputies in a matter of a second or less. She continued by looking over the brush for Sunnenberg and returning to the Jeep to apparently pursue Young and possibly reload. Young and Sunnenberg fired back at Barrow, killing her. Under Kansas law anyone, including a law enforcement officer, would have the right to defend himself and/or others using deadly force under the facts as set forth. Here, each deputy was justified in using deadly force to protect his own life and the lives of the other deputies.

### **Conclusion**

The use of deadly force by the officers from the Cowley County Sheriff's Office was lawful and justified.

County Attorney Larry R. Schwartz  
19<sup>th</sup> Judicial District of Kansas