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of ALASKA
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August 18, 2024

Chief Sean Case
Anchorage Police Department
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RE: Use of Deadly Force Review—APD Case No. 24-18911

Chief Case:

This letter summarizes the Office of Special Prosecutions¹ review of the incident involving Anchorage Police Department² Sgt. John Butler's use of deadly force against Lisa Fordyce-Blair on June 19, 2024 in Anchorage. This analysis is based on my review of the investigative reports related to this incident, along with the accompanying interviews, audio and video recordings, photographs, autopsy and lab reports, and other evidence submitted to date.³ The purpose of the evaluation in this matter is to determine whether this law enforcement officer should face criminal charges for his use of deadly force during this incident.⁴

After applying the governing law to the facts and circumstances surrounding this incident, OSP will not file criminal charges against Sgt. Butler. For the reasons explained below, I have concluded that Sgt. Butler was legally justified in using deadly force to defend himself and others and, therefore, criminal charges are not appropriate.

¹ The Office of Special Prosecutions is hereafter referred to as OSP.

² The Anchorage Police Department is hereafter referred to as APD.

³ This review is based on the information provided up to the date this letter was written. Additional information not previously provided to OSP for review could change the analysis in this matter.

⁴ The purpose of OSP's review is solely to determine whether criminal charges against the officer is warranted given his use of deadly force. OSP does not review these cases for policy violations or to determine whether an officer's conduct is appropriate under any applicable use-of-force policies. OSP also expresses no opinion as to the general appropriateness of any APD policies, including use-of-force policies.

*Summary of Pertinent Facts*⁵

On June 19, 2024, at approximately 4:40 p.m., D.A.⁶ called 911 to report that his neighbor, Lisa Fordyce-Blair, had threatened him and his 18-year-old son with a gun and he was afraid she was going to shoot him or his son. APD patrol officers were dispatched to the scene, where they spoke to D.A. D.A. said he had lived next to Ms. Fordyce-Blair for 20 years and they were friends. He said on June 19, he and his son were mowing Ms. Fordyce-Blair's lawn, as they had done for the last five years. D.A. said that while they were mowing the yard, Ms. Fordyce-Blair came out of her house and began yelling at them to get off her lawn. D.A. said this was not normal behavior from Ms. Fordyce-Blair and she had never acted like this in the 20 years he had been her neighbor. D.A. said he tried to get her to realize who he was, however, Ms. Fordyce-Blair just kept telling them to get off her lawn while using racial epithets towards D.A. and his son. D.A. said during this time, Ms. Fordyce-Blair was holding a hunting rifle, and he told officers he was in fear for his life and his son's life because he thought she was going to shoot them both. An officer spoke to D.A.'s son, who confirmed D.A.'s version of events. D.A.'s son said that although Ms. Fordyce-Blair pointed the gun at him for about five seconds, he was not afraid she was going to use it against him based on the way she was holding the rifle.

APD officers positioned themselves outside of Ms. Fordyce-Blair's residence, which was in a single-family neighborhood with other houses nearby. They secured an arrest warrant for her for one count of Assault in the Third Degree and a search warrant to search Ms. Fordyce-Blair's residence to look for her and specified firearms, firearm accessories, and ammunition. An APD negotiator attempted to make contact with Ms. Fordyce-Blair, who was believed to be inside her residence. Starting around 4:50 p.m., the negotiator called her phone, left voicemails, and sent her text messages.

Officers, beginning with an APD negotiator, also made ongoing "clearly articulated, loud announcements," directed to Ms. Fordyce-Blair by name, over a PA

⁵ This factual summary is based upon the investigative materials provided to OSP in the above-referenced case, including written reports, audios and videos from the incident, radio traffic, recorded interviews, autopsy report, Crime Lab report, and photographs. Three of the witness officers agreed to be interviewed by detectives; the remainder declined to provide an interview to detectives and submitted a written report instead. These interviews and reports were reviewed for this letter. The two Anchorage Fire Department members of the SWAT team declined to provide a report or a statement as to what they observed. The facts contained in this letter summarize the investigation but include only the facts necessary to inform you of the nature and extent of my review and do not represent the entirety of the investigation or the materials I reviewed.

⁶ Initials are used for civilian witnesses throughout this OIS review letter as none of the civilian witnesses are believed to have committed any criminal offenses and identifying their full names in this publicly available document is unnecessary. See generally Alaska Constitution, Article I, sec. 22.

system. These announcements were made, off and on, for more than four hours. The officers described that these announcements were intended to deescalate the situation and avoid a potential conflict; officers noted concerns that Ms. Fordyce-Blair might be suffering from mental health challenges and wanted to avoid a direct confrontation by directly approaching the house. The announcements notified Ms. Fordyce-Blair that APD had an arrest warrant for her and a search warrant for her house and told her they were not going to go away but wanted to work out a peaceful resolution. Through the announcements, officers provided Ms. Fordyce-Blair a clear surrender plan and encouraged her to come out of her residence. Officers also requested that she answer her phone or text or call negotiators or 911 to open a line of communication so that she could give her side of events. The announcements also included warnings about the potential use of K9s, impact weapons, or chemical agents, and warned that if she did not exit with empty hands and follow directions, she could be injured or her property could be damaged. Other officers positioned farther away from the residence confirmed that the announcements were audible from their locations. Officers also knocked on the walls of her house to try and get her attention.

