

Pursuant to the request by District Attorney Jeff Cruden to the Administrative Office of the Courts to appoint a special prosecutor to review this matter and after the case was assigned to the undersigned as special prosecutor, our office has reviewed the investigation surrounding the shooting death of Sylvester Demetrius Selby on October 3, 20023 in Dare County. The North Carolina State Bureau of Investigation investigated this case, case number 2023-02676. The purpose of this review is to determine if the actions of Dare County Sheriff's Deputy [REDACTED] and his use of deadly force on Sylvester Demetrius Selby were consistent with his legal authority as a law enforcement officer or if such actions were unlawful.

Law Enforcement Use of Force:

North Carolina General Statute section 15A-401 (d)(2)(a) is the relevant section of the law that defines when a law enforcement officer is justified in using deadly physical force upon another person to defend themselves or others:

A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

The North Carolina Supreme Court has made clear that "Subdivision (d)(2) was designed solely to codify and clarify those situations in which a police officer may use deadly force without fear of incurring criminal or civil liability." *State v. Irick*, 291 N.C. 480, 231 S.E.2d 833 (1977).

Additional Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in *State v. Norris*, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appears to a person that it is necessary to kill in order to save himself or others from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. *Id* at 529.

Facts surrounding the death of Sylvester Demetrius Selby:

At approximately 11:30 P.M. on October 2, 2023, Dare County Sheriff's Deputy [redacted] and [redacted] responded to a trespassing call at [redacted] Burnside Road, Manteo, N.C. This location was the home of [redacted]. Deputies were told that a "Demetrius suspect was trespassing and tearing stuff up inside of the residence."

On August 26, 2023, [redacted] and a Manteo Police Officer, [redacted], had responded to a similar call at [redacted] Burnside Road, Manteo, N.C. During this incident, Mr. [redacted] reported that Sylvester Demetrius Selby had entered his residence without permission. [redacted] described that there had been a tussle with Mr. Selby. During this incident, Mr. Selby lunged at [redacted]. EMS and law enforcement had to restrain Mr. Selby to a gurney. EMS had to chemically sedate Mr. Selby. [redacted] had to ride with EMS to transport Mr. Selby to the hospital.

On October 2, 2023, both [redacted] and [redacted] were in uniform and clearly identifiable as police officers and had activated their body-worn cameras. A review of the body-worn camera footage revealed that as the deputies approached the house, the only light—other than that coming from [redacted] flashlight—is coming from the open front door and a single-bulb porch light beside the open door. The residence is an older single-wide trailer with four steps up onto a wooden porch to the front door. A large bicycle is at the foot of the stairs, lying on the ground and blocking the normal path to the steps.

As shown in the body-worn camera footage, [redacted] is present outside the residence, some distance from the porch, and leaning against a utility trailer parked in the yard. [redacted] is heard saying to the deputies, "he is going crazy ... he is not allowed to come here because he has those spasms." [redacted] approaches the front porch from the side and stands at the bottom of the steps, with the bicycle between him and the bottom of the steps. Knowing [redacted] by prior encounters, [redacted] starts calling to him by using his first name. [redacted] asked Mr. Selby to come outside at least three times.

When Mr. Selby does appear, he has what can clearly be seen as a large knife in his left hand. Mr. Selby also appears to have blood on his clothing in the front torso area. In a normal voice, [redacted] asks Mr. Selby to put the knife down. Mr. Selby does not comply with the commands given by [redacted] and within seconds, Mr. Selby starts running down the stairs and directly at [redacted] with the knife still in hand.

[redacted] also tells Mr. Selby to put the knife down. Mr. Selby does not comply with these commands and runs directly at [redacted] with the knife in hand. [redacted] fires one shot from his department-issued firearm, striking Mr. Selby in the torso. Mr. Selby falls to the ground and begins thrashing violently. Multiple commands are issued for Mr. Selby not to get up. Within seconds, Mr. Selby is on his hands and knees, leaps to his feet, and lunges at [redacted] who had attempted to back away from Mr. Selby, fires two more rounds, striking Mr. Selby again. As soon as Mr. Selby is on the ground the second time, the deputies immediately request emergency medical personnel and check Mr. Selby's condition. [redacted] finds that Mr. Selby does not have a pulse and is deceased.

[redacted] interview with the SBI disclosed:

saved his life that night. He thought he was in imminent deadly danger and was going to get stabbed. indicated he was not able to draw his firearm due to the trailer creating a tripping hazard while he was attempting to put distance between himself and Selby.

s interview with the SBI disclosed:

called for Selby to exit the residence. Selby exited but had a knife in his left hand. He was about ten to twelve feet from Selby was told to drop the knife by both deputies. Selby quickly came off the porch towards still holding the knife and within feet of thought was in imminent deadly danger and fired once at Selby. Selby went down to the ground but continued crawling toward the deputies. Deputies retreated towards the road, and Selby continued towards them. Selby was within feet of when he lunged from a crouching-like position at thought Selby was still armed and a danger to himself r), so he fired two more times from a close distance.

said after his first shot, when Selby continued to advance on him, he perceived Selby was still armed and a deadly threat. I said Selby came out armed with a knife, refused to follow commands to drop the knife, and quickly closed distance on s and himself as the reasons why he used deadly force. He said he was protecting and himself.

No other persons except Mr. Selby, were present during the incident. During an autopsy performed at the Medical Examiner's Office at ECU Health Medical Center, Greenville, NC, it was discovered that Mr. Selby also had a knife wound to his chest that contributed to his death.

Analysis

Based on a thorough review of the investigation conducted by the State Bureau of Investigation—including extensive interviews of all witnesses and a review of both Sergeant s' and 's body-worn camera footage—it appears that the force used by was authorized by G.S. 15A-401 (d)(2)(a) to defend himself and from what a reasonable officer would have believed to be the use of imminent use of deadly physical force by Mr. Selby. In addition, the use of deadly force appears reasonable under the circumstances, and as justified under North Carolina law in that it appeared that it was necessary to kill in order to save himself or others from death or great bodily harm.

This shooting was indisputably tragic, but it was not unlawful. Consequently, our office will not be seeking charges related to the death of Sylvester Demetrius Selby.