When patrol officers' efforts to draw Ms. Fordyce-Blair out of her residence were unsuccessful, a Special Weapons and Tactics⁷ call out was initiated. SWAT officers staged various tactical equipment, including two armored vehicles, the larger Bear and the smaller BearCat, near Ms. Fordyce-Blair's residence, with officers positioned around the residence. SWAT officers were briefed that Ms. Fordyce-Blair was armed and barricaded, had an outstanding warrant for her arrest for Assault in the Third Degree due to threatening a neighbor with a gun earlier, and that there was a search warrant for her house. SWAT officers were also informed there had been a report about two years prior of an incident where Ms. Fordyce-Blair had threatened someone else near her house, and that she had met responding officers in her yard while holding a handgun. The officers were also briefed that Ms. Fordyce-Blair was a convicted felon, with a prior out of state conviction from the 1980s for shooting into a residence. In their reports about the incident, multiple officers explained that this information raised their level of concern for the safety of the responding officers and nearby civilians.

Officers continued to make announcements over the PA system. Negotiators also contacted Ms. Fordyce-Blair's family members to obtain information about her and to ask them to provide recorded statements to be played for Ms. Fordyce-Blair to help encourage her to surrender. Ms. Fordyce-Blair's brother was contacted; he

⁷ The Special Weapons and Tactics Team is hereafter referred to as SWAT.

said that Ms. Fordyce-Blair had texted him the day before with a text that did not make sense. Officers turned on the emergency siren for two minutes in an attempt to ensure they had Ms. Fordyce-Blair's attention. After the siren was turned off, a negotiator received two texts from Ms. Fordyce-Blair at 5:48 and 5:49 p.m.: "I'm here safe and all will be well," and "Thank you for securing the warrant officers back and protecting my truck." The officer continued to text, call and leave voicemails for Ms. Fordyce-Blair repeatedly, with no response.

While the negotiator was trying to get in contact with Ms. Fordyce-Blair, SWAT officers were attempting to contact neighbors and evacuate those closest to Ms. Fordyce-Blair's residence. Officers also positioned in different vantage points around Ms. Fordyce-Blair's residence and used a drone to scope out the exterior areas of her residence. Officer Lewis, one of the responding SWAT officers, reported that not all of the nearby houses agreed to evacuate, and noted there were a number of onlookers who gathered at a nearby intersection. Officer Lewis reported that based on a concern for nearby bystanders and neighbors, they parked the Bear close to Ms. Fordyce-Blair's driveway.

When the negotiator and announcements were ineffective in talking Ms. Fordyce-Blair into exiting the residence voluntarily, the SWAT team began to implement various tactics, to include "knock knocks." As explained by SWAT officers in their reports or in interviews with detectives related to this incident, "knock knocks" are a tactic wherein a less lethal 40mm impact munition is used to strike a structure to get the attention of people inside and encourage them to exit a building voluntarily. SWAT officers used foam rounds to hit the south wall of the residence, then to strike and break windows on the north and south sides of the residence (at the front and back of the house), so a drone could be flown into the residence.

Once SWAT officers began to use the "knock knocks," the negotiator called Ms. Fordyce-Blair again and she answered the phone. Ms. Fordyce-Blair initially spoke with the negotiator briefly around 9:05 p.m. She thanked him "for still being with me" and said "we'll get through this." She also apologized and said "I had to step out and keep somebody off of the lawn from mom and me so, okay. And I hope no other officers have been hurt..." She finished up by saying "We'll follow up on praying to God. I don't got no windows broke or anything. If you can see any windows that have just been broke... Thank you." Ms. Fordyce-Blair then hung up. The negotiator continued to call Ms. Fordyce-Blair and she eventually answered. Ms. Fordyce-Blair was silent on the open phone line, but said "yeah," into the phone one time. Shortly after that, the negotiator heard loud "pop sounds"; this occurred at the same time another officer said Ms. Fordyce-Blair was firing a firearm inside

of the residence. The negotiator's phone line with Ms. Fordyce-Blair remained open, however, according to the negotiator, the noises were muffled and unintelligible and he believed that the phone was stationary and not being handled.

The negotiator continued attempts to communicate with Ms. Fordyce-Blair, using de-escalation techniques and repeatedly telling her to put the gun down, not to threaten officers, and that she could end up hurt or killed if she did not surrender peacefully. He kept the line open until the end of the incident although he did not get a response from Ms. Fordyce-Blair. The negotiator sent approximately 20 text messages to Ms. Fordyce-Blair from 4:52 p.m. until 9:06 p.m. He made approximately 15 calls to Ms. Fordyce-Blair between 4:49 p.m. until 9:08 p.m., with the last call lasting 45 minutes.

While the negotiator was talking to Ms. Fordyce-Blair, SWAT Officer Cintron flew a drone into the residence through a broken window. Officer Andy Smith, Sgt. Nelson, and Sgt. Childers were watching the video feed being transmitted by the drone and relaying the information to the other officers. The officers reported that as the drone went downstairs, to the area that appeared to be the master bedroom, they saw Ms. Fordyce-Blair standing and facing the drone with a handgun in her hands, pointed at the drone. Officer A. Smith said Ms. Fordyce-Blair fired two shots at the drone; Officer Cintron believed that Ms. Fordyce-Blair fired three shots at the drone. All the officers reported that the shots caused the drone to go down, but said it was still transmitting video. Officer Cintron reported he could see Ms. Fordyce-Blair on the video pacing back and forth in the room with the handgun in her hand. Simultaneously, nearby officers who were staged around the outside of the residence reported hearing gunshots (most of the officers believed there were two or three shots) coming from inside the house.

While continuing announcements and other attempts to verbally contact Ms. Fordyce-Blair, SWAT officers deployed liquid gas rounds (a type of chemical agent) into the north and south side windows of the residence. This was intended to limit Ms. Fordyce-Blair's ability to move around the residence, to impact her ability to aim, stop her from shooting, and to drive Ms. Fordyce-Blair out of the residence. Simultaneously, officers deployed noise flash diversionary devices ("flashbangs"). Officers continued their announcements to Ms. Fordyce-Blair and negotiators continued to try and contact her. Officers reported they were concerned based on the outstanding felony warrant, Ms. Fordyce-Blair's refusal to communicate with the officers or comply with their commands to surrender, and the danger Ms. Fordyce-Blair posed while being armed and shooting rounds in an occupied neighborhood. Multiple officers reported they believed she posed an immediate threat to the public.

Officer A. Smith and Officer Cintron reported another drone was sent into the residence, again to the downstairs. Officer A. Smith told detectives that he watched on the video as Ms. Fordyce-Blair stepped out from a room downstairs with a handgun and again fired shots at the drone. He said the shots were directed up the stairs, towards the front door. Officer Cintron reported he saw Ms. Fordyce-Blair firing towards the direction of the front door, striking the front door. Officer A. Smith said he was not sure, but he believed that the shots fired by Ms. Fordyce-Blair broke a window at the front of the house. Officer Kimball was positioned outside of the front of the house and said after he heard the second round of gunshots, he heard what sounded like bullets striking the window above the front door of Ms. Fordyce-Blair's residence and he saw glass fall. Officer Pelkey also reported that from the front of the house, he saw what he believed to be bullets breaking through the glass on the window; he reported the glass moved away from the house, indicating that the shots had come from within the residence. Many other officers positioned around the house also reported hearing the second set of multiple shots coming from inside the residence. Multiple officers expressed concern that Ms. Fordyce-Blair was shooting from inside the house towards the officers who were at the front of the house (on the north side). Officers A. Smith and Cintron reported they were able to fly the drone out of the house.

SWAT officers deployed a second round of chemical agents into the residence, to again attempt to prevent Ms. Fordyce-Blair from being able to fire at officers and encourage her to exit. Multiple SWAT officers were positioned in front of the residence, in or near the Bear or BearCat, which had been used to deploy chemical agents into the house. Some officers were armed with less lethal force options (including a 40mm less lethal launcher and a K9), while others were providing lethal cover (i.e., they were armed with rifles) to protect the other officers. Several of the SWAT officers who were positioned in front of the residence, including Sgt. Butler, observed the garage door open soon after the second round of chemical agents were deployed. According to Officer Lewis, it was approximately 9:39 p.m. when the garage door opened.

When the garage door opened, multiple officers saw Ms. Fordyce-Blair standing in the garage. However, due to their angle of view and a truck parked in the driveway, most of the officers were only able to see Ms. Fordyce-Blair's upper body and could not see below her shoulders. Officer Barth reported he could see the upper left side from the biceps to the top of Ms. Fordyce-Blair's head. Officer Pasta reported he saw Ms. Fordyce-Blair standing on the side of the garage door but could only see the top part of her shoulders and her head and face. Officer Campbell reported he saw Ms. Fordyce-Blair's head come around the frame of the garage door

on the side of the garage closest to the bear cat. He reported because of the truck, he could only see her head, but he saw her look directly at the Bearcat. Officer Cintron reported that when the garage door opened, he saw Ms. Fordyce-Blair at the garage with her hands around her midsection, holding what he believed to be the gun she had shot at the drone with earlier. He said that he saw her get hit by gunfire and dropped to the ground as the garage door began to close.

Officer Fujimoto was positioned at the top hatch of the Bear. In an interview with detectives, he described his knowledge of the situation, which is consistent with the above. He said that after he heard the gunshots in the house and heard the drone was shot down, he knew that Ms. Fordyce-Blair was still armed and was exhibiting a willingness to engage, which raised his level of awareness and attention. He said after they first introduced the gas rounds into the house, he was able to see movement through the downstairs window closest to the garage, which was the room believed to be the master bedroom. Officer Fujimoto described that after they introduced the second round of gas into the house, he saw the garage door start to open. He said from his position at the top of the Bear, he could see Ms. Fordyce-Blair's left side was positioned forward, and he said he saw she was holding a handgun in her left hand at her side.

Officer Fujimoto said he gave two verbal commands for Ms. Fordyce-Blair to drop the gun. He said that he was concerned that based on her prior behavior, both by threatening the neighbors and shooting at the drone, she had shown she had the "means and a hostile intent." Officer Fujimoto expressed concern that he did not know where the civilians who had been nearby earlier were, and did not know which nearby houses had evacuated. He also told detectives he knew that if Ms. Fordyce-Blair quickly fired, she would be able to do so before he could react. Officer Fujimoto said he was worried that citizens who had not evacuated were at risk due to their location in relation to Ms. Fordyce-Blair.

Officer Fujimoto said that when he saw Ms. Fordyce-Blair, she was looking over her shoulder toward where the officers were positioned at the front of the house; he said he thought she was looking to see where people were. Officer Fujimoto said it looked like she was about to "engage," based on the way she was holding the gun down by her side while looking over her shoulder and using the edge of the garage as cover and concealment. He said that she gave no indication she was about to give up, and noted that "reasonable people don't come to surrender with guns in their hands." He said he thought she might have been looking to shoot at the people in the BearCat. Officer Fujimoto said Ms. Fordyce-Blair did not say anything during the time he saw her.

Officer Fujimoto said that when Ms. Fordyce-Blair did not comply with his command to drop the weapon, he lifted his rifle and made the decision to shoot. He said when he had positioned his rifle and was about to fire, he heard two shots and saw Ms. Fordyce-Blair's was bleeding from her head and saw her collapse. Officer Fujimoto said he did not fire at that point because he believed the threat no longer existed. He described that the garage door then began to close; he said he saw a diversion device or a "flashbang" thrown into the garage before the door closed and said Ms. Fordyce-Blair did not respond. Officer Fujimoto told detectives he believed the officers did "everything we could to preserve her life" during their response.

Several officers reported they observed Sgt. Butler fire his rifle while the garage door was open. One officer described Sgt. Butler as quickly tucking "down in a defensive posture" before he fired. Officer Carlson spoke to detectives and told them that after the second round of emergency gas was deployed, he heard someone say the garage door was opening; he said that he could not see the garage from where he was standing because the Bear was blocking his view. Officer Carlson, who was armed with a less lethal weapon, said Sgt. Butler was in front of him, armed with a rifle. As Officer Carlson began to step around Sgt. Butler, he said he heard three gunshots, which he believed came from Sgt. Butler. Officer Carlson said he got around Sgt. Butler and saw Ms. Fordyce-Blair falling down and then saw the garage door closing. Officer Kimball reported he heard officers give commands to "drop the gun" three times and then heard three gunshots. Officer Otts reported he saw Sgt. Butler tense up and heard him say Ms. Fordyce-Blair had a gun before Sgt. Butler fired three times. Officer Lewis and Officer McMillan both said they saw Sgt. Butler raise his rifle and fire three shots in the direction of the garage. At 9:40 p.m., an officer aired over the radio that an officer had fired.

Officers reported seeing Ms. Fordyce-Blair falling; simultaneously, the garage door began to close. Officer Lewis said he moved past Sgt. Butler and saw a person on the ground of the garage. He said the garage was closing, and he took a "flashbang" and sent it into the garage to see if there was a response. Officer Lewis said there was no reaction from the person inside and the garage closed. Other officers reported seeing the flashbang go off in the garage; they also said they did not see any response before the garage door closed. SWAT used the BearCat to forcibly open the garage door; when they approached Ms. Fordyce-Blair, she was in the same position as when the garage door closed and was unresponsive. She was declared deceased by the medics on-scene. Officers on-scene reported seeing a Glock semi-automatic pistol on the ground near to Ms. Fordyce-Blair's stomach and hand. Officers entered the residence to ensure there was no one else inside and secured the scene.

Investigation

Detectives were called out to investigate the incident. They conducted interviews, collected evidence, to include audio and video recordings, and obtained a new search warrant to search the residence. Detectives talked to the officer witnesses who agreed to be interviewed; the officers who declined to talk to detectives wrote police reports detailing what occurred during the incident.

Drone footage of the incident was reviewed. The drone that was shot down inside the residence malfunctioned when officers attempted to record, so there was no recording from inside the house, only live footage transmitted to the officers operating the drone. One recorded drone video showed the outside of the residence as the BearCat was used to administer chemical agents into the residence as part of the second set of emergency gas deployment. Two other drone videos showed the view from inside the residence, facing the door that opens into the arctic entry way. The videos show what appear to be two bullet holes—one in the window in the upper part of the door and another in the lower part of the door. Other drone footage showed video taken outside the residence. None of the footage showed the shooting or immediately preceding events.

Detectives conducted a canvas of the neighborhood to see if there were any witnesses to the incident. Many of the neighbors reported they heard APD making announcements over the PA. One said that he heard APD telling his neighbor to “drop the gun” and come out and talk to them. Another neighbor said that she heard yelling prior to APD’s arrival but did not hear specifics. She said she later heard APD making announcements for Ms. Fordyce-Blair to come out and talk to them. A different neighbor said she heard APD identifying themselves and saying they wanted to talk to “her” on the phone. The neighbor said that she heard an unknown number of gunshots that sounded like they were small rounds, such as a .22. Another neighbor reported hearing flashbangs and some gunshots. A different neighbor also reported he heard APD telling someone to come outside so they could hear their side of the story, and to keep their hands up so everyone was safe. He said he later heard gunfire and bangs. Another neighbor said he heard announcements asking the woman to put her weapon down and exit the house with her hands empty, telling her they had an arrest warrant and would not be leaving, and asking her to come out so nobody would be injured. He said he heard that warning at least 15 times, mostly followed “by her firing her weapon again.” The neighbor said he heard various caliber gunfire, including shotgun blasts on several occasions which he thought might have been the gas or flashbangs.

Detectives collected and inventoried Sgt. Butler’s duty-issued firearms. Sgt.

Butler's duty handgun, which he did not report using, had one round in the chamber and 22 rounds in the magazine. His spare pistol magazine was also inventoried and found to have 22 rounds in it as well. His rifle, which he reported using, was a Sig Sauer .223 caliber rifle. Detectives found it contained a magazine with 27 cartridges and one round chambered; his two additional rifle magazines each contained 30 rounds, which is consistent with him firing three shots.

Crime Scene Investigation

Officers with APD's Crime Scene Team also responded to the scene to document the scene, to include taking photographs, FARO and video images, and collecting evidence. Officers found and documented three .223 caliber rifle shell casings, with a headstamp of HORNADY 223 REM, in the street in front of the house. The crime scene team noted that the windows of the residence were damaged, consistent with the deployment of gas and other SWAT tactics, and observed the garage door had been pushed in. They also documented and collected the remains of multiple gas canisters, flashbangs, and 40mm cartridge casings used by SWAT officers around multiple sides of the outside of the residence.

The crime scene team photographed and documented Ms. Fordyce-Blair's body, which they observed in the garage lying with her legs toward the exterior of the garage door. Officers observed a large injury behind Ms. Fordyce-Blair's left ear and a large amount of blood in the area where her body was located. The crime scene team also noted and documented a bloodstain pattern that appeared to indicate a "forward spatter pattern," which they reported is caused when a projectile creates an exit wound. The officers also noted that based on blood found on a nearby car, it appeared Ms. Fordyce-Blair was standing at the time the head injury occurred. The officers observed and photographed a black, semi-automatic Glock 10mm handgun nearby Ms. Fordyce-Blair's body and saw a garage door remote control in her right hand.⁸ The gun had a round in the chamber and six 10mm cartridges in the magazine. The crime scene team found several defects and bullet fragments consistent with .223 caliber bullets in locations consistent with bullets having come from where Sgt. Butler reported standing at the time he fired.

The crime scene team found four 10mm shell casings inside the residence—two in the downstairs bedroom and two on the stairway leading to the downstairs—as well as multiple bullets or bullet fragments. The crime scene team observed bullet marks on the door between the house and the arctic entry as well as in the arctic entry. According to the crime scene team's analysis, these bullets appeared to

⁸ Based on the circumstances, it appears likely that Ms. Fordyce-Blair either reflexively or intentionally pressed the garage door remote when she was shot, thereby closing the door.

have been moving in the direction from the interior of the residence to the exterior of the residence, into the arctic entry. Inside the arctic entry, officers observed two defects to the sheetrock and found a bullet defect on the dial of a safe that was located in the arctic entry, as well as bullet fragments on the floor of the arctic entry. Based on their review, it did not appear that any bullets exited the residence. Officers also found a drone that was damaged in a manner consistent with having been struck by a bullet. The drone was found in the arctic entry way, which is not where the drone was when officers watched Ms. Fordyce-Blair shoot at it. However, pieces of the drone were found on the floor downstairs, consistent with where the officers saw Ms. Fordyce-Blair shoot the drone and it appears that Ms. Fordyce-Blair moved the drone after shooting and disabling it.

In the downstairs hallway where the pieces of the drone were found, the crime scene team observed bullet fragments and a bullet defect on a wall and nearby floor. A bullet was found nearby and collected. The two other 10mm casings were found in the downstairs bedroom. The crime scene team documented a shotgun inside the residence, leaning against the door that led from the bedroom to the garage. Officers found two loaded 10mm magazines and two loaded 9mm magazines in the downstairs bedroom, as well as a holster.

Medical Examiner's Analysis

Dr. Gallagher performed the autopsy at the State Medical Examiner's Office and a report was issued on August 9, 2024. Dr. Gallagher identified the cause of death as two gunshot wounds to the head. He documented that the "gunshot entrance wounds appear to involve the external left ear and scalp tissue just posterior to the left ear." Dr. Gallagher noted exit wounds "involving skin and subcutaneous soft tissue posterior to the left ear as well as vertex and right posterosuperior scalp." He also observed that the trajectory of the first wound was front to back and slightly left to right while the trajectory of the second gunshot wound was front to back, upward, and left to right. The autopsy report of a gunshot wound to the left side of Ms. Fordyce-Blair's face is consistent with Sgt. Butler's statement that he shot her as she turned and looked at him, as she would have turned her head to the right to look at him, exposing the left side of her face.

Crime Lab Analysis

Sgt. Butler's Sig Sauer patrol rifle, magazines and ammunition, as well as the three discharged .223 caliber cartridge cases found in the street near where Sgt. Butler was positioned, the 10mm Glock Model 20 semiautomatic pistol, and the four 10mm discharged cartridge cases collected from inside the residence were all sent to

the Crime Lab. A Crime Lab analyst determined that the Glock that was found near Ms. Fordyce-Blair's body was operable, and the 10mm cartridge cases found in the residence were fired from the Glock. The analyst found that Sgt. Butler's rifle was operable and that the three .223 cartridge cases were fired from his rifle.

Sgt. Butler's Interview

Sgt. Butler was interviewed by APD detectives; this interview was recorded. Sgt. Butler told detectives that he was on duty as a patrol sergeant when the 911 call came in about the initial complaint; he said he knew it involved a threat to a neighbor and heard reference of a handgun and a rifle. He said he was monitoring radio traffic and while he was enroute to the scene, he heard a report from the first responding officer that there was probable cause for an Assault in the Third Degree charge against Ms. Fordyce-Blair. Sgt. Butler said his primary concern was for officers to keep an eye on Ms. Fordyce-Blair's residence and to try and contact her by phone in order to talk to her about what happened and eventually detain or arrest her. Sgt. Butler reported he arrived on the scene and got a briefing on the situation; his recollection of the briefing is consistent with the version of events described above. Sgt. Butler said Officer Rone, a negotiator, tried to call Ms. Fordyce-Blair and the phone went to a voicemail with her name on it; he said Officer Rone continued to text her and another officer emailed her.

Sgt. Butler said they developed a plan for Officer Keating, who was armed with a less lethal launcher, to park his car in front of Ms. Fordyce-Blair's driveway to block in the vehicle parked in the driveway, while an officer used a PA to issue announcements to Ms. Fordyce-Blair. Another officer used his car to block the street to prevent traffic, and others positioned themselves around the residence to try and see Ms. Fordyce-Blair while the officers attempted to find ways of communicating with her to encourage her to surrender. Sgt. Butler said the officers later backed away from the house to a nearby area that had better coverage. Sgt. Butler said they made PA announcements for about 40 or 45 minutes, telling Ms. Fordyce-Blair it was the police, that they needed to talk to her, they were not going away, and she needed to come out unarmed. He said they confirmed an officer could hear the PA from a distance. He said Officer Rone continued to try and call and text. After there was no response, Sgt. Butler said that they turned on the sirens of a patrol car for about a minute to try and get her attention. He said they also had an officer kick the side of the house for about 10 seconds. Sgt. Butler said their goal was to get Ms. Fordyce-Blair's attention to start some communication to get her to come out on her own, unarmed. After the siren and the kicking, Sgt. Butler said Officer Rone received a text from Ms. Fordyce-Blair. The text acknowledged their presence but was not responsive to their directions.

Sgt. Butler said an officer was working on a search warrant and an arrest warrant, which were granted. He said based on the texts they received, he believed Ms. Fordyce-Blair was in the house and he asked for drone support so they could send a drone into her house try and find Ms. Fordyce-Blair and see what she was doing and if she was armed. Sgt. Butler said the announcements and texts were ongoing during this time, but they did not receive any response for about 20-30 minutes. After that time, he asked for SWAT support. Sgt. Butler said a female officer took over the announcements in an effort to connect with Ms. Fordyce-Blair; he said that she continued giving announcements for roughly another hour.

Sgt. Butler explained that both SWAT and the drone team arrived at the scene. He said that they used the drones to get a view of the exterior of the house for tactical purposes. SWAT members began to replace patrol officers and moved the Bear and Bearcat into position. Sgt. Butler, who is a member of the SWAT team, changed into his SWAT uniform and began to review the officers' positions, the exterior layout of the residence, and scout other features, such as what Ms. Fordyce-Blair might be able to see from inside. He explained he was creating a plan in case the officers needed to get into the residence, but he said they wanted to have her come out voluntarily. Sgt. Butler said another officer was with him to develop a contingency plan for how to use chemical agents if they became necessary. Sgt. Butler described chemical agents as a form of "less lethal" that can be used to "get people to give up" in more of "a peaceful manner" by reducing someone's ability to further barricade or resist; he explained it was a contingency to encourage Ms. Fordyce-Blair to give up if she did not exit. Sgt. Butler said he saw civilians nearby the residence watching what was going on, and he was worried they and the neighbors who did not evacuate could be in positions where they could be harmed.

Sgt. Butler described where officers were staged around Ms. Fordyce-Blair's residence. He said SWAT officers took over the announcements; he said patrol officers had been doing announcements at that point for about two hours. Sgt. Butler said the SWAT announcements were similar to those made by the patrol officers, including giving her options if she did not want to come out right away, such as talking to someone on the phone, or calling 911. Sgt. Butler positioned himself by the Bear; he said he saw Officer Fujimoto positioned at the top hatch of the Bear, Officer Carlson was armed nearby with less lethal munitions, Officer McMillan with lethal cover for him behind the Bear, and a K9 officer with his K9 in the Bear. Sgt. Butler took a position as additional lethal cover for Officer Carlson.

Sgt. Butler described that when the announcements and attempts at negotiations continued to be unsuccessful, a plan was developed to use "knock knocks" not only as an attention-getting technique but also to create an entry point

for the drone to go inside if needed. He described that after the first set of “knock knocks,” they continued with verbal commands over the PA for Ms. Fordyce-Blair to come out, but she did not. He said they then played a recorded statement from a family member telling her to come out and give up. Sgt. Butler said a negotiator got a call from Ms. Fordyce-Blair at that time and he was told she seemed non-confrontational and wanted to work on a surrender plan and seemed apologetic. Sgt. Butler said they then lost contact with her, or she stopped talking. He said after Ms. Fordyce-Blair stopped talking, the officers made a bigger hole in the window and then flew a drone inside the window. He said he then heard three to five shots going off from inside the house; he said he did not know where the rounds were going. He said he heard radio traffic from Sgt. Eric Smith that they saw her on the drone video feed and she had a handgun and was shooting at the drone. Sgt. Butler said the command ordered an emergency gas plan, which he described as intended to discourage or prevent Ms. Fordyce-Blair from continuing to shoot; he noted the danger of bullets she fired traveling through walls or windows. He said after the first round of emergency gas, they continued to provide announcements.

Sgt. Butler said at one point, someone reported they saw Ms. Fordyce-Blair at the bedroom window; he said they deployed a “flashbang” near the window to try and provide further encouragement for her to surrender, in addition to the chemical agent being deployed. Sgt. Butler said that after the first round of gas was deployed, he heard three more rounds from inside the residence. He said they deployed another round of gas to prevent her from continuing to shoot. Sgt. Butler said he was positioned at the back of the Bear when the people inside called out that the garage door was opening and that there was a car inside. Sgt. Butler said he realized there was enough room for the car to back out past the Bear. He said when he saw the garage door it was all the way up; he said he initially could not see her, but others were reporting she was inside the garage.

Sgt. Butler told detectives he moved forward and saw Ms. Fordyce-Blair standing at the corner of the garage, up against the framing, about 10 to 12 yards from him. He said her head was turned towards the front of the house, where the BearCat had just deployed gas. Sgt. Butler said she did not seem to be impacted by the chemical agent, as she was not coughing, sneezing, or gagging, which surprised him. He described her as standing in “a posture where she almost was like trying to be sneaky,” with her knees bent and she was hugging the side, as if she was “trying not to be seen, almost.” Sgt. Butler also described her as looking “like she was scouting, looking towards the front.” He said that she turned and looked at him and “then she almost like took a step.” Sgt. Butler said that at the same time she took the step, she started to shift her body and then he saw a black handgun in her

hand; he said he believed it was in her left hand.

Sgt. Butler said Ms. Fordyce-Blair started to raise the handgun towards his direction. He said her action was immediate, and he felt like she was going to start shooting towards him. Sgt. Butler said he thought she was going to try and kill him. In response, he took a shot with his duty rifle “to try and stop that from happening.” When there was no reaction after the first shot, he said he quickly fired two more shots. He said Ms. Fordyce-Blair then showed “momentum” towards the middle of the garage, sat down, then laid back, with her head towards the inside and her feet towards the outside of the garage. He said he stopped firing because she no longer had the gun in her hand. Sgt. Butler said the garage began to close and Officer Lewis deployed a flashbang before the door closed. Sgt. Butler then described the officers’ efforts to open the garage to access Ms. Fordyce-Blair and detain her and render aid if necessary.

Sgt. Butler said he did not give any commands to Ms. Fordyce-Blair after the garage door opened and was unsure if anyone else did. He said he did not believe that she said anything. Sgt. Butler said he did not hear any other officers shoot. He said everything occurred very quickly, and estimated that it was about three seconds from the time he first saw her to the time he decided to shoot. Sgt. Butler told detectives he believed other officers were near him and was fearful that another officer could be shot. He also expressed concern that the civilian onlookers might still have been nearby, and that rounds could go in the direction where he had previously seen people standing.

Legal Analysis

Under Alaska law, a person may use deadly force against another person when and to the extent the person reasonably believes the use of deadly force is necessary to defend oneself or others against a threat of imminent serious physical injury or death.⁹ Alaska law authorizes a police officer to use deadly force against another person to the same extent as any other person; however, an officer, if acting within the scope of authority of his or her employment, is not required to retreat.¹⁰ Alaska statutes define deadly force as “force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury.”¹¹ Alaska statutes also create special justifications for peace officers using force while making an arrest or terminating an escape. First, an officer may use deadly force to the extent the

⁹ AS 11.81.335(a); AS 11.81.340.

¹⁰ AS 11.81.335(b)(2).

¹¹ AS 11.81.900(b)(16). “Force” is further defined (AS 11.81.900(b)(28)) as is “serious physical injury” (AS 11.81.900(b)(59)).

officer reasonably believes the use of force is necessary to lawfully stop a person suspected to have committed a felony involving the use of force against a person.¹² Second, an officer may use deadly force against a person who may otherwise endanger life or inflict serious physical injury unless arrested without delay.¹³

The potential criminal liability of Sgt. Butler is governed by the above-referenced laws. That is, if he reasonably believed his use of deadly force was necessary to prevent serious physical injury or death to himself or others, and that belief was objectively reasonable, he was legally justified in using deadly force. In other words, in order to overcome a claim of self-defense and secure a conviction against Sgt. Butler, the State would be required to prove beyond a reasonable doubt that Sgt. Butler did not reasonably believe his action in shooting at Ms. Fordyce-Blair was necessary to defend either himself, other officers, or nearby civilians against serious physical injury or death. Alternately, his use of deadly force would be legally justified if he reasonably believed the use of force was necessary to lawfully stop Ms. Fordyce-Blair after she was suspected of having committed a felony involving the use of force against a person—or if he reasonably believed that Ms. Fordyce-Blair would otherwise endanger life or inflict serious physical injury unless she was arrested without delay.

When analyzing Sgt. Butler’s conduct, the law requires an analysis based on the totality of the events. In this case, officers had an arrest warrant against Ms. Fordyce-Blair for a recent felony-level assault with a weapon she committed against a friend for no apparent reason. Officers were aware that Ms. Fordyce-Blair had previously been convicted of a crime involving shooting a firearm into a residence, and that there was a relatively recent incident where she approached officers who responded to a complaint while holding a handgun. Extensive efforts had been made to contact Ms. Fordyce-Blair so she would surrender peacefully in order to avoid a confrontation, and in order to protect both her and the officers’ safety. Ms. Fordyce-Blair had repeatedly been told she had a warrant for her arrest, yet she refused to exit her residence. Ms. Fordyce-Blair had ignored attempts to deescalate the situation through the phone, text, PA announcements, the use of recorded statements from family members, and the use of “knock knocks” and chemical agents. She actively fired shots at two drones, indicating a willingness to violently engage, and an unwillingness to surrender peacefully. Although Ms. Fordyce-Blair clearly realized the police were attempting to contact her, she ignored them and then came out of her house with a loaded gun.

¹² AS 11.81.370(a) and (b).

¹³ *Ibid.*

Sgt. Butler and Officer Fujimoto both observed Ms. Fordyce-Blair acting furtively and many officers observed her looking at the BearCat, which held officers. Sgt. Butler expressed concern that she was looking towards the BearCat to target officers. Both Sgt. Butler and Officer Fujimoto described that based on what they saw, they were concerned about the safety of the nearby officers, as well as the civilians they knew had recently been in the area. Sgt. Butler described that when Ms. Fordyce-Blair saw him, she quickly raised the gun in his direction. He described that her actions did not indicate that she had exited the residence to surrender, and he explained that when she pointed the gun at him, he was afraid she was going to shoot him.

Applying the relevant law to the circumstances that confronted the officers, particularly Ms. Fordyce-Blair's unwillingness to comply with the officers' commands and attempts to talk to her, and the fact that when she did exit, she did so in a furtive manner with a loaded handgun, Sgt. Butler's belief that his actions were necessary to defend himself, other officers, and/or nearby civilians against an imminent risk of serious physical harm and/or death was reasonable. Further, Sgt. Butler was lawfully able to use deadly force against Ms. Fordyce-Blair because she had recently committed a felony assault against a person and the force used was necessary to stop her when she opened the garage door with a gun in her hand while appearing to scope out the location of officers. Moreover, based on the totality of the circumstances and Ms. Fordyce-Blair's ongoing behavior, it was reasonable for Sgt. Butler to believe that Ms. Fordyce-Blair might endanger life or inflict serious physical injury unless arrested without delay. Criminal charges against Sgt. Butler are therefore not appropriate.

Conclusion

The State will not file criminal charges against Sgt. John Butler relating to the June 19, 2024 use of deadly force against Lisa Fordyce-Blair. Should it be necessary, you may advise Sgt. Butler of this decision. Please contact me if you have any questions. I can be reached at 907.269.6250 or jenna.gruenstein@alaska.gov.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL



Jenna L. Gruenstein
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CC:

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